

紀律研訊個案： 向客戶發出辱罵的訊息 DISCIPLINARY HEARING CASE: SENDING MESSAGES CONTAINING ABUSIVE CONTENT TO CLIENTS



引言

地產代理不得向客戶發出含有辱罵或粗言穢語的訊息。否則，地產代理有可能被監管局紀律處分。

INTRODUCTION

Licensees must not send any messages containing abusive content or foul language to their clients. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名準買家及其太太前往某一手樓盤的展銷廳參觀，並由兩名地產代理營業員陪同。一星期後，該名準買家向那兩名營業員表示不需要由他們兩人的公司提供地產代理服務。其後，該名準買家便不斷收到由那兩名營業員及不同電話號碼發出的包含粗言穢語的手機訊息。經查證後，那些不知名的電話號碼原來是屬於該兩名營業員的其他同事。其中一名營業員更在獲悉該準買家不會使用其服務後，與他面對面發生口角。該名準買家最終報警求助，並向監管局作出投訴。

INCIDENT

A prospective purchaser and his wife visited the showroom of a first-sale site of a development and two salespersons accompanied them. A week later, the prospective purchaser informed the two salespersons that he was not going to use the estate agency service provided by their company. The prospective purchaser then received different mobile messages containing foul language from the two salespersons and from other unknown numbers, which were later found to be from the salespersons' colleagues. One of the salespersons even had a face-to-face quarrel with the prospective purchaser after finding out that he was not going to use their service. The prospective purchaser finally called the police to settle the quarrel incident and he also lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該兩名地產代理營業員及其同事向客戶發出含有辱罵或粗言穢語的訊息，違反了《操守守則》第3.7.2段：「地產代理和營業員應避免做出可能令地產代理行業信譽及/或名聲受損的行為」。

RESULT

The EAA Disciplinary Committee was of the view that by sending mobile messages with foul language and abusive content to the prospective purchaser, the two salespersons and their colleagues had failed to comply with paragraph 3.7.2 of the *Code of Ethics*: "estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade".

考慮到個案的性質、同類個案的罰則、該兩名營業員及其同事的違規紀錄，紀律委員會決定譴責他們，並暫時吊銷他們的牌照21天。

Having considered the nature and gravity of the case, the sanctions for similar cases and the disciplinary record of the two salespersons and their colleagues, the Committee reprimanded them and suspended all their licences for 21 days.



地產代理管理協會會長
黃漢成先生
Mr Daniel Wong
President of Estate Agents
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業界回應 COMMENT FROM TRADE

地產代理作為服務性行業，有必要為每位客戶提供周全服務，即使對方最終未有購入任何物業，都不能惡語相向，損害整個業界的專業形象。本人冀每位業內人士堅持以誠待客、專業高效的服務態度，為業界樹立正確操守，提升整體服務質素。

Being a service industry, it is essential that estate agents provide a high-quality service to every client. Even if a client does not purchase a property, estate agents should never be rude or use any foul language as it will ruin the professional image of the trade. I truly hope that practitioners will always be sincere when serving clients while building trust so that the overall standard of the trade will be enhanced.

紀律研訊個案：誤導客戶有關銀行估價及按揭資料 DISCIPLINARY HEARING CASE: MISREPRESENTATION ON BANK'S VALUATION OF A PROPERTY AND MORTGAGE OFFER

引言

持牌人不應就物業的銀行估價向準買家作出任何誤導性陳述，也不應就按揭條款作出任何保證，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not make any misrepresentation to prospective purchasers on the valuation of properties or make any promise on the mortgage terms. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理安排一對準買家夫婦視察一個住宅物業，並以成交價\$3,960,000為其訂立臨時買賣協議。訂立臨約前，該地產代理向他們表示銀行估價為\$4,100,000，同時他們可獲得相等於樓價八成的按揭貸款。

然而，結果數間銀行對該物業的估值僅介乎於\$3,350,000至\$3,420,000，

INCIDENT

An estate agent arranged for a prospective purchaser couple to inspect a property and enter into a provisional agreement for sale and purchase ("PASP") with \$3,960,000 as the purchase price. Before entering into the PASP, the estate agent told the couple that the valuation of the bank was \$4,100,000 and they could obtain an 80% mortgage loan.

However, it turned out that several banks valued the property within the range of \$3,350,000 to 3,420,000 only. Moreover, the

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因買家購買該物業是作收租之用，故提供予他們的按揭貸款亦僅為樓價的五成而已。

因此，該對買家夫婦最終取消交易，同時向監管局作出投訴。

mortgage loan amount they were offered was just up to 50% of the property price because the property was not intended for self-use purpose.

Hence, the couple cancelled the transaction and lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該名地產代理就物業的銀行估價對其客戶作出誤導性陳述，違反了《操守守則》第3.4.1段：「地產代理和營業員應保障和促進客戶的利益。」

此外，他在沒有掌握按揭成數上限的情況下，告訴客戶他們將可獲得的按揭貸款額，因而違反了《操守守則》第3.2.2段：「地產代理和營業員應掌握有關的一切法律、政府規例，及地產市場的重要事實和發展。」

考慮到個案的性質及該地產代理的違規紀錄，委員會決定譴責該名地產代理，罰款4,000元，並在其牌照上附加條件，要求他在24個月內取得持續專業進修計劃下的24個學分。

RESULT

The EAA Disciplinary Committee found that the estate agent had made a misrepresentation to his clients on the valuation of the property. Thus, he was in breach of paragraph 3.4.1 of the *Code of Ethics* issued by the EAA, which stipulates: “Estate agents and salespersons should protect and promote the interests of their clients”.

In addition, he also failed to keep himself informed of the maximum loan-to-value ratio before advising his clients on the amount of mortgage loan they would be offered. Hence he was also in breach of paragraph 3.2.2 of the *Code of Ethics* which stipulates: “Estate agents and salespersons should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market”.

Having considered the nature and gravity of the case, and the disciplinary record of the estate agent, the Committee decided to reprimand the estate agent, fine him \$4,000 and attach conditions to his licence requiring him to obtain 24 points under the EAA's Continuing Professional Development Scheme in 24 months.



業界回應 COMMENT FROM TRADE

地產代理不應隨便向買家作出有關估價或按揭成數的承諾，或向他們提供這方面的誤導性資訊。未經查證的資料有可能導致準買家蒙受巨大的金錢損失，從業員應該建議客戶直接向銀行或金融機構查詢。

Estate agents should not make any assurance to prospective purchaser on the valuation of the property or the amount of mortgage loan obtained and should not provide any misleading information to clients. Unverified information may cause huge money loss to purchaser. Practitioners should advise their clients to check directly with banks or financial institutions.

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