

# 誠信與你

## Integrity in Focus

### 紀律研訊個案 Disciplinary hearing case

#### 以不正當手法向村屋買家收取金錢

#### Obtaining money from village house purchaser by improper practice

##### 引言

持牌人必須時刻保持誠信，尤其不可以不正當手法向客戶收取金錢，否則會嚴重破壞行業聲譽，並會被監管局紀律處分。

##### Introduction

Licenses must always act with integrity and must not obtain money from their clients by improper practice. Otherwise, the reputation of the trade will be seriously tarnished and they will be subject to disciplinary action by the EAA.

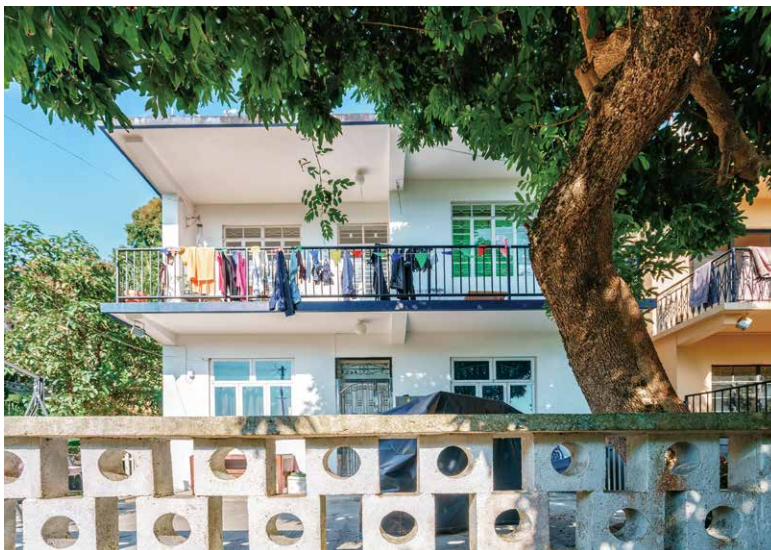
##### 事件經過

一名營業員在一宗村屋交易中代表買家，在安排對方視察物業後，向該買家表示，他須向其額外支付 8 萬元，以作為給予賣方的「兄弟費」，並表示有關要求是由賣方提出，是村內的普遍做法。然而，事實上，賣方並沒有作出有關要求。後來，該買家從鄰居得悉，他們從未向賣方支付所謂的「兄弟費」。他懷疑受營業員欺騙，而報警求助，警方建議他向監管局作出投訴。監管局對個案進行調查，同時發現該營業員沒有在緊接訂立臨時買賣合約前，向該買家提供有關物業的土地查冊文本。

##### Incident

A salesperson represented a purchaser in a transaction of a village house. After arranging the purchaser to view the property, the salesperson told the purchaser that he had to pay him an additional fee of \$80,000, and the paid fee would be paid to the vendor's clansmen. The salesperson claimed that the fee was requested by the vendor and it was a common practice in the village but in fact the vendor had not made such a request. Later, the purchaser learnt from his neighbours that none of them had paid any additional fee to the vendor. Hence, the purchaser suspected he was being cheated by the salesperson and reported the matter to the Police. The police

suggested him to lodge a complaint with the EAA. During the EAA's investigation, it was also found that the salesperson had failed to provide a copy of the land search of the relevant property to the purchaser immediately before the provisional agreement of sale and purchase was entered into.



## 研訊結果

監管局紀律委員會認為，該名營業員違反了《操守守則》第 3.7.2 段，即「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。」同時，他亦違反了該守則的第 3.2.1 段，即「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、本操守守則，以及由監管局不時發布的所有其他指引。」

考慮到個案的性質及該營業員的違規紀錄，紀律委員會決定就上述兩項的違規譴責該名營業員，罰款 \$3,000、暫時吊銷其牌照兩個月及附加條件於其牌照上，要求他於 24 個月內取得持續專業進修計劃下的 24 個學分，當中各 3 個學分須分別透過「專業操守及誠信科目」及「進行土地查冊」的講座或研討會獲取。

## Result

The EAA Disciplinary Committee was of the view that the salesperson failed to comply with paragraph 3.7.2 of the *Code of Ethics*, which stipulates: “estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.” and paragraph 3.2.1 of the *Code of Ethics* issued by the EAA, which stipulates: “estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, this *Code of Ethics*, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice.”

Having considered the nature and gravity of the case and the disciplinary record of the salesperson, the Committee, with regard to the two breaches, decided to reprimand the salesperson, impose a fine of \$3,000 and suspend his licence for two months. A condition was also attached to his licence requiring him to obtain 24 points under the CPD scheme in 24 months, among which at least three points should be gained separately from courses/seminars of “Professional Ethics and Integrity” and “Conducting a land search” respectively.



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## 業界意見 Comment from trade

監管局一向對從業員的職業操守要求嚴謹，絕對不會容忍任何有違誠信的行為。營業員及地產代理應以公平公正的態度對待每一位顧客，切勿心存僥倖，妄想可逃避懲處。

The EAA has stringent requirements on the conduct of practitioners and there will be no tolerance towards any dishonest behaviour. Salespersons and estate agents should act in an impartial and just manner to every client. They must not take chances and wish that they can escape sanction.