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Integrity in Focus

紀律研訊個案 Disciplinary hearing case

於電燈柱上張貼海報 Affixing poster on a lamp post

引言

持牌人不可在未經許可下於公眾場所張貼廣告招貼或海報，這行為不但有可能觸犯《公眾衛生及市政條例》，更會對行人及其他道路使用者造成滋擾。這違規行為會導致被監管局紀律處分。

Introduction

Licencees must not affix advertising bills or posters in public places without the requisite permission as this might not only be in breach of the Public Health and Municipal Services Ordinance, it may also cause annoyance to pedestrians and other road users. Such non-compliance may lead to disciplinary action by the EAA.

事件經過

在巡查期間，兩名監管局職員發現一枝電燈柱上張貼了一則二手住宅物業的廣告，該廣告的尺寸約為長 75 厘米、闊 45 厘米。

Incident

During an inspection, two EAA staff found an advertisement for a second-hand residential property affixed to a lamp post which was 75cm in length and 45cm in width.

由於廣告刊登了物業的售價及聯絡電話，監管局職員遂致電該聯絡電話調查。當得知該在未經許可下於公眾場所張貼廣告的違規行為被監管局發現後，該營業員最終承認該則廣告是他在未有通知其上司或取得其所屬地產代理公司的同意的情况下擅自張貼的。



As both the property selling price and a contact phone number were found on the advertisement, the EAA staff then called the contact person to investigate the suspected breach. After realising that his unpermitted posting of the advertisement was discovered by the EAA, the salesperson admitted that the advertisement was posted by himself without informing his supervisor or seeking the consent of the company he worked for.

研訊結果

監管局紀律委員會認為，該名營業員於電燈柱上張貼廣告，對他人構成滋擾，同時令地產代理行業聲譽受損，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」。

考慮到個案的性質及該營業員的違規紀錄，紀律委員會決定譴責該名營業員，並向其罰款 1,500 元。

Result

The EAA Disciplinary Committee was of the view that the salesperson affixed an advertisement on a lamp post, which may cause annoyance to others and bring disrepute to the trade. He was in breach of 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.”

Having considered the nature and gravity of the case, and the disciplinary record of the salesperson, the Committee decided to reprimand the salesperson and impose a fine of \$1,500.



吳元興先生
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Mr Evan Ng
Chairman of Estate Agent
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業界意見 Comment from trade

持牌地產代理在處理及刊登廣告時須遵守《地產代理條例》及監管局發出的執業通告的指引。倘若從業員沒有依循相關條例而擅自在電燈柱上刊登廣告，已屬違規。而在電燈柱上刊登廣告，不單影響市容，更有機會令途人或駕駛人士分心，所以業界應該秉持專業操守，切勿違規。

Licensed estate agents must comply with the Estate Agents Ordinance and the guidelines in the practice circulars issued by the EAA. Practitioners are in breach of the regulations if they post advertisements on lamp posts without the requisite permission. Such advertisements could distract both pedestrians and drivers. Hence, the trade should uphold their professional standards and be compliant.

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暫時吊銷牌照期間從事地產代理工作

Conducting estate agency work after a licence has been suspended

引言

持牌人在停牌期間不得從事地產代理工作，否則會被視為無牌從事地產代理工作而被轉介警方處理及留有案底，而監管局牌照委員會亦有可能採取跟進行動。

Introduction

Licencees must not conduct any estate agency work after their licence has been suspended. If they do so it will be regarded as practising unlicensed estate agency work and such an offence will be referred to the police which may result in a criminal conviction. In addition, the Licensing Committee of the EAA may also investigate the case.

事件經過

一名營業員在處理一宗住宅物業交易期間，在買賣雙方還未就樓價達成協議的情況下，安排買家先行簽署一份漏空樓價資料的臨約，並向買家表示他可成功游說賣方以買家心目中的價格出售該物業。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。結果，該營業員被譴責、罰款 10,000 元、暫時吊銷其牌照 28 天及附加條件於其牌照上。

其後，監管局接獲舉報，指該名營業員在停牌期間從事地產代理工作。監管局職員遂喬裝成客戶與該營業員接觸，並要求該營業員安排視察一個住宅物業。

Incident

A salesperson handled a transaction for a residential property. He arranged for the purchaser to sign a PASP with the property price left blank as the vendor and the purchaser had not yet reached an agreement on the property price. He told the purchaser that he could persuade the vendor to sell the property at the price the purchaser favoured. Later, the purchaser discovered that the salesperson had filled in the PASP with a property price of \$12,000,000 without seeking his consent. The purchaser cancelled the cheque and lodged a complaint with the EAA. As a result, the salesperson was reprimanded and fined \$10,000. His licence was suspended for 28 days with a condition attached.

Soon after the EAA received a report claiming that the salesperson was practising estate agency work during the suspension period of his licence. Therefore, an EAA staff pretended to be a client and contacted the salesperson asking for an appointment to view a residential property.

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在視察物業後，監管局職員向營業員表露其真正身分。營業員最終向監管局職員承認無牌從事地產代理工作。監管局其後將該個案轉介警方跟進，結果該營業員被檢控，並於法庭認罪，最終被判罰款 3,000 元及留有案底。

After viewing of the property, the salesperson admitted practising unlicensed estate agency work when he revealed that the client was the EAA staff. The EAA then referred the case to the police. The salesperson was finally charged by the police, fined \$3,000 and received a criminal record.



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Mr Keith Siu
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業界意見 Comment from trade

當事人理應在停牌期間好好自我反省；奈何他並沒吸取教訓，反而以身試法，最後更被定罪。雖然判罰金額輕微，但卻換來刑事案底。身為專業地產代理，必須要熟識及嚴格遵守地產代理條例和操守守則，切勿掉以輕心。

The salesperson should have reflected on his behaviour during the suspension period. However, as the amount of the fine was insignificant, the salesperson did not learn his lesson and went on to violate the law, which resulted in a criminal conviction. As a professional estate agent, one should be familiar with the Estate Agents Ordinance and the *Code of Ethics*. One should also be compliant and avoid violating the law.

