

**propertymark**

**Mr Peter Upcraft MARLA, FNAEA**

**Director,**

**Russell Collins Lettings and  
Management Limited t/a Russell  
Collins**

**Disciplinary Tribunal Decision**

**April 2024**

# Disciplinary Tribunal Decision

<b>Member:</b>	Mr Peter Upcraft MARLA, FNAEA
<b>Position:</b>	Director
<b>Company/Employer:</b>	Russell Collins Lettings and Management Limited t/a Russell Collins
<b>Address:</b>	74 South Ealing Road, Ealing, W5 4QB
<b>Complainant:</b>	Propertymark
<b>Reference:</b>	Y0002234
<b>Date:</b>	10 April 2024

## A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 10 April 2024 to consider the case against Mr Peter Upcraft.

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

The presenting Case Officer for Propertymark was Mr Ali Haider.

Mr Upcraft attended the Hearing in person and was accompanied by his co-director, Mr Dean Upcraft. He was also accompanied by Mr Neil Armstrong, an employee of Russell Collins, and Mr Jarnel Grewal of Redford & Co Limited, reporting accountants, whose attendance was arranged online 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 Upcraft.

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

### 1.7. Access to, or availability of, Client Money

A member must ensure that, at all times, all Client Money is held in Client bank accounts and is available on demand to Clients without undue delay or penalty. (For the avoidance

of doubt, Client Money must not be placed or held in offshore accounts or fixed/variable rate term bonds or similar funds or arrangements. Unless the bank or building society falls within the definitions in **1.2**, funds are available on demand and any penalty for withdrawal is paid by the member's firm.)

#### **1.18. Record keeping (firms using a CASP; see also 1.3.2)**

Each member's firm must keep detailed accounting records, using a bookkeeping system that is adequately designed and operated. Such records need to record:

- 1.18.1. All Clients' Money received, held, or paid out by the firm.
- 1.18.2. The amounts, dates, names, property addresses, reference numbers and other relevant details to identify individual transactions.
- 1.18.3. Any other money dealt with through a Client bank account, attributable to individual Clients.
- 1.18.4. An individual Client's balance of monies held, and a balance of all Clients' Money held.

#### **1.19. Books of record**

All dealings referred to in clauses **1.18.1** to **1.18.4** above shall be recorded as appropriate, either:

- 1.19.1. In a Clients' cash book, or in a Client's column of a cash book; or
- 1.19.2. In a journal recording transfers from the ledger account of one Client to that of another.
- 1.19.3. **And**, in either case, additionally in a Clients' ledger or in a Client's column of a ledger.

#### **1.20. Supporting documentation**

Records must include a list of all persons for whom a member's firm is or has been holding Clients' Money, reconciliation documents, and a list of all the bank and building society account(s) in which the money is held and must include counterfoils or duplicate copies of all receipts issued in respect of Clients' Money received, which shall contain the particulars required to be shown in the accounts.

#### **1.21. Preservation of records**

The records kept for the purpose of complying with this Rule must be preserved for six years from the end of the accounting period to which they relate, or from when the account shows a nil balance following a cessation of the contractual relationship between the parties, whichever is the later. Propertymark recommends that a member's firm consult with their Accountant before disposing of, or destroying, any historic accounting records.

#### **1.22. Computerised recording**

Where a computerised bookkeeping system is in operation, this must be capable of producing printed information to conform to this Rule, which therefore is or can be preserved in a permanent format to comply with clause 1.21.

### **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)**

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.

Mr Upcraft entered a plea denying the alleged breaches of Rules 1.7, 1.18, 1.19, 1.20, 1.21, 1.22 and 13.1.2, but admitted the alleged breaches of Rules 1.23 and 23.

## C. DECISION

Rule 1.7	-	Not Proven
Rule 1.18	-	Proven
Rule 1.19	-	Proven
Rule 1.20	-	Proven
Rule 1.21	-	Not Proven
Rule 1.22	-	Not Proven
Rule 1.23	-	Admitted
Rule 13.1.2	-	Proven
Rule 23	-	Admitted

## D. SANCTIONS

Rule 1.18, 1.19 and 1.20	-	£1000
Rule 1.23	-	£500
Rule 13.1.2	-	£400
Rule 23	-	£350

In addition, the costs of this Hearing of £420 were imposed against Mr Upcraft in favour of Propertymark.

## E. PUBLICATION

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

## F. CLOSING STATEMENT

“Mr Upcraft, we thank you for your attendance today. It greatly assists the Tribunal members in considering all evidence when a member and other representatives are present. Nevertheless, we are disappointed that deficiencies in reconciliation and record-keeping, as identified by your accountant, have been allowed to continue for so long. We have recognised that this came about because of the serious illness of an employee, but we are disappointed that the corrections have taken longer than we would have expected. The current methods of banking, reconciliation and payment confirm to us that your systems are, at last, now under control.

In respect of CPD, it is noted that Mr Upcraft has no record of ever recording any CPD carried out, and this reflects poorly on your company. This should be rectified immediately. It is important for you to note that is not acceptable just to carry out CPD, but our Rules require you to register it. Whether employees are members of this or any other professional body, there should be a programme of CPD in place within your firm”.