



**Mr Gary Martin MARLA
Principal,
Mr Gary Martin t/a Letters Group**

Disciplinary Tribunal Decision

March 2023

Disciplinary Tribunal Decision

Member:	Mr Gary Martin MARLA
Position:	Principal
Company/Employer:	Mr Gary Martin t/a Letters Group
Address:	35 Broadway, Peterborough, PE1 1SQ
Complainant:	Propertymark
Reference:	X0060483
Date:	23 March 2023

A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 23 March 2023 to consider the case against Mr Gary Martin.

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

The presenting Case Officer for Propertymark was Mr Ali Haider.

Mr Martin was 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 Martin.

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

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 properly 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 nil 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.

1.22. Computerised recording

Where a computerised bookkeeping system is in operation, this must be capable of producing printed information to conform to this Rule, which therefore is or can be preserved in a permanent format to comply with clause 1.21.

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 cash book 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 carried out 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.

21. Continuing Professional Development (CPD)

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

21.2. 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.

21.3. 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.

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

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

Mr Martin entered a plea admitting the alleged breaches of Rules 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 13 and 21 but denied the alleged breach of Rule 1.14.

C. DECISION

Rule 1.14	-	Withdrawn
Rule 1.18, 1.19, 1.20, 1.21 & 1.22	-	Admitted
Rule 1.23	-	Admitted
Rule 13	-	Admitted
Rule 21	-	Admitted

D. SANCTIONS

Rule 1.18, 1.19, 1.20, 1.21 & 1.22	-	£500
Rule 1.23	-	£200
Rule 13	-	£200
Rule 21	-	£200

In addition, the costs of this hearing of £457 were imposed against Mr Martin 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:

“Mr Martin, we thank you for attending here today and for admitting the alleged breaches. It is obvious that these financial irregularities have persisted for some years. We are disappointed that more strenuous efforts to find the cause were not put into effect sooner.

We direct the compliance department to specifically review the next Accountant's Report received to ensure full compliance. CPD is an essential professional requirement, there is no

evidence of any being completed or recorded. This should be done online and will be checked in the future”.