

propertymark

**Mr Mishantha Liyanage,
Suspended member of NAEA, ARLA
and NAEA Commercial**

**Director of,
Student-Haus Limited,
10 Broughton Road, Salford, M6 6LS**

Disciplinary Tribunal Decision

12th December 2023

Disciplinary Tribunal Decision

Member:	Mr Mishantha Liyanage, suspended member of ARLA, NAEA and NAEA Commercial
Position:	Director
Company/Employer:	Student-Haus Limited
Address:	10 Broughton Road, Salford, M6 6LS
Complainant:	Propertymark
Reference:	Y0003109
Date:	12 December 2023

A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 12th December 2023 to consider the case against Mr Mishantha Liyanage.

The panel members were Mr Jim Atkins PPNAEA (Honoured) (member panellist acting as the Chairperson for the Tribunal); Stephen Shaw (lay panellist); and Mr Noel Hunter OBE (lay panellist).

The presenting Case Officer for Propertymark was Miss Farrah Gibson.

Mr Mishantha Liyanage attended the Hearing via Zoom accompanied by Mr Stephen Ryan, Mr Rob Flint and Ms Tanya Dobbie.

The Hearing took place in private and was recorded.

B. ALLEGATIONS

Mr Liyanage made an application to the Tribunal for the hearing to be adjourned but after due consideration the Tribunal rejected that application and the hearing proceeded.

The Tribunal considered the allegations set out in the case summary sent to Mr Liyanage.

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

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, 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.

Mr Liyanage entered a plea denying the alleged breach of Rule 13.

After consideration of the evidence presented and submissions by the parties, the Tribunal announced the following findings:

C. DECISION

Rule 13 - Proven

D. SANCTIONS

The Tribunal considered a plea in mitigation submitted by Mr Liyanage. Impact statements from the Complainants; Mrs Naomi Heffernan and Mr Finley Heffernan were read out to the Tribunal by the Compliance Manager, Mr David Oliver.

Rule 13 - £5,000

Additionally, the costs of this Hearing of £2,218.99 were imposed against Mr Liyanage in favour of Propertymark.

E. PUBLICATION

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

F. CLOSING STATEMENT

“In advance of the hearing commencement on 12th December 2023, we were disappointed that Mr Mishantha Liyanage, having previously confirmed his personal attendance, accompanied by 4 others, changed his mind on attending the hearing in person on the day. Following correspondence on the morning of the hearing, a Zoom attendance was offered

and, following a number of further mind changes by the member, attendance online was agreed to by the member. We acknowledge his online attendance of the hearing by Zoom.

The Tribunal convened at 1pm and admitted our member. The member immediately requested an adjournment stating that he had not had time to take his solicitors advice on the proceedings. The member had been advised on 25th October that a tribunal was to take place. As a result of the request, there followed a short adjournment for the Tribunal members to consider, following which the Tribunal Chair then advised the member that the Tribunal members did not agree to the request. They had already studied 839 pages of written and photographic evidence from the complainant and the member and, at their discretion, had accepted late submissions from the member, provided to them only that day.

Our member denied breaches of rule 13, sections 13.1.1., 13.1.2 and 13.1.3. The hearing took place, following laid down procedure, with a presentation by the Case officer, the members case submission and questions of the member and his representatives by the Case Officer and the Tribunal members. Following consideration by the Tribunal Members, the breaches were found proved, a statement in mitigation was requested, and impact statements were read out.

This was a most serious case to consider. We accept that the previous tenants had left the property in a wholly unacceptable state, but the evidenced condition of the property during the mid-term inspection of the previous tenancy should have been a strong flag to the agents. For over 4 months of the current tenancy, a property owned by our member and let though his agency has remained in an unsatisfactory condition. The property is occupied under a tenancy entered into in December 2022 for occupation mid-summer 2023 and is still the subject of a second improvement notice from Salford City Council. Many of the allegations received from the complainant are proven from the evidence provided and are still not fully resolved.

It has been confirmed that a tenant's signature on a waiver document, prepared by and relied on by the member's firm, was a forgery perpetrated from within his agency and that the person responsible may still be employed by that firm. As a result of media publicity surrounding this particular area of the complaint, it is the Tribunals opinion that Propertymark has been brought into disrepute. The member advised the Tribunal that the police have not been advised of the offence. We believe that the member should inform the Police of the forgery circumstances without further delay.

The Tribunal also believes that there may have been breaches of Consumer Protection Law in relation to the advertising of the property and non-disclosure of personal interest, and this could be indicative of a wider problem.

There are several current practices and procedures that require urgent attention. For example, the member needs to ensure that all references to Propertymark and it's Associations are removed from his company Websites and any publicity material, as was required on the earlier suspension.

The Member is currently under suspension from Propertymark. The Tribunal instructs revocation of his membership forthwith and confirms that, for a minimum period of 2 years, the member will not be permitted to reapply for membership, and then, only upon confirmation that the current unacceptable practices have been changed and improved. In addition, no other member of Propertymark may serve as a Director, Executive Director or similar title or position of any of the member's companies during the same period of time.

The member has indicated that he wishes to reflect upon and learn from this very unhappy episode, and we hope that he will do so.

The member is fined the sum of £5,000 for the proven breach and is to pay costs of the hearing in the sum of £2,218.99."

Mr Jim Atkins PPNAEA (Honoured)
Disciplinary Tribunal Chairperson

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**Mr Mishantha Liyanage,
Director,**

**Student-Haus Limited,
10 Broughton Road, Salford, M6 6LS**

**Appeal Tribunal Decision
18th April 2024**

Member: Mr Mishantha Liyanage
Position: Director
Company/Employer: Student-Haus Limited
Address: 10 Broughton Road, Salford, M6 6LS
Complainant: Propertymark
Reference: Y0003109
Date: 18th April 2024

A. INTRODUCTION

An Appeal Tribunal of Propertymark Limited was convened on 18th April 2024 to consider the case against Mr Mishantha Liyanage.

The panel members were Mr. Richard Hair PPNAEA (member panellist acting as the Chairperson for the Tribunal); Ms Gillian Flemming (lay panellist); and Ms Carol Brady MBE (lay panellist).

The presenting Case Officer for Propertymark was Miss Farrah Gibson.

Mr Mishantha Liyanage attended the Hearing in person accompanied by counsel Mr Harry Dyson.

The Appeal Hearing took place in private and was recorded.

B. ALLEGATIONS

Mr Liyanage made an application to the Tribunal for the hearing to be adjourned but after due consideration the Tribunal rejected that application and the hearing proceeded.

The Tribunal considered the allegations set out in the case summary sent to Mr Liyanage.

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

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, 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.

B. DISCIPLINARY HEARING FINDINGS AND SANCTIONS

Mr Liyanage was found to have acted in breach of the following PropertyMark Conduct and Membership Rules at the hearing held on 12th December 2023 and the penalties imposed were:

Alleged Breach	Findings	Sanction
Rule 13	Proven	£5,000

The sum of £2,218.99 was imposed on the member towards the costs of the hearing.

C. APPEAL TRIBUNAL'S DECISION AND STATEMENT

After considering the evidence, Mr Liyanage's submission and after deliberation, the Appeal Tribunal made the following statement of findings:

Mr Liyanage's membership of PropertyMark was terminated following the Tribunal Hearing on 12 December 2023.

This Appeal Tribunal's decision is that Mr Liyanage may apply for consideration of membership of PropertyMark 12 months after the date of termination. This will be subject to a positive outcome to full compliance visits to all relevant companies for which he is a PPD, the costs of these visits to be met by Mr Liyanage.

Additionally, the costs of this Appeal Hearing of £2,290 were imposed against Mr Liyanage in favour of PropertyMark.

"The Appeal Tribunal thanks Mr Liyanage and his barrister, Mr Dyson, for their helpful attendance.

We considered thoroughly the extensive documentation for Mr Liyanage's appeal along with the documents from the Hearing on 12 December 2023. Included were a number of statements, from Mr Liyanage and staff members, and also impact statements. We also listened carefully to the representations made by Mr Dyson and Mr Liyanage.

As Mr Dyson accepted, the Disciplinary Rules at 1.3 make clear that a member is responsible for the acts or omissions of employees. Mr Liyanage has also accepted that a tenant waiver document was forged by a member of his staff and was not signed by the relevant tenant.

This specific matter formed part of a nationwide media broadcast around October 2023 and an update was broadcast subsequently. There is an associated article on a linked website. It was also apparent in both broadcasts that Mr Liyanage had membership of Propertymark, which requires high standards of its members. Propertymark was brought into disrepute. The Appeal Tribunal found breaches of 13.1.1 and 13.1.3 proven. Members are expected to have an understanding of professional standards so as to be able to meet them. Mr Liyanage described his business approach to the marketing of properties to rent and the information and visual material made available. The Appeal Tribunal considered this, and the detailed documentation, and concluded 13.1.2 was also found proven.

The Appeal Tribunal considered the mitigation put forward. In relation to the forged waiver, we note that this matter concerned one tenancy of a House in Multiple Occupation. Mr Liyanage suspended a member of staff who then left. In the absence of an admission, disciplinary action was taken against others.

Two maintenance persons had their contracts terminated. Two more senior staff have also now left. The business has been reorganised and we were told a consultant is engaged in reviewing thoroughly the processes and procedures. There is a (new) Head of Customer Services who oversees the complaints process. An extended void period between rentals now allows for more than a day's turnaround to address any issues at the end of a tenancy. We also noted Mr Liyanage's unblemished record in membership since January 2020.

However, the identified breaches had a detrimental impact, in particular, on consumer and public confidence and extend beyond a solitary or short-lived event. We also note that most of the mitigation put forward was before the Hearing on 12 December 2023. In all of the circumstances, the Appeal Tribunal did not consider a fine of £5,000 to be disproportionate and upheld that decision.

The Appeal Tribunal also considered the termination of membership, along with a term of two years before Mr Liyanage could apply for membership and dependent upon changed and improved practices. The Appeal Tribunal considered the steps being taken by Mr Liyanage and concluded that this period should be 12 months from the date of termination, subject to satisfactory compliance visits as set out above.

Separately to this determination, Mr Liyanage is reminded that he must ensure forthwith that any and all references to Propertymark are removed from his business websites and all the material relating to properties or tenancies. This is a serious matter which has not been fully resolved for too long."

D. DECISION SUMMARY

Alleged Breach	Findings	Sanction
Rule 13	Proven	£5,000

Along with the total cost of £4,508.99 for both the original Hearing and the Appeal Hearing.

E. PUBLICATION

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

Mr. Richard Hair PPNAEA
Disciplinary Tribunal Chairperson