



紀律研訊個案一追討佣金過程中詆毀客戶

就着佣金問題，從業員可能會與客戶有爭拗，或需採取行動向客戶追討佣金。從業員應注意，在追討過程中的行為必須合符《操守守則》，否則便可能被監管局紀律處分。

一位營業員為一位賣家安排出售物業後，雙方就佣金問題發生糾紛。該名營業員在某商場與該賣家相遇，一直尾隨追問該賣家關於佣金的事，並以手機拍攝錄像，攝下該賣家的外貌及其拒絕回答佣金問題的情況。營業員其後為影片加上標題和文字描述斥責賣家，再上載至某影片分享網站。

後來，僱用該名從業員的地產代理行的東主，以手機短訊將該段影片的網址傳送給該賣家的太太。賣家遂向監管局投訴。

監管局紀律委員會認為，該營業員的行為可能令地產代理行業信譽及／或名聲受損，因而未有遵守《操守守則》第3.7.2段。紀律委員會決定暫時吊銷其牌照兩個月，對其譴責及罰款港幣3,000元。

至於僱用該名營業員的地產代理，紀律委員會認為其行為同樣可能令地產代理行業信譽及／或名聲受損，因而決定譴責該名從業員，並罰款港幣2,000元。另外，他在有關物業的臨時買賣合約簽署前，並沒有與該賣家訂立地產代理協議，違反了《地產代理常規（一般責任及香港住宅物業）規例》第6(1)條的規定。紀律委員會決定譴責該名地產代理，並在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下核心科目的12個學分。

Disciplinary hearing case – Denigrating a client when demanding commission payment

Practitioners may sometimes have disputes with their clients over commission and may need to recover commission from clients. When recovering the commission, practitioners should ensure their conduct is in compliance with the *Code of Ethics*. Otherwise they may be subject to disciplinary actions by the EAA.

A salesperson arranged for a vendor to sell his property. But disputes arose over the commission after the transaction. The salesperson met the vendor one day in a shopping centre. He closely followed the vendor and questioned him about the commission. He also used his mobile phone to videotape the vendor's movements and the latter's refusal to answer questions about the payment of commission. Subsequently, the salesperson added to the video a title and comments reproaching the client, and then uploaded it to a video sharing website.

Later, the proprietor of the estate agency which employed the salesperson sent the video's web link to the vendor's wife through a mobile phone text message. The vendor then lodged a complaint with the EAA.

The EAA Disciplinary Committee was of the view that the salesperson's behaviour might bring discredit and/or disrepute to the estate agency trade. He therefore failed to comply with paragraph 3.7.2 of the *Code of Ethics*. The Disciplinary Committee decided to suspend his licence for two months, reprimand him and impose a fine of HK\$3,000.

As to the estate agent employing the salesperson, the Disciplinary Committee was of the view that his behaviour might also bring discredit and/or disrepute to the estate agency trade. The practitioner was reprimanded and fined HK\$2,000. In addition, he had not entered into an estate agency agreement with the vendor prior to the signing of the provisional agreement for sale and purchase in respect of the property. He thus breached section 6(1) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. The Disciplinary Committee decided to reprimand him; a condition was also attached to his licence, requiring him to acquire 12 points in the core subjects of the CPD scheme in 12 months.