

**In the matter of  
Case No. X0055515  
Propertymark v Mr. A Cook MNAEA**

**Disciplinary Tribunal Hearing held on  
Thursday 14th February 2018**

**Case of**

**Mr. Anthony Cook MNAEA, a Director, Marlborough Enterprises (Yorkshire) Limited t/a Marlborough Estate Agency, 57 Chanterlands Avenue, Kingston-Upon-Hull, HU5 3ST**

A member of NAEA

at

Propertymark, Arbon House, 6 Tournament Court, Edgehill Drive, Warwick, CV34 6LG

**Alleged breaches as set out by the Disciplinary Case Manager:**

**Conduct Rule 1.6**

Key Elements

1.6.1. The relevant membership division requires its members to comply with these rules in respect of their Client Accounts to ensure that Clients' Money is protected. The key basic elements that must apply to Clients' Money entrusted to a PPD member's firm are as follows:

(a) Each transaction must be properly recorded in the PPD member's firm's books/ledgers of account (paper, electronic or otherwise) so that it is clearly identifiable to an individual Client.

(b) Monies must be paid into a specifically designated Client (Bank) account with a recognised bank or building society and thus kept separate from the member's firm's own money.

(c) All transactions must be monitored and reconciled on a regular basis.

1.6.2. Client (Bank) Accounts must be properly designated (*see clause 1.9 below*), easily identifiable and the individual beneficial owners of any money contained therein should be attributable, without difficulty, for the following main reasons:

(a) To prevent a bank or building society offsetting a credit balance in one account against a debit or charge incurred by another.

(b) To enable a receiver or liquidator or other investigator to identify money that does not belong to the member or their business.

(c) To allow such accounts to easily be monitored and reconciled both internally and externally to demonstrate the financial integrity of the member and to ensure the smooth running of its accounting practices.

**Conduct Rule 1.9**

Title and conditions of a Client Bank Account

1.9.1. All members who receive, or may receive, deposits in transactions to which the Estate Agents Act 1979 applies shall open and operate a distinct Clients' Account for that purpose in accordance with the requirements of that Act and with the Regulations made under it.

1.9.2. A PPD member's firm that receives or holds Client money must maintain at least one Client (Bank) Account for this purpose.

1.9.3. Any such account(s) must include both the word "Client" and the legal name of the Principal Agent or CASP in the title.

1.9.4. The PPD member's firm must hold on file in its records, written confirmation from any bank or building society where a Client (Bank) Account is held, that the following conditions apply to any such account(s):

(a) All money held in the account is Clients' Money; and

(b) The bank or building society is not entitled to combine the account with any other account or to exercise any right of set-off or counter claim against money in that account in respect of any sum owed to it on any other accounts of the member or the member's firm.

**Conduct Rule 1.15**

Timing of banking

1.15.1. A member's firm must bank all receipts of Client Money into an appropriate Client bank account within a maximum of two working days from the day on which it was received.

1.15.2. All payments out of a Client bank account should be made promptly, and within not more than twenty-eight days of becoming due.

After consideration of the facts and submissions the Tribunal found as follows:

<b>Alleged Breach</b>	<b>Findings</b>	<b>Sanction</b>
<b>Rule 1.6</b>	Admitted	£750
<b>Rule 1.9</b>	Admitted	£350
<b>Rule 1.15</b>	Admitted	No Penalty

The Tribunal made an order for costs in the sum of £195 in favour of PropertyMark.

The case falls within the PropertyMark Publications Policy.

The Tribunal issued the following statement:

“The Tribunal thanks Mr. Cook for his attendance at today’s hearing.

Mr. Cook is aware of a number of failings within his administration of the client account for which he accepts full responsibility and the Tribunal noted the steps he had taken to put this right.

The correct running and administration of a client account within a property rental company is vital. With this in mind, the Tribunal requires that within two months of the determination the 2017 annual accountant’s report is submitted to Propertymark, in addition to which a further reconciliation to 28 February 2018, prepared by the accountants. Any resultant failings or shortfall may result in further disciplinary action.”