



**In the matter of
Case No. 02038 NFOPP v Mr M J Salter, Novahomes.co.uk
Disciplinary Tribunal Hearing held on
Wednesday 21 July 2010**

Case of

Mr M J Salter MNAEA, Novahomes.co.uk, 1st Floor Suite, Unit 7 Pound Lane
Trading Estate, Pound Lane, Exmouth, Devon, EX8 4NP

At

NFoPP, Arbon House, 6 Tournament Court, Edgehill Drive, Warwick,
CV34 6LG

Alleged breaches as set out by the Disciplinary Caseworker

The formal breaches are:

Rule 1(2) All members who receive clients' money to which that Act does not apply shall keep, at an Authorised Institution, at least one Clients' Account distinct from any Statutory Clients' Account(s) into which shall be paid without delay any money which is to be held on behalf of clients, tenants, or applicants, other than deposits on transactions covered by the Act.

Rule 1(3) Money may be drawn from Clients' Account(s) only:

- (a) for payment, on proper authorisation, to the person entitled to receive it; or
- (b) in discharge of a sum owed to the member by the person otherwise entitled to receive it; or
- (c) for payment into another client account kept by the member; or
- (d) to correct an inadvertent overpayment into the account; or
- (e) to withdraw interest which has accrued on the account; and
- (f) if there are sufficient funds available to the credit of the client to fully cover the payments;

always provided that in the operation of Statutory Clients' Accounts, the provisions of the Estate Agents Act and of the Estate Agents (Accounts) Regulations 1981 or any other Regulations made in pursuance of that Act have precedence over these Rules.

Rule 6 Duty to abide by the aims and rules of the Association.

Rule 9 Duty to protect and promote clients' interests.

Mr Salter pleaded guilty to the breaches.

Penalty

Rule 1(2) - A monetary penalty in the sum of £500

Rule 1(3) - A monetary penalty in the sum of £750

Rule 6 - A monetary appeal in the sum of £250

Rule 9 - A monetary penalty in the sum of £300

Determination on Publication and Costs

Publication

The Tribunal orders publication in accordance with the Disciplinary Procedure Regulations.

Costs

The award for costs of £113.50 is made in favour of the Association.

Statement by Tribunal

The Tribunal thanks Mr Salter for attending today's hearing.

It is essential that client's money is held correctly and is fundamental to the integrity of the profession and the aims of this Association.

By his own admission Mr Salter had placed total trust and day to day control to an employee who subsequently became a partner in the firm, though he has now moved on.

An accountant's report for the period to 31 March 2010 has been received and the last reconciliation shows a small surplus, however, it cannot be ignored that as at 31 March 2009 there was a shortfall of £9800 and at 31 December 2009 the client account was still short by £2744.

We are given to understand that Mr Salter intends to close the lettings department this year and would remind him that a final closing report will be required under NAEA rules.

The fact that the shortfall position has been rectified, that there has been no apparent loss to clients and that there has been no apparent benefit to Mr Salter it is felt that the penalties are proportionate.