



**Mr Gerald Vaughan, MARLA, FNAEA**

**Director,**

**Gerald R Vaughan**

**Disciplinary Tribunal Decision**

**November 2023**

## Disciplinary Tribunal Decision

<b>Member:</b>	Mr Gerald Vaughan, MARLA, FNAEA
<b>Position:</b>	Director
<b>Company/Employer:</b>	Gerald R Vaughan
<b>Address:</b>	27 Lammas Street, Carmarthen, SA313AL
<b>Complainant:</b>	Propertymark
<b>Reference:</b>	Y0001403
<b>Date:</b>	15 November 2023

### A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 15 November 2023 to consider the case against Mr Gerald Vaughan.

The panel members were Mr Jim Atkins PPNAEA (Honoured) (member panellist acting as the Chairperson for the Tribunal); Mr Simon O'Brien MARLA, MNAEA (Comm), MNAEA, ANAVA (member panellist); and Mr Noel Hunter OBE (lay panellist).

The presenting Case Officer for Propertymark was Miss Farrah Gibson.

Mr Gerald Vaughan was not in attendance.

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 Gerald Vaughan.

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

#### **Propertymark Conduct and Membership Rules:**

##### **1.12 Interest on Clients' money**

**1.12.1** A member's firm may enter into an arrangement, which must be in writing (for example via terms of business, tenancy agreement, letter of engagement, pretenancy

application documents or similar), with a client (landlord or tenant) that allows the member's firm to retain interest earned on money held on a Client's behalf. (Such written arrangements/documents shall constitute part of the records as defined in this Rule.) Where no such arrangement exists, any interest earned belongs to the relevant Client.

**1.12.2** Subject to clause 1.12.1 above, where interest is credited to Client Bank Accounts of a member's firm, the Client Account(s) should be organised in such a way that the member's firm is able to account to each individual Client for the amount of interest earned or due to them.

**1.12.3** A member's firm holding Clients' Money (in this context, tenancy deposit bonds) as stakeholder during a tenancy, is entitled to retain any interest that may accrue to such money (Potters vs. Loppert 1973), providing this entitlement is made known to the relevant Client(s), in writing, from commencement, i.e., in line with clause 1.12.1 of this Rule.

### **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):
- c. With the balance in their Client Bank Account(s) using the bank/building society statement(s); and
- d. With the total of each Client's balance in the Clients' ledger; and
- e. 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. 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, or 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/o 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.

In the absence of Mr Vaughan, Mr David Oliver, Propertymark Compliance Manager, entered a plea denying the alleged breaches of Rules 1.12, 1.23, 13 with Mr Vaughan accepting Rule 23 within submitted correspondence.

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

### **C. DECISION**

Rule 1.12	-	Proven
Rule 1.23	-	Proven
Rule 13	-	Proven
Rule 23	-	Proven

### **D. SANCTIONS**

Rule 1.12	-	£250
Rule 1.23	-	£1000
Rule 13	-	£1000
Rule 23	-	£250

Additionally, the costs of this Hearing of £412.70 were imposed against Mr Vaughan in favour of Propertymark.

#### **E. PUBLICATION**

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

#### **F. CLOSING STATEMENT**

“We are disappointed that our member was not in attendance today either in person or by zoom. There were questions the panel would have liked to have asked. We have noted the comments by Mr Vaughan in his letter dated the 3<sup>rd</sup> of November 2023, however, we have found the breaches proven, we acknowledge Mr Vaughans admission in regards to Rule 23.

Thank you.”