



Mr Simon Gresswell MARLA MNAEA,

Miss Teresa Brewer &

Mr Paul Cosgrove

Directors of Finlay Brewer Lettings

Limited t/a Finlay Brewer

Disciplinary Tribunal Decision

May 2023

Disciplinary Tribunal Decision

Member:	Mr Simon Gresswell MARLA, MNAEA Miss Teresa Brewer, formerly MARLA, FNAEA Mr Paul Cosgrove, formerly MARLA, MNAEA
Position:	Directors
Company/Employer:	Finley Brewer Lettings Limited t/a Finlay Brewer
Address:	138 Shepherds Bush Road, Hammersmith, W6 7PB
Complainant:	Propertymark
Reference:	X0059558
Date:	17 May 2023

A. INTRODUCTION

A Disciplinary Tribunal of Propertymark Limited was convened on 17 May 2023 to consider the case against Mr Simon Gresswell, Miss Teresa Brewer and Mr Paul Cosgrove.

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 Gresswell attended the hearing. Miss Brewer and Mrs Cosgrove were not in attendance but had authorised Mr Gresswell to represent them at the hearing.

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 Simon Gresswell, Miss Teresa Brewer and Mr Paul Cosgrove.

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

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.

21. Continuing professional development (CPD) rules

21.1. CPD is mandatory for all ARLA, ARLA Inventories, NAEA, NAEA Commercial and NAVA members except for Affiliate, Deferred, Retired grade members.

21.2. 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.

21.3. 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.

21.4. CPD must be provided annually for membership to continue.

21.5. 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 Gresswell entered a plea admitting the alleged breaches of Rules 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 13 and 21.

C. DECISION

Rule 1.18	-	Admitted
Rule 1.19	-	Admitted
Rule 1.20	-	Admitted
Rule 1.21	-	Admitted
Rule 1.22	-	Admitted
Rule 1.23	-	Admitted
Rule 13	-	Admitted
Rule 21	-	Admitted (on behalf of Miss Brewer and Mr Gosgrove)

D. SANCTIONS

Rule 1.18, 1.19, 1.20, 1.21, 1.22 and 1.23	-	£1500 (£500 each respondent)
Rule 13.1.3	-	Warning
Rule 21	-	£100 (Miss Brewer)
Rule 21	-	£200 (Mr Cosgrove)

In addition, the costs of this hearing of £446.32 were imposed against all three respondents in favour of Propertymark.

E. PUBLICATION

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

F. CLOSING STATEMENT

'Mr Gresswell, we thank you for attending today's tribunal and for admitting the breaches. It greatly assists us when our member is present to answer questions, it gives us a better understanding of what has taken place.

It remains, however, that your client account has been incorrect for a number of years, and whilst it appears that no client or tenant has been disadvantaged, we are disappointed that a full clear reconciliation is not yet possible. Whilst the collapse of ARPM has contributed to the problems that you currently face; it remains the responsibility of our members to check and reconcile their accounts on a regular basis.

We will expect that the current overage shall continue to be identified and an update on progress provided to our compliance department each six months until finally reconciled starting from today's date'.