

propertymark

Mr Muhammed Mogradia
Josephs Estate Agents Ltd t/a Joseph
Estate Agents

Disciplinary Tribunal Decision

March 2023

Disciplinary Tribunal Decision

Member:	Mr Muhammed Mogradia (suspended Associate Member of NAEA)
Position:	Director
Company/Employer:	Josephs Estate Agents Ltd t/a Joseph Estate Agents
Address:	272-276 Wigan Road, BL3 5QT, Bolton
Complainant:	Propertymark
Reference:	Y0001742
Date:	30 March 2023

A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 30 March 2023 to consider the case against Mr Muhammed Mogradia.

The panel members were Mr Jim Atkins PPNAEA (Honoured) (member panellist acting as the Chairperson for the Tribunal), Mrs Wendy Younge MARLA, MNAEA (member panellist) and Mr Clive Wood (lay panellist).

The presenting Case Officer for Propertymark was Miss Farrah Gibson.

Mr Mogradia was in attendance via Zoom.

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 Mogradia.

It was alleged that Mr Mogradia 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. Always provided 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.

1.15. 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 1 calendar month of becoming due.

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 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, 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) rules

23.1. CPD is mandatory for all ARLA, 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 1st January to 31st December and the twelve hours should be submitted by 31st 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.

Mr Mogradia entered a plea accepting all of the alleged breaches.

C. DECISION

After consideration of the evidence presented, the Tribunal announced the following findings:

Rule 1.14	-	Admitted
Rule 1.15	-	Admitted
Rule 1.23	-	Admitted
Rule 13	-	Admitted
Rule 23	-	Admitted

D. SANCTIONS

Rule 1.14	-	£500
Rule 1.15	-	£500
Rule 1.23	-	£500
Rule 13	-	Warning
Rule 23	-	£200

In addition, the costs of this hearing of £588.75 were imposed against Mr Mogradia 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 today’s tribunal online. It greatly assists us in our understanding. We acknowledge that you have admitted to the alleged breaches. Your membership of the association will be reinstated additionally upon you completing our Level 2 qualification within four months, this is the requirement of the associate membership that the Level 2 qualification should be completed within 2 years of membership acceptance.

We have calculated your active membership prior to suspension, this leaves a 4month period for you to achieve this in order for you to maintain your membership. Breaches of our accounting rules are taken most seriously, there is considerable other legislation that must be complied with, and your studies will assist you with achieving full compliance.

As a Principal, Partner, Director member, while you have expressed your intentions to take study courses for the profession, we strongly recommend that in addition to Level 2, you should achieve the Level 3 qualification within a 12-month period.

Legislation continually changes particularly in regard to lettings, and you must ensure that at all times in the future you engage in appropriate study and courses. It is then also essential that your record this online with Propertymark.

Thank you very much Mr Mogradia for attending today that is the end of this tribunal.”