

propertymark

Mrs Alison Jarman MARLA, MNAEA
Director,
Smooth Moves Property Agents
Limited

Disciplinary Tribunal Decision

October 2023

Disciplinary Tribunal Decision

Member:	Mrs Alison Jarman MARLA, MNAEA
Position:	Director
Company/Employer:	Smooth Moves Property Agents Limited
Address:	G3 Beechwood House, Christchurch Road, Newport, NP19 8AJ
Complainant:	Propertymark
Reference:	Y0001593
Date:	17 October 2023

A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 17 October 2023 to consider the case against Mrs Alison Jarman.

The panel members were Mr Richard Hair PPNAEA (Honoured) (member panellist acting as the Chairperson for the Tribunal); Ms Katie Roughley MARLA (Honoured) (member panellist); and Mr Clive Wood (lay panellist).

The presenting Case Officer for Propertymark was Mr Ali Haider.

Mrs Jarman attended the Hearing 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 Mrs Jarman.

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

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.

1.13. Payments into a Client (bank) Account

Payment of money into a Client bank account is restricted to the following:

1.13.1. The minimum sum required to open or maintain the Client bank account.

1.13.2. Clients' Money (see clause **1.10**).

1.13.3. An amount required to be paid by a member's firm to restore in whole or part any money paid out, or withdrawn, in contravention of this Rule.

1.13.4. A cheque or bank draft that includes Clients' Money as well as other money.

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**.

1.43. Identifying ownership of old or dormant funds

1.43.1. A member's firm must take reasonable steps to identify to whom the money belongs through their accounting and other records, and this should include carrying out an extensive investigation of the audit trail; and,

1.43.2. In the case of an old or ex-Client for whom the member's firm no longer acts; reasonable steps must be taken by the Principal Agent(s) to trace the Client, and this might include writing to: the last known place of residence; to the Client's professional advisers (Solicitors, Accountants etc.); to the Client's Bank or any other contacts (referees, guarantors, next of kin, employers etc.) provided within their file.

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, ARLA Inventories, 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 1 January to 31 December and the twelve hours should be submitted by 31 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.

Mrs Jarman entered a plea denying the alleged breaches of Rules 1.9, 1.13, 1.23, 1.43, 13 and 23.

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

C. DECISION

Rule 1.9	-	Proven
Rule 1.13	-	Proven
Rule 1.23	-	Not Proven
Rule 1.43	-	Proven
Rule 13	-	Not Proven
Rule 23	-	Proven

D. SANCTIONS

After considering a plea in mitigation the Tribunal announced the following sanctions:

Rule 1.9	-	Formal Warning
Rule 1.13	-	Formal Warning
Rule 1.43	-	Formal Warning
Rule 23	-	£50.00

In addition, the costs of this Hearing of £487.00 were imposed against Mrs Jarman in favour of Propertymark.

E. PUBLICATION

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

F. CLOSING STATEMENT

‘The Tribunal thanks the member for her attendance today which was helpful to both the Tribunal, and we believe also helped her case. We recommend that the member and her accounting staff undertake Propertymark clients account training’.