



**Mr Robert Muat MARLA and Mr Jack  
Merchant MARLA**

**Directors,**

**Laurels Estate Agents Limited t/a  
Laurels**

**Disciplinary Tribunal Decision**

**September 2022**

# Disciplinary Tribunal Decision

<b>Member:</b>	Mr Robert Muat MARLA and Mr Jack Marchant MARLA
<b>Position:</b>	Directors
<b>Company/Employer:</b>	Laurels Estate Agents Limited t/a Laurels
<b>Address:</b>	Unit B Argent Court, Hook Rise South, Surbiton Surrey, KT6 7NL
<b>Complainant:</b>	Propertymark
<b>Reference:</b>	X0058485
<b>Date:</b>	28 September 2022

## A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 28 September 2022 to consider the case against Mr Robert Muat and Mr Jack Marchant.

The panel members were Mr Jim Atkins PPNAEA (Honoured) (member panellist acting as the Chairperson for the Tribunal), Miss Jacqueline Stone FNAEA (member panellist) and Ms. Gillian Fleming (lay panellist).

The presenting Case Officer for Propertymark was Mr Hadley Easterlow.

Mr Muat and Mr Marchant were in attendance in the hearing.

The hearing took place in private and was recorded.

## B. ALLEGATIONS

The Tribunal considered the allegations set out in the case summary sent to Mr Muat and Mr Marchant.

It was alleged that Mr Muat and Mr Marchant had acted in contravention of the requirements of the following Propertymark Conduct and Membership Rules.

### 1.7. Access to, or availability of, Client Money

A member must ensure that, at all times, all Client Money is held in Client Bank Accounts and is available on demand to Clients without undue delay or penalty. (For the avoidance of doubt, Client Money must not be placed or held in off-shore accounts or fixed/variable rate term bonds or similar funds or arrangements, unless the bank or building society

falls within the definitions in **1.2**, funds are available on demand and any penalty for withdrawal is paid by the member's firm.)

**Note:** Any penalty for withdrawal of Client Money must be limited to interest earned.

#### **1.14. Payments out of a Client (Bank) Account**

A member's firm should withdraw, transfer or make a payment from a Client Bank Account only in the following circumstances:

- 1.14.1. Money paid in to open or maintain the account in accordance with clause 1.13.1 of this Rule and where it is no longer required.
- 1.14.2. Money paid into the account in accordance with clause 1.13.4 of this Rule, which does not belong to the Client, for payment to the person lawfully entitled to it.
- 1.14.3. Within three working days of becoming aware of a relevant contravention, money paid into the account in contravention of this Rule.
- 1.14.4. Money payable to a Client, or, to an appropriate person suitably authorised (in writing) to receive such payments on that Client's behalf.
- 1.14.5. Money being paid directly into another Client Bank Account.
- 1.14.6. Reimbursement of money to the member's firm for money expended by the member's firm on behalf of the Client.
- 1.14.7. Money lawfully and contractually due, in respect of a PPD member's firm's fees and charges.
- 1.14.8. Legitimate disbursements, e.g. amounts subject to invoices, costs or demands incurred or received on behalf of the Client.
- 1.14.9. Provided that in the case of money drawn under sub-clauses 1.14.6 and 1.14.7 above:
  - (a) The payment is in accordance with lawful and contractual written arrangements (for example via terms of business, pre-contract/tenancy application documents, tenancy agreement, letter of engagement), previously agreed between the parties; or
  - (b) The Client, or an authorised representative, has been notified or invoiced in writing by the member's firm of the amount and purpose for which the money is being withdrawn and no objection has been raised within a reasonable timescale.
- 1.14.10. Provided always that, under rule 1.14, no payment shall be made for or on behalf of an individual Client that exceeds the total amount held on behalf of that particular Client.

### **1.18. Record keeping (firms using a CASP; see also 1.3.2)**

Each member's firm must keep detailed accounting records, using a bookkeeping system that is adequately designed and operated. Such records need to record:

- 1.18.1. All Clients' Money received, held, or paid out by the firm.
- 1.18.2. The amounts, dates, names, property addresses, reference numbers and other relevant details to identify individual transactions.
- 1.18.3. Any other money dealt with through a Client bank account, attributable to individual Clients.
- 1.18.4. An individual Client's balance of monies held, and a balance of all Clients' Money held.

### **1.19. Books of record**

All dealings referred to in clauses 1.18.1 to 1.18.4 above shall be recorded as appropriate, either:

- 1.19.1. In a Clients' cash book, or in a Client's column of a cash book; or
- 1.19.2. In a journal recording transfers from the ledger account of one Client to that of another.
- 1.19.3. And, in either case, additionally in a Clients' ledger or in a Client's column of a ledger.

### **1.20. Supporting documentation**

Records must include a list of all persons for whom a member's firm is or has been holding Clients' Money, reconciliation documents, and a list of all the bank and building society account(s) in which the money is held and must include counterfoils or duplicate copies of all receipts issued in respect of Clients' Money received, which shall contain the particulars required to be shown in the accounts.

### **1.21. Preservation of records**

The records kept for the purpose of complying with this Rule must be preserved for six years from the end of the accounting period to which they relate, or from when the account shows a zero-balance following a cessation of the contractual relationship between the parties, whichever is the later. Propertymark recommends that a member's firm consult with their Accountant before disposing of, or destroying, any historic accounting records.

### **1.23. Reconciliation(s) – format and frequency**

1.23.1. Every member's firm shall:

- a. Ensure all monies due to member firm are removed prior to final reconciliations being undertaken.
- b. At least once every two calendar months (and within no later than ten weeks of a previous reconciliation), reconcile the balance on their Client's cash book(s):
  - i. With the balance in their Client bank account(s) using the bank/building society statement(s); and
  - ii. With the total of each Client's balance in the Clients' ledger; and
- c. Ensure that such documents necessary to support the reconciliation so produced have been kept safe, complete, and readily available in the cashbook or other appropriate place.

1.23.2. All such reconciliations should be checked and signed by the PPD member of the company, or by such person formally appointed by the PPD, who shall not be the person responsible for the preparation of such reconciliation. (This could be a member of staff of the appointed reporting Accountant, provided this is conducted within ten working days of the reconciliation.)

1.23.3. Reconciliations must be stored so as to be readily available at audit or inspection, in accordance with 1.21.

### **13. General duty to uphold high standards of ethical and professional behaviour**

13.1. No member shall do any act (whether in business or otherwise) which:

- 13.1.1. Involves dishonesty, deceitful behaviour, or misrepresentation; and/or
- 13.1.2. Involves other unprofessional practice or practice that is unfair to members of the public; and/or
- 13.1.3. In any other way brings Propertymark or any of its divisions or subsidiaries into disrepute.

### **23. Continuing Professional Development (CPD)**

23.1. CPD is mandatory for all ARLA, ARLA Inventories, NAEA, NAEA Commercial and NAVA members except for Affiliate, Deferred, Retired grade members.

23.2. Members are required to undertake at least twelve hours' CPD activity per year. At least four of the twelve hours must be obtained by attendance at relevant educational events and up to eight hours by relevant private study (except for those studying for Propertymark Qualifications relevant to their specialism). All

CPD should be relevant to the membership specialism and/or relevant to business needs.

23.3. The CPD year runs from 1 January to 31 December and the twelve hours should be submitted by 31 January of the following year, listing the learning outcomes.

23.4. CPD must be provided annually for membership to continue.

23.5. If members belong to more than one division, they are required to submit twelve hours' CPD for each division demonstrating a relevant learning outcome.

## C. DECISION

Mr Muat and Mr Marchant admitted the alleged breaches, The Case Officer withdrew the allegation of a breach of Rule 13.

Rule 1.7	-	Admitted
Rule 1.14	-	Admitted
Rule 1.18	-	Admitted
Rule 1.19	-	Admitted
Rule 1.20	-	Admitted
Rule 1.21	-	Admitted
Rule 1.23	-	Admitted
Rule 13	-	Case Officer withdrew the allegation
Rule 23	-	Admitted

## D. SANCTIONS

Rules 1.7, 1.14, 1.18, 1.19, 1.20, 1.21, & 1.23	-	£1,000 each respondent
Rule 21	-	£150 each respondent

In addition, costs of this hearing of £415 were imposed against Mr Muat and Mr Marchant in favour of Propertymark.

## E. PUBLICATION

The outcome of the case fell within the Propertymark publication policy.

## F. CLOSING STATEMENT

The Tribunal made the following statement:

“We thank you for attending the Tribunal today. Your attendance has assisted us with a proper understanding of the allegations. You have also apologised for the time it has taken you in the full rectification of your client account. While your accounts are apparently now compliant there is no doubt that for a period of years you have failed to address and improve your systems. We trust that going forward, the measures that you have now put in place will ensure clear, unqualified annual reports.

You accept that despite the qualification within your first accountant’s report you failed at that stage to fully investigate and rectify the situation.

You have inconsistently logged CPD hours with under quota for certain periods, over quota for another and none at all in certain years according to our records. You are required to log a minimum of 12 hours in each year and that must be done.”