



**In the matter of
Case No. X0057060
PropertyMark v Mr. R Fraser MARLA FNAEA**

**Disciplinary Tribunal Hearing held on
Thursday 19th July 2018**

Case of

Mr. Robert Fraser MARLA FNAEA, a Director of Quest Estates Limited t/a Fraser & Co, 1 South Wharf Road, London, W2 1JB

A member of ARLA and fellow of NAEA

at

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

Alleged breaches as set out by the Case Officer:

Conduct Rule 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has been notified or invoiced in writing by the member's firm of the amount and purpose for which the money is being withdrawn and no objection has been raised within a reasonable timescale.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.

Conduct Rule 1.23

Reconciliation(s) – format and frequency

1.23.1. Every member's firm shall:

(a) 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

(b) 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. Duty to assist in disciplinary proceedings

13.1 Members shall co-operate with disciplinary investigations and/or proceedings taken against them or other members.

13.2 Members shall comply with the timescales described in the disciplinary procedures and are expected to attend disciplinary hearings. If these procedures result in a fine that is not paid within the prescribed time, then membership will automatically be terminated and the Propertymark will pursue payment and undertake civil action against the member if necessary.

13.3 Propertymark reserves the right to take disciplinary action regardless of any Ombudsman's actual or potential adjudication arising from the same matter.

13.4 Members must co-operate with compliance visits conducted by Propertymark staff or others acting on their behalf.

13.5 Members or their representatives are obliged to provide accounts or other records on demand (see [Rule 1](#)).

13.6 This rule applies to work undertaken during the period of membership, even if the member has subsequently left membership for any reason.

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

Alleged Breach	Findings	Sanction
Rule 1.14	Admitted	£5000
Rule 1.23	Admitted	£5000
Rule 13	Admitted	£5000

The sum of £142 was imposed on the member towards the costs of the hearing.

The case falls within the Propertymark Publications Policy.

The Tribunal issued the following statement:

“We are dismayed at the evidence we have read and heard today. Since at least 2011 there have been unresolved differences on your client account. In one year you repaid £150,000 into that account from your office account. We do not believe that you have taken these deficiencies seriously enough. We have heard and read excuses but regret that it is our opinion that your procedures have been, and remain, deficient.

You have been suspended from our Association twice in the past for accounting deficiencies. As a result of today’s hearing, previous history and the admitted breaches we expel you from membership of this Association.”