



刑事個案 Criminal case

無牌從事地產代理工作 Practising unlicensed estate agency work

引言

持牌地產代理公司不可安排其非持牌員工參與任何地產代理工作。否則，有關人士、該公司及其管理層均可能觸犯刑事罪行而被警方檢控，並會因此而留下案底。

Introduction

A licensed estate agency company must not arrange for its unlicensed staff to engage in estate agency work. Otherwise, the person concerned, the company and its management may commit a criminal offence and be prosecuted by the police, which will result in a criminal record.

事件經過

監管局接獲一宗有關銷售一手住宅物業的投訴。監管局職員在調查事件期間發現，被投訴的營業員在向準買家推介一手樓盤的時候，並未取得地產代理或營業員牌照。因此，該營業員涉嫌在沒有牌照下從事地產代理工作，而僱用他的地產代理公司則涉嫌僱用非牌照持有人作為營業員，兩者均涉嫌觸犯刑事罪行，局方於是將個案交由警方接手跟進。

Incident

The EAA received a complaint about the sale of a property in a first-hand residential development. During the investigation, the EAA staff discovered that the salesperson concerned did not hold an estate agent's licence or a salesperson's licence when he introduced the property to the prospective purchaser. Hence, the salesperson was suspected of conducting estate agency work without a licence, while the estate agency company which employed him was suspected of employing an unlicensed person as a salesperson. As both were suspected of committing a criminal offence, the EAA referred the case to the police.

研訊結果

經警方調查後，案件交由法庭審理。結果，法庭裁定該名營業員因無牌從事地產代理工作，干犯《地產代理條例》第16條而被定罪，被判處罰款港幣3,000元及留下案底。雖然在個案審訊前，該名營業員已取得營業員牌照，但由於他干犯了《地產代理條例》第16條的刑事罪行，故其營業員牌照隨後亦被監管局牌照委員會所撤銷，三年內將不會再次獲發牌照。

至於僱用該營業員的地產代理公司，則由於證據不足而未被警方起訴。

Result

After police investigation, the case was taken to court. The court ruled that the salesperson carried out estate agency work without a licence, contravening section 16 of the Estate Agents Ordinance ("EAO"). He was convicted and sentenced to a fine of \$3,000, with a criminal record maintained by the police. Although the concerned salesperson was granted a salesperson's licence before the trial, his licence was subsequently revoked by the EAA's Licensing Committee due to his criminal conviction under section 16 of the EAO and he would not be granted a licence by the EAA for the next three years.

The estate agency company, which employed the salesperson, was not prosecuted due to insufficient evidence.



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● 業界意見 Comment from trade

地產代理實施牌照制度之目的是保障消費者的權益及讓行業專業化。無牌代理除了妄顧客戶的利益，一間公司若以無牌營業員去作市場競爭亦是不公平的競爭手段。

The licensing regime for estate agents is to protect consumers' interests and enhance the professionalism of the trade. Unlicensed estate agents neglect the interests of clients and it also gives any company hiring unlicensed salespersons an unfair advantage to compete in the market.

紀律研訊個案 Disciplinary hearing case

向準買家發出具侮辱性的訊息令業界名聲受損 Sending abusive messages to a prospective client and brought disrepute to the trade

引言

持牌人應時刻謹記保持專業態度，絕不可向客戶／準客戶發出騷擾或具侮辱性的訊息，否則有機會被監管局紀律處分。

Introduction

Licensees should always behave in a professional manner and must not send any harassing or abusive messages to clients or potential clients. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名準買家透過某地產代理公司的流動應用程式查詢一個載於該程式內的住宅物業。該地產代理公司指派一名持牌地產代理處理該查詢，該代理便即以手機通訊軟件發送數則訊息聯絡該準買家。然而，該代理因為該準買家在翌日仍未回覆他，便向該準買家發出具侮辱性的訊息。該準買家收到這些訊息後，遂向監管局作出投訴。

Incident

A prospective purchaser made an enquiry via the mobile App of an estate agency company about one of the residential properties listed in the App. The company appointed one of its licensed employees to deal with the enquiry, the designated estate agent sent messages to contact the prospective purchaser through a mobile communication App accordingly. However, after the prospective purchaser did not respond to his messages on the next day, the estate agent sent messages containing abusive content to the prospective purchaser. After receiving these messages, the prospective purchaser lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該地產代理不應向準買家發出具侮辱性的訊息，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地產代理的違規紀錄，紀律委員會決定譴責該名地產代理，並暫時吊銷其牌照一星期。

Result

The EAA Disciplinary Committee pointed out that the estate agent should not send messages with abusive content to the prospective purchaser. Hence, the estate agent failed to comply with paragraph 3.7.2 of the *Code of Ethics*, which states that “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 that estate agent, the Disciplinary Committee decided to reprimand him and suspended his licence for one week.



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● 業界意見 Comment from trade

持牌人應時刻保持專業及誠懇的服務態度，待人以禮及耐心聆聽。向查詢人發出具侮辱性的語音訊息等行為，會令公眾誤以為地產代理欠缺基本禮貌，損害地產行業名聲及形象，及違反監管局發出的《操守守則》。

Licensees should always act professionally and serve their clients with sincerity. Sending abusive messages to enquirers will make the public feel that estate agents are impolite, which will tarnish the reputation and image of the trade and violates the *Code of Ethics* issued by the EAA.