Integrity in Estate Agency Transactions

A Joint EAA and ICAC Publication for Estate Agency Practitioners

廉政公署
ICAC

地產代理監管局
ESTATE AGENTS AUTHORITY

Addendum

Corruption Prevention Services for the Private Sector

Please note that with effect from 10 September 2026, the Corruption Prevention Advisory Service (CPAS) and the Hong Kong Business Ethics Development Centre (HKBEDC) of the Independent Commission Against Corruption (ICAC) have been restructured as the Private Sector Integrity Centre (PSIC).

Accordingly, any references to the CPAS and HKBEDC in this publication are to be read as referring to the PSIC from that date onwards.

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Private Sector Integrity Centre
Independent Commission Against Corruption
10 September 2026

廉政公署 ICAC

PSIC 私營機構誠信建設中心 Private Sector Integrity Centre

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This publication aims to provide general guidance only and does not purport to deal with all possible issues that may arise in any given situation. Explanations of legal requirements under any relevant legislation are necessarily general and cannot be relied upon to relieve the need to review relevant legislation in detail, and where appropriate, to obtain specific legal advice on any issue which may arise. The Independent Commission Against Corruption (ICAC) and Estate Agents Authority (EAA) accept no liability or responsibility for any loss caused to any person acting or refraining from acting in any way as a result of any material contained in this publication.

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Foreword

For many people, buying or selling a property will be the largest financial transaction they undertake in their lives. However, buyers, sellers and those renting out or leasing property are often unfamiliar with all the complicated procedures involved and may rely heavily on estate agency practitioners' expertise and advice in making decisions. While the estate agency trade has greatly enhanced its professionalism in recent years to meet social and market needs, the integrity of practitioners has aroused concern both inside and outside the trade. Observation of the law and reliable, professional behaviour through fair and transparent action are essential to secure clients' confidence and safeguard the trade's image.

Many of the cases handled by the ICAC and EAA involving corruption and breaches of professional conduct in the estate agency trade arise from practitioners' ignorance of the relevant legislation and practices or from acting recklessly when managing interests in relation to their work. Such behaviour jeopardises practitioners' career prospects and damages the reputation of the trade. Practitioners should therefore enhance their understanding of the relevant laws and code of conduct to protect their own interests as well as those of their employers and clients, and to protect the trade's overall image.

This booklet aims to explain the provisions of the Prevention of Bribery Ordinance (PBO) and the relationship between the relevant laws and estate agency trade. Analysis of sample cases also seeks to raise practitioners' awareness of what constitutes corruption in the context of the estate agency trade and how and when breaches of the EAA's Code of Ethics can occur. In doing so, it is hoped that practitioners will gain a better understanding of their legal and ethical obligations, avoid breaking these provisions inadvertently and reduce the possibility of facing disciplinary actions.

A basic requirement for all estate agency practitioners is strict adherence to the law in the course of their work. Treating clients honestly and observance of the law can also enhance competence and provide a competitive edge.

Spirit of the PBO

Corruption in the business sector is mainly governed by Section 9 of the PBO. The spirit of the legislation seeks to ensure that all businesses in Hong Kong can compete in a fair and orderly environment and to protect the interests of business organisations or principals from being jeopardised by employees or agents who abuse their power for personal gain.

Spirit of the Estate Agents Ordinance (EAO) and the Code of Ethics

The EAO aims to regulate the estate agency trade and improve practitioners' professionalism through a licensing system so that property transactions can be conducted in an open, fair and honest manner. The EAA's Code of Ethics is promulgated by EAA for the purpose of providing guidance and directions to practitioners in the conduct of estate agency work.

What is Corruption? : 1) Corrupt Transactions with Agents

Offer and Acceptance of an Advantage — PBO Section 9(1&2)

Any agent, who solicits or accepts an advantage in relation to the affairs or business of his principal without obtaining his principal's authorisation or permission, is guilty of an offence. The person offering an advantage to the agent also commits a crime. According to the law, offering and accepting an advantage both constitute an offence.

Use of False Documents with Intent to Deceive the Principal — PBO Section 9(3)

Any agent, who uses any forged or false receipt, account or other document with intent to deceive his principal, commits an offence.

Relevance of PBO Section 9 to Estate Agency Practitioners

Estate agency practitioners are subject to Section 9 of the PBO. The following tables explain briefly the application of the PBO to the estate agency trade to deepen practitioners' understanding of the legal requirements that apply to them when handling property transactions.

Accepting a Bribe — PBO Section 9(1)

	Advantage	Any act in relation to his principal's affairs or business	Principal's permission
Any agent ▶	**who solicits or accepts an advantage from any person as an inducement to or reward for** ▶	**influencing the agent's doing or forbearing to do any act in relation to the affair or business of the agent's principal** ▶	**without the permission of the agent's principal**
e.g. Employee of an estate agency; estate agent acting for the vendor/ buyer/ landlord/ tenant.	"Advantage" refers to money, gift, loan, reward, commission, office, employment, contract, service, favour and the exercise or forbearance from the exercise of any power or duty, but does not include entertainment, such as food or drink which is provided for immediate consumption on the occasion.	e.g. • Solicits or accepts an advantage when undertaking negotiations for clients over the lease or sale of premises. • Solicits or accepts an advantage from a bank or solicitors' firm. • Solicits or accepts an advantage for diverting business to fellow practitioners.	In the estate agency trade, principal usually refers to: • Estate agency/ employer • Vendor/ landlord • Buyer/tenant Hence, practitioners are required to obtain permission from the three parties mentioned above before accepting any advantage in relation to his principal's business, otherwise they may infringe the law.

Offering a Bribe — PBO Section 9(2)

	Advantage	Any act in relation to his principal's affairs or business	Principal's permission
Any person ▶	**who offers an advantage to any agent as an inducement to or reward for** ▶	**influencing the agent's doing or forbearing to do any act in relation to the affair or business of the agent's principal** ▶	**without the permission of the agent's principal**
e.g. Vendors, buyers, landlords, tenants, developers, banks, solicitors' firms, estate agencies and estate agents.	"Advantage" under the PBO has a wide definition (see previous page). Any monetary reward or "lai see" or "tea money", irrespective of its amount, is deemed an advantage.	e.g. • An estate agent offers an advantage to a developer's employee in return for obtaining more new flats to sell. • A vendor, buyer, property owner or tenant offers an advantage to an estate agent to facilitate a transaction.	Hence, the offeror of an advantage has to ascertain whether the agent accepting the advantage has obtained his principal's permission before offering him the advantage.

Use of False Document with Intent to Deceive the Principal — PBO Section 9(3)

Any agent	**who uses any receipt, account or other document under the following circumstances with intent to deceive his principal shall be guilty of an offence.**

e.g.
Estate agency practitioners.

The receipt, account or document shall:

- be in respect of which the practitioner's principal is interested; and
- contain any statement which is false or erroneous or defective in any material particular; and
- be used for misleading the practitioner's principal.

Offer of Advantage to Public Servants and Acceptance of Advantage by Public Servants — PBO Section 4(1&2)

Any person who, without lawful authority or reasonable excuse, offers an advantage to a public servant (whether in Hong Kong or elsewhere) to influence the public servant's conducting of business in relation to his government department/public body shall be guilty of an offence. The public servant who accepts the bribe is also guilty of an offence. According to the law, offering and accepting an advantage both constitute an offence.

Bribery of Public Servants by Persons Having Dealings with Public Bodies — PBO Section 8

Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any government department or public body, offers any advantage to any public servant employed by that government department or public body shall be guilty of an offence.

Relevance of PBO Sections 4 and 8 to Estate Agency Practitioners

The relevance of PBO Sections 4 and 8 to practitioners is summarised below:

Offering a Bribe — PBO Section 4(1)

	Advantage	Any act in relation to the business of a government department/ public body	Lawful authority or reasonable excuse
Any person (whether in Hong Kong or elsewhere) ▶	**who offers an advantage to a public servant as an inducement to or reward for** ▶	**influencing the public servant's doing or forbearing to do any act in relation to the business of the government department/ public body** ▶	**without lawful authority or reasonable excuse**
e.g. Estate agency practitioners.	In accordance with the PBO, "public servant" refers to prescribed officers (e.g. persons holding an office of emolument under the government), and employees of public bodies.	e.g. An estate agent offers a rebate to a public servant for concluding or facilitating the lease/sale of a property for the latter's government department/ public body at a higher price.	Permission is normally not granted to prescribed officers by the Chief Executive/ department to accept advantages in relation to their office.

Accepting a Bribe — PBO Section 4(2)

	Advantage	Any act in relation to the business of a government department/ public body	Lawful authority or reasonable excuse
Any public servant (whether in Hong Kong or elsewhere) ▶	**who solicits or accepts an advantage from any person as an inducement to or reward for** ▶	**influencing the public servant's doing or forbearing to do any act in relation to the business of the government department/ public body** ▶	**without lawful authority or reasonable excuse**
e.g. An employee of a government department or public body.	Even if the public servant has accepted an advantage via a third party, say his spouse, he is still considered to have received the advantage himself.	e.g. A public servant accepts an advantage from an estate agent to disclose confidential information relating to an urban development project.	Employees of public bodies should obtain prior written permission from the public body when accepting an advantage in relation to their official duties. In any case where an advantage has been offered or accepted without prior permission, the public servant must apply for approval as soon as reasonably possible afterwards.

Bribery of Public Servants by Persons Having Dealings with Public Bodies — PBO Section 8

Any person	**who without lawful authority or reasonable excuse, while having dealings of any kind with any government department or public body, offers any advantage to any public servant employed by that government department or public body shall be guilty of an offence.**
e.g. Estate agency practitioners.	e.g. An estate agent offers an advantage to a public body employee while negotiating with him over finding a suitable commercial space for the public body to set up a customer service centre.

Points to Note

- Customs in any profession, trade, vocation or calling do not constitute a defence for bribery (Section 19 of the PBO).
- The offeror and the recipient of a bribe will be guilty irrespective of whether or not the act of bribery has actually been carried out. It is not a defence for the recipient to claim that "the act requested to be done was not actually carried out" (Section 11 of the PBO).
- If any part of the act of bribery can be proved to have taken place in Hong Kong, both the offeror and recipient may be pursued under the PBO.
- Both the offeror and recipient of a bribe commit an offence if verbal agreement on corruption is reached.

Penalty for Breach of the PBO

The maximum penalty for an offence under Sections 4, 8 and 9 of the PBO is 7 years' imprisonment and a fine of $500,000.

*The summaries of PBO Sections 4, 8, 9, 11 and 19 provided here are for reference only. Please refer to Appendix 1 for the full text.

Investigation of Offences Other Than Corruption

If other related offences, such as "obtaining pecuniary advantage by deception" or "false accounting" under the Theft Ordinance or "forgery" under the Crimes Ordinance, are discovered during the course of an ICAC investigation into an alleged offence under the PBO, the ICAC has the power to conduct investigations and make arrests in pursuance of these offences.

Relation between the PBO and Estate Agents Ordinance (EAO)

In accordance with the EAO, a person or company needs to be considered "fit and proper" by EAA, among other requirements, to be granted or to continue to hold a licence to carry out estate agency work. In addition, the Code of Ethics issued by EAA (see Appendix 2 for details) states that licensees should in carrying out their work refrain from activities which may infringe the law and provide services to clients with honesty, fidelity and integrity.

When determining whether a person or company fulfils the "fit and proper" requirement, EAA considers various factors, including whether the person or company has been convicted of any offence involving fraud, corruption or dishonest acts. EAA may not accept an application for a licence or licence renewal if the person or company concerned has been convicted of a bribery offence under the PBO.

If a licensee has been convicted of contravening the PBO, EAA's Disciplinary Committee may hold an inquiry hearing to consider whether there has also been a breach of the EAO or the EAA's Code of Ethics. If the Disciplinary Committee finds that the licensee's non-compliance is substantiated, it may exercise the disciplinary powers set out in the EAO. Such powers include admonishing or reprimanding the licensee concerned, attaching/varying conditions to his licence, suspending his licence for two years, revoking his licence, imposing a fine of up to $300,000 and making a costs order.

Over the years, the ICAC has investigated many cases related to corruption in the estate agency trade. Analysis of the following sample cases seeks to raise practitioners' awareness of corrupt practices in relation to their work and to help them understand more about their legal obligations and expected standards of behaviour.

Case 1: Acceptance of advantages without separating public from private interests

After graduating from secondary school, Gordon joined an estate agency. Mr Yu, a client, commissioned Gordon to sell four commercial units, specifying a minimum average price of $10,000 per square foot. As Gordon knew his cousin Johnny planned to invest in commercial buildings in that district, he recommended Mr Yu's units and sold two of them to Johnny at around $9,000 per square foot. To thank Gordon, Johnny offered him "tea money" of $150,000. Gordon then found another buyer, Mr Pau, for the remaining two units, asking $12,000 per square foot in order to fulfil Mr Yu's price instructions. After some negotiating, the transaction was concluded at $11,000 per square foot. Although Gordon succeeded in selling Mr Yu's units at an average price of $10,000 per square foot, Mr Yu suspected that the agent had favoured Johnny and corruption was involved. He therefore reported the case to the ICAC. After an ICAC investigation, the Department of Justice decided to prosecute Gordon and Johnny. Gordon argued in court that the transaction had been concluded according to Mr Yu's wishes and neither the estate agency nor Mr Yu had suffered any loss. However, the estate agency employing Gordon had stipulated that no agent was allowed to accept any private advantage from clients. The seller Mr Yu was also dissatisfied with Gordon's behaviour. Gordon was convicted of accepting a bribe. He was sentenced to 15 months' imprisonment and had to forfeit the $150,000 "tea money". Johnny was sentenced to 15 months' imprisonment and fined $100,000 for offering a bribe.

◆ Analysis

Gordon privately accepted a reward of $150,000 from his relative Johnny without the permission of his principals (namely the estate agency and Mr Yu). Hence, he committed the offence of accepting a bribe under Section 9 of the PBO. Johnny committed an offence by offering a bribe.

Gordon and Johnny were relatives. Gordon should have declared this interest to the estate agency and Mr Yu to avoid conflict of interest.

When handling a transaction involving a relative and a client, Gordon should have remained neutral. Instead, he favoured his relative, resulting in loss to both Mr Yu and Mr Pau, the other buyer. Although Mr Yu had set a minimum average transaction price per square foot, Gordon should have tried to obtain the best possible price for the seller according to market conditions. Mr Pau had to acquire units at a higher price because of Gordon's corrupt act.

Case 2: Becoming the victim of one's own greed

David was employed by an estate agency. While working there, he helped Mrs Wong, a client, to acquire a unit for $9.3 million against an asking price of $10 million. On David's request, Mrs Wong privately gave him a cash reward of $50,000 for having successfully convinced the owner to reduce the price. David later switched to another estate agency where he approached Mrs Wong again. When Mrs Wong subsequently bought a property for $6 million through David, he solicited $50,000 as a reward for proactively recommending a "cheap flat". Mrs Wong refused as she had realised after the previous transaction that David exaggerated the asking price. He could then appear to bargain a substantially lower price and cheat the buyer of "lai see". David refused to give up asking for a reward and repeatedly solicited "lai see" from Mrs Wong. Having been pestered beyond endurance and feeling cheated, Mrs Wong lodged a complaint with David's superior. The estate agency showed zero tolerance towards David's behaviour and reported the case to the ICAC. Eventually, David was charged with the offences of soliciting and accepting bribes under Section 9 of the PBO. David pleaded guilty and was sentenced to 10 months' imprisonment.

◆ Analysis

Recommending properties to clients and facilitating transactions are the responsibilities of an estate agent. David should not have solicited any advantage from Mrs Wong.

David's greed led him to repeatedly solicit rewards from Mrs Wong, resulting in Mrs Wong reporting his behaviour.

According to the staff code of conduct in the estate agency where David worked, agents were not allowed to solicit or accept advantages from clients privately. Thus, David was convicted of soliciting and accepting bribes. As the bribe offeror in the first transaction, Mrs Wong should also have been charged. However, since she was a victim, having given David the "lai see" out of ignorance, and since she took the initiative to report the case and co-operated with the prosecution, the Department of Justice gave permission not to prosecute her.

Case 3: "Lai see" is also an advantage

Patrick, an estate agent, set out to sell a flat priced at $800,000 for his client Uncle Cheung, who was anxious to sell the flat for cash flow reasons. After various negotiations, a buyer offering $750,000 was found. With the provisional sale and purchase agreement due to be signed around the Lunar New Year period, Patrick privately solicited a New Year "lai see" from Uncle Cheung, saying that without Patrick's powers of persuasion the buyer might pull out. Wanting the transaction to go smoothly, Uncle Cheung gave a $2,000 "lai see" in cash to Patrick. When the deal eventually fell through, Uncle Cheung was furious and complained to Patrick's estate agency. As the estate agency did not allow employees to accept any advantage from clients, the case was referred to the ICAC for investigation. Patrick was convicted of soliciting and accepting a bribe under Section 9 of the PBO and fined $3,000.

◆ Analysis

Patrick solicited and accepted an advantage from Uncle Cheung and the latter willingly paid the reward. In doing so, they both contravened Section 9 of the PBO as permission from Patrick's employer and the buyer had not been obtained.

In accordance with Section 19 of the PBO, customs and practices cannot be used as an excuse for bribery. Patrick ignored his employer's policy and took advantage of his official capacity to accept a private advantage. Although he argued that it was a trade custom for agents to accept "lai see" from clients during the Lunar New Year, he was convicted.

The Department of Justice did not prosecute Uncle Cheung after taking into account his age and willingness to co-operate with the prosecution.

Case 4: Speak up on corruption

Tommy and Eunice had previously worked together in the same estate agency. Both subsequently quit. Tommy set up his own estate agency. Eunice went on to work as a branch manager for another estate agency. Tommy's company did not do well and faced closure. To broaden his clientele, Tommy asked Eunice to refer clients to him, promising to pay her an extra 10%-13% commission if any transaction resulted. Eunice understood Tommy's difficulties but refused to do this as it involved corruption. However, Tommy kept bothering Eunice and her employer started to suspect they were engaged in outside deals. To prove her innocence, Eunice then reported the matter to her employer, who decided to report Tommy's action to the ICAC. Tommy refused to answer any questions during the ICAC investigation and pleaded not guilty in court. However, the judge held that the evidence put forward by the prosecution was sufficient and Eunice's testimony as a witness was highly reliable. Tommy was convicted and sentenced to 120 hours' community service.

◆ Analysis

In soliciting business through bribery, Tommy committed an offence. Such action destroys fair competition within the trade and tarnishes the professional image of estate agency practitioners.

By asking Eunice to refer her company's clients to him, Tommy directly jeopardised the interests of Eunice's employer. Under Section 9 of the PBO, a bribe was constituted when Tommy proposed offering Eunice extra commission for business referrals. Even though Eunice did not agree to his request and her employer's interests were not hurt, under Section 11 of the PBO Tommy could not use this as a defence in court.

It was wise of Eunice to flatly reject Tommy's request to avoid any misunderstanding. She did not initially report Tommy as she took into consideration their friendship and sympathised with his difficult business situation. However, Tommy failed to appreciate Eunice's good intentions and continued to make demands.

Eventually Eunice could no longer stand the trouble Tommy was causing and reported the matter to her employer to protect herself. By doing so, she not only removed the trouble but also cleared up any misunderstandings with her employer. The case also alerted her employer and other estate agencies to the dangers of inadvertently committing an offence.

Case 5: Forging documents for personal gain

Vincent, an estate agent at Company A, facilitated the sale of Mr Leung's luxury flat to Mrs Pong at a price of $34 million. In line with regular practice, both buyer and seller had to pay 1% of the purchase price as commission to Company A. After the transaction was completed, Vincent showed an agreement and a fax to Mr Leung and Mrs Pong. The agreement indicated that the transaction had been carried out through two estate agencies, Company A and Company B. The fax was issued by Company A and indicated that Company B would collect the commission on its behalf. As the agreement and fax bore the signatures of the persons responsible in both estate agencies as well as company chops, Mr Leung and Mrs Pong paid the commission accordingly. In fact, Vincent had forged the agreement and fax document with a view to embezzling his employer's commission using Company B's account. Company B was later to return 80% of the commission it received to Vincent. Meanwhile, Vincent told his employer that another estate agency had beaten him to the transaction. Company A made a report to the ICAC after suspecting that Vincent had been bribed to refer business to another estate agency. The person responsible in Company B was exempted from prosecution by the Department of Justice because of his co-operation during the ICAC investigation and his willingness to testify against Vincent in court. Vincent was charged with fraud under Section 16A of the Theft Ordinance. He also contravened Section 15 of the EAO as it was found that his estate agent's licence had expired. Vincent was convicted of the offence of fraud and sentenced to 6 months' imprisonment. He also admitted to carrying out estate agency business without a licence and was fined $5,000. Subsequently, the EAA decided to reject Vincent's application to renew his estate agent's licence.

◆ Analysis

Vincent conspired with another estate agency to embezzle commission for personal gain. He not only seriously harmed his employer's interests, but also betrayed his company's trust in him.

Vincent facilitated the transaction between Mr Leung and Mrs Pong as an employee of Company A. If Vincent had had a corrupt intent during the commission-swindling process and used false documents to mislead his employer or conceal the transaction, he would have breached Section 9(3) of the PBO and have been liable for a maximum penalty of 7 years' imprisonment and a fine of $500,000.

Vincent felt that as he alone had facilitated the transaction, he alone should enjoy the commission. However, he had forgotten that as long as he was an employee of Company A, he had a responsibility to protect his employer's interests, one he should not ignore in light of personal interests.

Case 6: Bribery spoils fair play

A listed company exclusively authorised an estate agency to sell a factory building unit by tender. Estate agency manager Mr Chan and his subordinate John were responsible for tender matters. John soon found a client, Mr Lai, who was willing to pay $9.6 million for the unit. Meanwhile, Sidney, the proprietor of a small estate agency, was facing intense competition and trying every means to gain business. When Sidney learnt that Mr Chan was responsible for the factory unit transaction, he spared no effort in looking for a buyer. He also offered a $100,000 "lai see" to Mr Chan and John to ensure that his client could successfully buy the property. In light of the advantage offered by Sidney and on Mr Chan's instructions, John deliberately misled other prospective tenderers, including Mr Lai, into lowering their tender price or withdrawing. ICAC officers later arrested Sidney and Mr Chan in a restaurant where they were discussing how to hand over the bribe. Initially, Sidney denied making a corrupt deal with Mr Chan, but Mr Chan chose to co-operate with the ICAC and revealed everything. Sidney and Mr Chan were later sentenced to 9 months' and 6 months' imprisonment respectively for breach of Section 9 of the PBO. John showed remorse and admitted conspiracy to accept an illegal commission. He received a more lenient sentence of 2 months' imprisonment.

◆ Analysis

To protect investors' interests, listed companies prohibit their agents or employees from abusing their official positions for personal gain. Mr Chan and John were commissioned by the listed company to sell the property. They had to comply with the company's policy on acceptance of advantages and were not allowed to solicit or accept any work-related advantage.

Mr Chan and John committed an offence for personal gain. This went against the spirit of the tender system and also prejudiced the buyer's interests.

By attempting to secure business through corrupt means, Sidney's action went against the spirit of fair competition and damaged the reputation of estate agency trade. The offence was serious and he was eventually brought to justice.

Case 7: Jailed for abusing power for personal gain

Manager Mr Kwok worked in a listed company in Hong Kong where he was responsible for his company's property investments. These often involved transactions involving several ten million dollars. Mr Kwok commissioned agents Raymond and Freddy, from two estate agencies, to source suitable properties for the listed company. When discussing the matter, Mr Kwok mentioned from time to time that many estate agents wished to secure business through him. Faced with this competitive situation, Raymond and Freddy offered to pay Mr Kwok "under-the-table commission" of $520,000 and $1.7 million for recommending their properties. When the listed company found that corruption might be involved in the property investments that Mr Kwok handled, it made a report to the ICAC. After an investigation, Mr Kwok and the two estate agents were arrested. Mr Kwok was sentenced to 18 months' imprisonment while Raymond and Freddy were sentenced to 7 months' and 3 years' imprisonment respectively. The two estate agents appealed against the sentence but their appeals were overruled.

◆ Analysis

The two estate agents' desire for quick success and instant benefits encouraged them to bribe Mr Kwok. They paid a high price, ending up in prison.

Mr Kwok held an important post and should have used the power bestowed on him by the listed company to protect its interests. Instead, Mr Kwok abused his company's trust for personal gain and violated the law. As Mr Kwok showed remorse and admitted the offence during the investigation, the judge granted a reduction in his sentence.

When giving his ruling on Raymond, the judge said the defendant had committed a serious corruption offence, but considering the defendant's age and minor role gave him a lighter sentence of 7 months' imprisonment.

When giving his ruling on Freddy, the judge said the defendant's action destroyed the level playing field in Hong Kong and it was necessary to order immediate imprisonment and hand down a heavy sentence.

Case 8: Forced to commit a crime in the face of heavy debts

Director Mr Lai was a village-type house developer-cum-estate agent. His company had acquired a land lot in the New Territories for constructing village-type houses. Mr Lai assigned the project to his assistant Clement who held an estate agent's licence. Clement knew Mr Shum who claimed to be a village representative. They often gambled together and Clement ended up owing money to Mr Shum. When Clement failed to make a repayment, Mr Shum asked him to deceive Mr Lai, making use of Mr Lai's eagerness to get the project underway, in order to repay his debts. Clement felt he had no alternative but to do as Mr Shum instructed. So he told Mr Lai that Mr Shum, the village representative, had asked the company to donate $50,000 to the village fund. Otherwise, the residents would object to the village-type house construction. To avoid complications, Mr Lai prepared a cheque for Mr Shum and Clement wrote a false receipt. After thinking the matter over, Mr Lai suspected that Mr Shum was attempting to embezzle the money and asked the ICAC to investigate. In fact, Mr Shum was not a village representative, but only an ordinary villager. He was convicted of theft and sentenced to 2 years' imprisonment. Clement was sentenced to 9 months' imprisonment for breach of Section 9(3) of the PBO, namely using a false document to deceive his principal Mr Lai.

◆ Analysis

Clement had been entrusted with handling the village-type house development project and should have cherished the opportunity to show his ability. Unfortunately, his gambling habit led to personal finance problems. Driven into a corner, he conspired with Mr Shum to deceive Mr Lai's company and abused his employer's trust in him.

As Clement and Mr Shum had business associations, socialising might have been unavoidable. But Clement should have kept a suitable distance from Mr Shum and, above all, should not have had any pecuniary associations so that he would not have to show favouritism, get caught in a work dilemma where it was difficult to stay neutral, or do illegal acts for personal gain.

Case 9: Upholding principles and making a clean break

A public body planned to acquire a property to use as a customer service centre. Anissa, an estate agent, provided information on a shop to Mr Kam, the officer in charge of the public body project. Mr Kam thought that the premises was worth $50 million and agreed to pay 1% of the purchase price to Anissa as commission in line with normal practice. When Anissa and Mr Kam discussed the purchase, Anissa offered to rebate one-third of the commission to Mr Kam to ensure the transaction was successful. Mr Kam immediately refused. He returned to his office and reported the matter to the management. The next day, Anissa called Mr Kam to propose splitting the commission again and invited Mr Kam to talk about it over dinner. Mr Kam knew the seriousness of the matter and reported it to the ICAC, as per his superior's instructions. Mr Kam and Anissa then met in a hotel coffee shop. Anissa said the seller had demanded $68 million. Mr Kam thought the price was greatly above the market price. Again, Anissa proposed letting Mr Kam privately collect one-third of the commission. Anissa also said she was willing to co-operate with Mr Kam in this way over the long term. Anissa was arrested and charged by the ICAC. Eventually she was sentenced to 1 year's imprisonment for bribing a public officer.

◆ Analysis

Mr Kam was an employee of a public body. Anissa offered an advantage to Mr Kam during official business and committed the offence of bribing a public officer under Section 4 of the PBO.

Anissa took this risk to facilitate the property transaction and earn commission. She repeatedly tried to bribe Mr Kam and to get him to persuade the public body to buy the property at a higher price, showing contempt for the law and a disregard for public interest.

Reputable estate agencies would not allow their agents to seek business through bribery because this not only violates the law, but also causes vicious competition and affects the trade's professional image.

Anissa only made a verbal proposal and Mr Kam did not agree to her request, but in doing so Anissa had already committed the offence of bribing a public officer under Section 4 of the PBO. Under Section 11 of the PBO, she could not excuse herself by saying that the corrupt agreement had not been executed. The judge also pointed out that Anissa's corrupt intent was obvious and if the property transaction had been realised, Anissa would have obtained a monetary advantage.

The judge said in his ruling that the nature of the corrupt offence committed by Anissa was serious and it was necessary to sentence her to immediate imprisonment.

Mr Kam adhered to the public body's policy on acceptance of advantages. Apart from refusing Anissa's bribe, he also reported the matter to his superior and the ICAC. By taking this action, he helped protect the reputation and interests of his employer and protected himself by making a clean break with corruption. It was a wise decision.

Case 10: Poor financial management that leads to risk-taking

Ronald worked in an estate agency. His employer trusted him and provided him with training, yet Ronald felt he could do well on ability alone. Ronald planned to marry his girlfriend in a year's time. To prepare for the costly wedding, Ronald applied for a huge loan from a finance company, putting himself in a position where he had to work very hard to earn enough to repay the debt. After successfully renting out Ms Yeung's flat at $30,000 per month, Ronald asked Ms Yeung to deposit the $15,000 commission into the bank account of a consultancy firm he had set up on the pretext that the consultancy firm was a subsidiary of the estate agency where he worked. To conceal the whereabouts of the commission, Ronald submitted a false report to his employer stating that Ms Yeung's tenancy transaction had been facilitated by a consultancy firm and Ms Yeung would only be willing to pay commission to the consultancy firm. Ronald's employer was suspicious about these arrangements and checked the consultancy firm's details. Ronald's dishonest act was revealed and a report made to the ICAC. Ronald was sentenced to 9 months' imprisonment for deceiving his employer by using falsified documents. He was also ordered to pay court costs as well as commission of $15,000 in restitution to the estate agency.

◆ Analysis

Ronald had become entangled in debt and deliberately used his own consultancy firm to embezzle commission due to his employer. He wilfully used a false document with intent to mislead the estate agency about Ms Yeung's transaction, contrary to Section 9(3) of the PBO.

Ronald was disloyal to his employer. He defied the law out of greed and ruined his own future.

As the estate agency was a victim, the court ordered Ronald to pay in full the embezzled sum in restitution to his employer.

Case 11: Succumbing to temptation in the face of heavy debts

Joe, the manager of an estate agency, led a luxurious life and was keen on speculating. Initially, he made handsome profits from the bull stock market. He then borrowed money from finance companies to increase his investment capital in a bid for higher returns. However, losses in later speculative activity and the accumulation of old debts left him with serious cash flow problems. Mr Koo, a client, had bought two domestic premises through Joe. On completing the deals, Joe submitted two provisional sale and purchase agreements to his company. On one of the agreements he put down "commission not chargeable to buyer", and on the other he stated that as the transaction had been concluded in collaboration with another estate agency, commission should be paid to that agency. Two months later, with debt collectors frequently pressing him for repayments at his company, Joe was sacked. Joe deliberately concealed Mr Koo's transaction before his departure. After leaving the agency, Joe contacted Mr Koo again and untruthfully told his client that he was collecting the commission on behalf of the estate agency. He instructed Mr Koo to write out a $50,000 cash cheque. Joe then pocketed the commission belonging to his former employer by depositing the cheque into his personal bank account. When the estate agency failed to receive its commission, it lodged a complaint with the ICAC suspecting a corrupt deal between Joe and Mr Koo. After investigation, Joe was charged for contravening Section 9(3) of the PBO and the Theft Ordinance in using falsified documents to mislead his employer and misappropriating his employer's commission by deception. On conviction, he was ordered to perform 240 hours of community service.

◆ Analysis

Given the keen competition in the estate agency trade and the large amounts of money involved, estate agents are often faced with temptation. These temptations are all the greater for those who cannot manage their finances properly and those in debt as they can easily be lured into taking risks. Prudent financial management is therefore an effective way to prevent corruption. People need to live within their means and assess the risks carefully when making investments. Otherwise they may suffer great losses and find themselves mired in debt or tempted into corruption.

This is exactly what happened to Joe. When he ran into debt due to poor financial management and failed investments, he then used every means to make money including committing the serious crime of using false documents to defraud his estate agency of commission. Remorseful after his arrest, Joe offered to repay the commission to his former employer. The judge therefore handed down a lenient sentence of community service.

Mismanagement and insufficient internal control in estate agencies provide corruption opportunities for unscrupulous employees. If the agency had designated another staff member to follow up Mr Koo's case right after Joe's departure, it would not have been so easy for Joe to manipulate the situation.

Case 12: Forsaking integrity for advantages

Mrs Mo, a flat owner, commissioned an estate agency as the sole agent for the sale of a shop premises priced at $13.6 million. The company assigned Anna and Bill to take care of the matter. Some time later, Anna found a buyer who offered to buy the premises for $14 million. As Anna could not locate Mrs Mo at that moment and had to go to a meeting, she asked Bill to contact Mrs Mo. When Bill contacted Mrs Mo, he told her that a buyer had offered $12.8 million for the premises. Bill eventually persuaded Mrs Mo to accept the offer and sign a provisional sale and purchase agreement. The next day, Bill told Anna that the shop premises had been sold to Mr Sung, one of his clients, but Mr Sung was willing to re-sell the premises to Anna's client as a confirmor. Sensing something was wrong, Anna told her supervisor about Bill's breach of the company's code of practice in showing favour to Mr Sung in selling him the premises at a lower price. While the estate agency was conducting an internal investigation, Bill begged Anna to falsely claim that she had only met the buyer who made the $14 million offer after the provisional sale and purchase agreement had been signed. Anna immediately refused. In fact, the whole situation had only arisen because Bill did not want to share the commission equally with Anna. Instead of co-operating with Anna, he wanted to handle the transaction alone. He thus sought assistance from his friend Mr Sung in buying the shop at a lower price and then re-selling it as a confirmor to Anna's client at a higher price. This way, Bill could not only receive more than $50,000 commission from both the buyer and seller, he could also share the profits from the price difference with Mr Sung. The estate agency refused to pay Bill the commission and reported the situation to the ICAC. Bill was sentenced to 1 year's imprisonment upon conviction of contravening Section 16A of the Theft Ordinance.

◆ Analysis

It may seem that Bill was being clever, but actually he was being foolish. He defied the law and seriously breached professional ethics by disregarding the interests of his clients.

The management of the estate agency showed it had zero tolerance for such practices by treating Anna's complaint seriously and taking action against Bill's unethical and illegal behaviour. Its integrity management enables staff to understand clearly the ethical standards the company requires of them. This can deter staff from unethical behaviour. It can also attract and help retain ethical employees, thus helping the company to earn greater profits and goodwill.

Case 13: Professionalism should not be abused

Uncle Tang, an elderly man, had always hoped to move into a village house in the New Territories one day. Eventually, he saw a village house on sale for $760,000. As Uncle Tang could not afford all the down payment, he asked Mrs Man, the house owner, to reduce the price through Susan, his estate agent. Mrs Man turned down his request. To facilitate the transaction, Susan then suggested that the buyer and seller put down an inflated price of $1.07 million on the agreement so that Uncle Tang could apply for a higher mortgage. Both Mrs Man and Uncle Tang agreed to the arrangement. Uncle Tang later successfully secured a mortgage loan of $749,000 by producing the agreement for sale and purchase as a supporting document. When Uncle Tang failed to keep up his repayments, the illegal action was exposed. The bank reported the case to the ICAC suspecting that Susan had accepted advantages for helping Uncle Tang to apply for a mortgage loan using falsified documents. Susan was found guilty of conspiracy to deceive and sentenced to 3 months' imprisonment.

◆ Analysis

On the surface, Susan's suggestion to inflate the purchase price seemed a "win-win" arrangement. Mrs Man could sell her house at the desired price, Uncle Tang could resolve his financial problems, and Susan herself could earn commission from both the seller and purchaser. She had, in fact, committed a serious offence in conspiring with Mrs Man and Uncle Tang to defraud the bank into granting a loan.

Since Mrs Man and Uncle Tang were abetted by Susan to commit the crime, and they fully co-operated with the ICAC during its investigation, the Department of Justice, after taking their ages into consideration, agreed not to prosecute them. Instead, they were cautioned by ICAC senior officers.

As a professional estate agent, Susan should have provided bona fide information to all stakeholders (including employer, seller, buyer and bank, etc.) to protect their interests. However, keen to earn commission, Susan enthusiastically encouraged Uncle Tang to buy the house and abetted the two elderly people in conspiring to obtain a mortgage loan, even though she well knew that Uncle Tang was financially stretched. Such behaviour not only inflicts losses on the bank. It can also affect the stability of Hong Kong's financial system.

Case 14: Conspiracy to deceive constitutes a serious offence

Mr and Mrs Ho wished to sell a flat for their son for $500,000 to $600,000. After much effort, Mary, their estate agent, located a buyer called Mrs Cheung who offered to buy the flat for $550,000. Mrs Cheung planned to apply for a loan under the Housing Authority's Home Assistance Loan Scheme. In order to get a greater monthly subsidy from the Housing Authority and a larger mortgage loan from the bank, Mrs Cheung suggested that Mary ask the Ho couple to inflate the purchase price to $750,000 and return the difference of $200,000 to the buyer afterwards on the pretext that it was a decoration fee refund. In other words, the transaction price was still $550,000. After spending so much time and effort on the deal, Mary did not want the transaction to fall through so she tried hard to persuade Mr and Mrs Ho to agree to Mrs Cheung's request. Thinking it would not cause any loss and also keen to make a deal, the Ho couple agreed to Mrs Cheung's suggestion. Mrs Cheung was later granted a $260,000 subsidy from the Housing Authority and a $450,000 loan from the bank respectively. After the conspiracy was discovered, Mrs Cheung and Mary were sentenced to a jail term of 8 months and 6 months respectively while Mr and Mrs Ho were not prosecuted because of their age.

◆ Analysis

Buyers generally do not fully understand the procedures and legal liabilities involved in property transactions, so they rely on and believe the advice given by estate agents. Estate agents have a responsibility to analyse and explain to clients all the important points relating to a transaction and should make the interests of their clients their main concern.

As a professional estate agent, Mary should have rendered services to her clients in an honest and ethical manner. Though Mary did not initiate the proposal, Mrs Cheung would not have been granted a loan and a subsidy without Mary's assistance in persuading the Ho couple.

When dealing with a dishonest client such as Mrs Cheung, Mary should have used her common sense to see that Mrs Cheung's suggestion was in fact illegal. Mary should also have taken decisive action, declining the request instead of involving herself in the fraud.

Case 15: Offering advantages in return for confidential information

Mr To, a manager, was responsible for acquiring properties for the public body in which he worked. Through his work, he became acquainted with an estate agent called Tony. The latter frequently treated Mr To to dinner and unconditionally lent him $50,000 to solve his financial difficulties. One night when they were having dinner, Mr To told Tony some confidential information about the public body's acquisition plan. As a token of his gratitude, Tony promised to deposit $100,000 into Mr To's bank account. After receiving the confidential information, Tony immediately arranged for his friends and relatives to rent and buy the premises that were to be acquired soon. Before long, the public body announced its acquisition plan covering the premises acquired by Tony's friends. Tony's friends were granted compensation. To obtain greater compensation from the public body, Tony further incited his friends to make a false claim to the public body that they did not own any other premises. They also agreed that they would share the compensation afterwards. Tony's scam eventually surfaced and the public body stopped processing all compensation applications made by Tony's friends. The case was also reported to the ICAC on suspicion that a staff member of the public body had accepted advantages for disclosing confidential information about the public body's acquisition plan. After investigation, the ICAC arrested Mr To, Tony and Tony's friends. Mr To and Tony were sentenced to a jail term of 3 years and 2 years respectively for breach of Section 4 of the PBO. Tony's friends were charged with fraud offence and were either sentenced to imprisonment or ordered to perform community service.

◆ Analysis

Tony offered $100,000 to Mr To as a reward for providing confidential information relating to the public body's property acquisition plan, thus committing the offence of bribing public servants under Section 4 of the PBO.

Estate agency practitioners should also bear in mind that any person who, without lawful authority or reasonable excuse, offers advantages to staff of government departments and public bodies while having dealings of any kind with the Government and the public bodies are guilty of an offence under Section 8 of the PBO and liable to a fine of $500,000 and 7 years' imprisonment.

Case 16: Conflict of interest and embezzlement

Timmy, an estate agent, was commissioned by Mrs Chung, a landlord, to sell a residential unit at $900,000. Ms Lam, a client, expressed willingness to buy the unit at $780,000 but instead of informing Mrs Chung of the offer, Timmy told Mrs Chung that a client had agreed to buy her unit at $580,000 in the name of a limited company. He persuaded Mrs Chung to sell the unit at a reduced price for cash flow reasons as there were signs that property prices were going down. Mrs Chung agreed. Mrs Chung later found out that after the transaction was completed the buyer had immediately sold the unit to Ms Lam at $780,000. She reported the case to the ICAC suspecting that Timmy had accepted advantages from the buyer and embezzled the price difference. The ICAC investigation revealed that Timmy was one of the shareholders of the limited company which was the buyer. Timmy was eventually convicted of the offence of fraud under Section 16A of the Theft Ordinance and sentenced to 6 months' imprisonment.

◆ Analysis

As an estate agent, Timmy should have disclosed any conflict of interest to Mrs Chung.

Timmy's dishonest behaviour not only caused loss to Mrs Chung and Ms Lam but also tarnished the reputation of the trade.

Corruption was not detected in the ICAC's investigation. However, Timmy's conduct constituted a criminal offence of fraud. On the advice of the Department of Justice, he was charged with the offence of fraud under Section 16A of the Theft Ordinance and ended up in jail.

Case 17: Respect for the judicial system

Mrs Wong, an old lady, was the landlord of a traditional tenement building. Several years ago, she signed a provisional sale and purchase agreement with a property development company to sell the whole block for $14 million. At that time, a number of people resided in an illegal structure on the roof, so Jacky, an estate agent representing the property development company, undertook to negotiate the recovery of these rooftop properties and demolition of the illegal structure. Uncle Paul, one of the rooftop residents, accepted $260,000 as compensation for having to move. Later when property prices dropped, the development company requested Mrs Wong to defer the transaction completion date. She turned down the company's request. To delay the completion of the transaction, Jacky then suggested that Uncle Paul should take civil action over the recovery of his rooftop unit. He took Uncle Paul to a legal firm to make a false statement on oath that he had not received any compensation. A memorandum for sale and purchase of the rooftop unit was also falsified and submitted to the court in support of Uncle Paul's story. When Uncle Paul later changed his mind and wanted to stop the proceedings, Jacky paid him $200,000 to continue with the civil litigation. As a result of such legal action, Mrs Wong could not complete the sale and purchase transaction with the property development company on the contractual completion date. Five years passed and with the proceedings still unresolved, Mrs Wong finally agreed to sell the building to the property development company at $8.3 million on condition that all proceedings were terminated. When Mrs Wong later learnt of Jacky's actions, she made a report to the ICAC suspecting that Jacky had accepted bribes from the property development company. Jacky was eventually convicted and sentenced to 3 years' imprisonment for perverting the course of justice, abetting another person to make a false statement on oath and falsifying documents. Uncle Paul was not the mastermind in this case, showed remorse and was willing to co-operate with the prosecution. He therefore received a lighter sentence of 1 year's imprisonment.

◆ Analysis

As an estate agent, Jacky should have complied with the law and protected the interests of all parties concerned in his business dealings.

In pursuit of commission, Jacky was willing to exploit all unlawful means, including abuse of litigation procedures and perverting the course of justice. In his ruling, the judge pointed out that Jacky had committed a serious offence and if he was not punished, the judicial system could be adversely affected. He therefore sentenced Jacky to jail.

The PBO and relevant laws can be regarded as the last line of defence against corruption and malpractice. The most effective form of prevention lies with estate agency practitioners who should adhere to professional ethics by always carrying out their duties with honesty, fairness and justice and in so doing remove any chance of engaging in corruption or other offences.

Front-line Practitioners

Keen competition in the estate agency trade means front-line practitioners face many difficulties. To prevent breaches of estate agent's rules and regulations, EAO and subsidiary legislation, EAA's Code of Ethics, PBO and other legislation, practitioners should:

- Fully understand and abide by the laws of Hong Kong, and in particular the PBO and EAO.
- Fully understand and abide by the rules and regulations of their estate agency on the offering and acceptance of advantages, acceptance of entertainment, handling of conflict of interest situations and confidential information, etc.
- Fully understand and act according to the Code of Ethics and practice circulars issued by EAA in order to provide quality services to clients and strengthen the trade's professional image.
- Actively participate in training courses to enhance their understanding of the PBO and relevant laws and increase vigilance against corruption and malpractice.

Managers

Managers in the estate agency trade play an important role in preventing corruption and malpractice. In addition to keeping to the standards expected of front-line practitioners, managers must supervise subordinates effectively by helping them to develop their potential, preventing them from making mistakes and putting supervisory accountability into practice. If a mistake is caused by a staff member's inability or inexperience, managers should review whether a sound control system is in place and also provide training or counselling to stop a repeat occurrence. If the mistake relates to the integrity of a staff member, managers should adopt zero tolerance and deal with the case in accordance with the law so as to cultivate an ethical corporate culture and enhance staff's knowledge of the estate agency's stance and policies. Such an approach will also help staff realise they must not take their legal obligations lightly.

Managers are not necessarily responsible for every single mistake made by their subordinates. However, they cannot absolve themselves for serious, frequent or common errors which go undetected or are tolerated. Turning a blind eye to malpractice invites criticism of a person's management abilities and may lead to suspicion of involvement.

Managers should act as a role model and exercise supervisory accountability, foster a good corporate culture and improve internal controls to minimise opportunities for corruption.

They should:

- Formulate and communicate to staff the estate agency's code of conduct for handling transactions and dealings with clients.
- Put into practice principles of ethics management (examples at Appendix 3) to show staff the importance of observing the law and conducting business with integrity.
- Implement work procedures with checks and balances. For example:
  - Draw up proper procedures for negotiations and payment of commission.
  - Conduct periodic random record checks to review whether any property transaction has been concluded privately without the knowledge of the estate agency.
  - Examine financial records and introduce control measures such as inviting staff to exit interviews.
- Arrange training courses and organise preventive educational activities for staff to enhance their understanding of the anti-corruption law, EAO, estate agency's code of conduct and internal monitoring measures to foster a clean corporate culture.

Staff at different ranks should handle suspected cases of corruption at work cautiously by first seeking to understand the relevant legal requirements and making enquiries at the ICAC. For complex individual cases, they should seek legal advice.

A report should be made to management or the ICAC when any suspected case is discovered to show that both staff and company adopt zero tolerance towards corruption and malpractice.

Corruption Prevention Advisory Services and Training Programmes

The ICAC is always keen to work with the trade to prevent corruption and safeguard Hong Kong's level playing field. To help the estate agency trade foster professional integrity, adopt effective corruption prevention measures and thus enhance its reputation and efficiency, the ICAC provides the following free professional services:

- Formulating/reviewing staff codes of conduct (such as incorporating a policy on acceptance of advantages).
- Arranging training courses (relevant courses would be accredited as core subjects in EAA's Continuing Professional Development [CPD] Scheme. Practitioners would be able to gain CPD points upon completion.)
- Assisting estate agencies in conducting preventive educational activities for staff.
- Recommending system control corruption prevention measures.

Corruption Reporting and Enquiry Services

The ICAC provides the following user-friendly channels for reporting corruption and making enquiries:

By phone : 25 266 366 (24 - hour service)
By mail : G.P.O. Box 1000, Hong Kong
In person : Report Centre
(G/F, 303 Java Road, North Point, Hong Kong)
(24 - hour service) or ICAC Regional Offices

Addresses and telephone numbers of ICAC Regional Offices and Corruption Prevention Department:

Regional Office (Hong Kong West / Islands) (Central & Western District, Southern District, Islands)	G/F, Harbour Commercial Building, 124 Connaught Road Central, Sheung Wan, Hong Kong 2543 0000
Regional Office (Hong Kong East) (Wan Chai, Eastern District)	G/F, Tung Wah Mansion, 201 Hennessy Road, Wan Chai, Hong Kong 2519 6555
Regional Office (Kowloon East / Sai Kung) (Kwun Tong, Wong Tai Sin, Sai Kung)	Shop No. 4, G/F, Kai Tin Building, 67 Kai Tin Road, Lam Tin, Kowloon 2756 3300 kesk@crd.icac.org.hk
Regional Office (Kowloon West) (Kowloon City, Yau Tsim Mong, Sham Shui Po)	G/F, Nathan Commercial Building, 434-436 Nathan Road, Yau Ma Tei, Kowloon 2780 8080
Regional Office (New Territories East) (Shatin, Tai Po, North District)	G06-G13, G/F, Shatin Government Offices, 1 Sheung Wo Che Road, Shatin, New Territories 2606 1144
Regional Office (New Territories South West) (Tsuen Wan, Kwai Tsing)	Shop B1, G/F, Tsuen Kam Centre, 300-350 Castle Peak Road, Tsuen Wan, New Territories 2493 7733

Regional Office (New Territories North West) (Yuen Long, Tuen Mun)	G/F, Fu Hing Building, 230 Castle Peak Road, Yuen Long, New Territories 2459 0459
Corruption Prevention Department (Advisory Services Group)	ICAC, 303 Java Road, North Point, Hong Kong 2526 6363 asg@cpd.icac.org.hk

ICAC Website

You may also visit the ICAC Website at www.icac.org.hk for the latest information on ICAC services. For security reasons, it is not advisable to report corruption through electronic means.

Estate Agents Authority Enquiry and Complaint Services

Hotline : 2111 2777
Fax : 2598 9596 / 2598 9597
E-mail : enquiry@eaa.org.hk
Website : www.eaa.org.hk
Address : 48/F, Hopewell Centre, 183 Queen's Road East, Wan Chai, Hong Kong

Prevention of Bribery Ordinance (PBO) Sections 4, 8, 9, 11 and 19

PBO S.4 — Bribery

(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's- (Amended 28 of 1980 s. 3)

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or

(c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his- (Amended 28 of 1980 s. 3)

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or

(c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section. (Added 28 of 1980 s. 3. Amended 14 of 2003 s. 15)

(4) For the purposes of subsection (3) permission shall be in writing and-

(a) be given before the advantage is offered, solicited or accepted; or

(b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought. (Added 28 of 1980 s. 3)

PBO S.8

— Bribery of public servants by persons having dealings with public bodies

(1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence. (Amended 14 of 2003 s. 16)

(2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

PBO S.9 — Corrupt transactions with agents

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his -
   (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
   (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

   shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's -
   (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
   (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

   shall be guilty of an offence.

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document -
   (a) in respect of which the principal is interested; and
   (b) which contains any statement which is false or erroneous or defective in any material particular; and
   (c) which to his knowledge is intended to mislead the principal,

   shall be guilty of an offence.

(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2). (Replaced 28 of 1980 s. 4)

(5) For the purposes of subsection (4) permission shall -
   (a) be given before the advantage is offered, solicited or accepted; or
   (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving suchpermission, have regard to the circumstances in which it is sought. (Added 28 of 1980 s. 4)

PBO S.11

— Giver and acceptor of bribe to be guilty notwithstanding that purpose not carried out, etc.

(1) If, in any proceedings for an offence under any section in this Part, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given as an inducement to or reward for or otherwise on account of his doing or forbearing to do, or having done or forborne to do, any act referred to in that section, it shall be no defence that -
   (a) he did not actually have the power, right or opportunity so to do or forbear;
   (b) he accepted the advantage without intending so to do or forbear; or
   (c) he did not in fact so do or forbear.

(2) If, in any proceedings for an offence under any section in this Part, it is proved that the accused offered any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's doing or forbearing to do, or having done or forborne to do, any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or forbear, it shall be no defence that such other person had no such power, right or opportunity.

PBO S.19 — Custom not to be a defence

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

Code of Ethics Issued by the Estate Agents Authority

Compliance with the law

- Estate agents and salespersons shall refrain from activities during their practice which may infringe the law.

Good understanding of related legislation and requirements

- Estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, the 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.

- Estate agents and salespersons should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market in order to be in a position to advise their clients in a responsible manner. They should strive to provide services and opinions based on knowledge, training, qualifications and experience in the real estate business.

Professional knowledge and competence required

- Estate agents and salespersons shall, in the course of business, provide services to clients with honesty, fidelity and integrity. They should protect their clients against fraud, misrepresentation or any unethical practices in connection with real estate transactions.

Ethical and moral standard during practice and responsibilities

- 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.

Exercising due diligence

- Estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence.

Minimising any conflict of interest situations

- Estate agents and salespersons should avoid accepting an appointment involving a property in which they have a beneficial interest.

- Estate agents and salespersons shall, in the event of possible or potential conflict of interest (such as representing both the vendor and the purchaser), disclose to their clients that they are so acting. Any pecuniary or other beneficial interests in relation to the property shall be disclosed fully to all parties concerned.

Relationship between agents and ethical standards to be observed in conducting the estate agency business

- Estate agents and salespersons shall not seek unfair advantage over, nor injure directly or indirectly the reputation of, nor publicly disparage the business practice of other agencies.

- Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.

- Estate agents and salespersons should adhere to the principles of fair competition and refrain from restrictive business practices.

Ethics Management Principles for Estate Agencies

The followings are some examples of ethics management principles:

Abiding by the Law

The Company shall require all employees to conduct business in a legal manner and shall provide regular staff training to reiterate the importance of abiding by the law. The Company shall remind employees to report promptly any suspected malpractice or illegal activities. The Company shall have zero tolerance over such behaviour and shall report it to the appropriate authorities.

Integrity

The Company shall remind all employees to exert a high level of integrity and professionalism in handling all transactions. Their personal interests shall never be put above the interests of clients or the Company. Employees shall treat all parties involved in transactions in an impartial and just manner. The Company shall uphold the principle of fair competition, that is, it is the Company's practice that it shall not gain business at the expense of the reputation of the trade.

Honesty

The Company shall require employees to act with honesty at all times in order to win clients' trust. The Company shall not release any inaccurate, misleading and exaggerated information or advertisements for publicity purposes.

Transparency

The Company shall be prepared to fully explain to clients its commission policy and details of any transactions relating to or in connection with the relevant property. An estate agency practitioner shall refrain from rendering services in relation to any property in which he has actual interests. He shall, in the event of any possible or potential conflict of interest, disclose fully to clients any pecuniary or other beneficial interests in relation to the property.

Objectivity

The Company shall encourage employees to remain objective and disregard employees' personal interests when providing analytical comments or views to clients regarding the property or the market.

Self-Enrichment

The Company shall attach great importance and allocate resources to staff training, especially in fostering integrity. Employees shall be encouraged to keep abreast of market trends and to take the initiative to acquire professional knowledge and skills to enhance service quality.