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Integrity in Focus

安排買家在未有填上樓價的臨約上簽署

Arranging for a purchaser to sign a PASP with the property price left blank

引言

持牌人不可安排客戶在重要條款漏空的臨時買賣合約（「臨約」）上簽署，否則有機會被監管局紀律處分。

Introduction

Licenses must not arrange for clients to enter into a provisional agreement for sale and purchase ("PASP") with important terms left blank. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名營業員向一名準買家推介一個物業。在視察單位後，該準買家表示願意以不多於 1,150 萬元購入該單位。該營業員其後安排買家先行簽署一份漏空樓價資料的臨約，並向買家聲稱，他可以游說賣方以 1,150 萬元售出物業。該買家便把一張 20 萬元的支票交予營業員作為訂金。

數天後，該營業員告知買家，賣方只願意以 1,200 萬元出售該物業。買家拒絕，並要求營業員退回支票但不果。

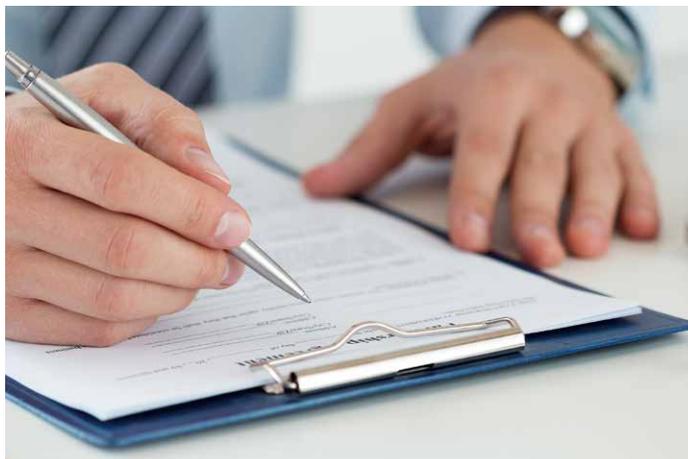
及後，買家發現該營業員在未經他同意下，擅自在臨約的樓價一欄填上 1,200 萬元。買家最終停止兌現該支票，同時向監管局投訴。

Incident

A salesperson introduced a property to a prospective purchaser. After the inspection, the purchaser was willing to purchase the property at a price of not more than \$11,500,000. The salesperson then arranged for the purchaser to sign on a PASP with the property price left blank and told the purchaser that he could persuade the vendor to sell the property for \$11,500,000. The purchaser then gave a cheque of \$200,000 as the deposit to the salesperson.

A few days later, the salesperson informed the purchaser that the vendor would only sell the property at the price of \$12,000,000. The purchaser did not accept the price and asked the salesperson to return the cheque to him but in vain.

Later, the purchaser found out that the salesperson actually filled in the amount of \$12,000,000 as the property price in the PASP without seeking his consent. The purchaser finally dishonoured the cheque and lodged a complaint with the EAA.



研訊結果

監管局紀律委員會認為，該名營業員安排買家簽署一份漏空重要條款的臨約，違反了執業通告（編號 13-06(CR)）的規定。此外，在沒有得到買家的同意而擅自在臨約填上樓價，他同時亦違反了《操守守則》第 3.4.1 段，即「作為代理或受委託為代理的地產代理和營業員，應保障和促進客戶的利益、按照地產代理協議執行客戶的指示」。

考慮到個案的性質及該營業員的違規紀錄，紀律委員會就上述兩項違規決定譴責該名營業員、向其罰款 10,000 元、暫時吊銷其牌照 28 天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有關「合規及有效管理」類別的講座或研討會共 24 個學分。

Result

The EAA Disciplinary Committee was of the view that the salesperson was in breach of Practice Circular (No.13-06(CR)) by arranging for the purchaser to sign a PASP with essential terms of the transaction left blank. In addition, by filling in the property price in the PASP without the purchaser's consent, the salesperson was in breach of paragraph 3.4.1 of the *Code of Ethics*, which stipulates: "estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction".

Having considered the nature and gravity of the case, and the disciplinary record of the estate agent, the Committee, with regard to the two breaches, decided to reprimand the salesperson, impose a fine of \$10,000 and suspend his licence for 28 days. A condition was also attached to his licence requiring him to obtain 24 CPD points in 24 months by participating in courses/seminars of "Compliance and Effective Management".



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業界意見 Comment from trade

根據《地產代理條例》及由地產代理監管局制訂的《操守守則》，持牌地產代理及營業員在買賣過程中，應保障和促進客戶的利益、按照地產代理協議執行客戶的指示，並對交易各方公平公正。在填寫臨時買賣合約時，樓價一欄絕對不可漏空，在未得到客戶同意前，亦不可擅自更改樓價。

According to the Estate Agents Ordinance and the *Code of Ethics* promulgated by the EAA, estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction. The property price must not be left blank in the PASP and must not be amended before seeking the client's consent.