

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

[2014] NZREADT 28

READT 054/13

IN THE MATTER OF

a charge laid under s.91 of the
Real Estate Agents Act 2008

BETWEEN

**REAL ESTATE AGENTS
AUTHORITY (CAC 20004)**

Prosecutor

AND

**SHARON CAMPBELL, of
Thames (licensed real estate
agent)**

Defendant

MEMBERS OF TRIBUNAL

Judge P F Barber - Chairperson
Mr J Gaukrodger - Member
Ms C Sandelin - Member

HEARD at THAMES on 3 April 2014

DATE OF THIS DECISION 17 April 2014

COUNSEL

Mr L J Clancy for the prosecution
Mr L H Fraser for the defendant

DECISION OF THE TRIBUNAL

Introduction

[1] Sharon Campbell (the defendant) faces one charge of misconduct laid by Complaints Assessment Committee 20004 under s.73(a) of the Real Estate Agents Act 2008 (“the Act”).

[2] The prosecution alleges that the defendant took an item of furniture, a metal three-tiered towel stand, from a property managed by the defendant’s employer without the authority of the property owner. The prosecution contends that such conduct would reasonably be regarded by agents of good standing, or reasonable members of the public, as disgraceful in terms of s.73(a) of the Act.

The Wording of the Charge

[3] The charge is dated 30 September 2013 and its content reads:

“Complaints Assessment Committee 20004 charges the defendant with misconduct under s.74(a) of the Real Estate Agents Act in that her conduct

would reasonably be regarded by agents of good standing, or reasonable members of the public, as disgraceful.

Particulars:

On or around 28 January 2012 the defendant removed a three-tiered stand without authority from a property managed by the defendant.”

Basic Facts

[4] At all relevant times, the defendant held an agent's licence under the Act. She is a director of the Thames branch of Harcourts and deals predominantly with property management through Thames Property Management and Rentals Ltd.

[5] Over 2010 until February 2013, 209b Oakley Crescent, Thames was being managed by Harcourts Thames on behalf of the owner, the family trust of Audrey Newman (the complainant).

[6] The property was initially tenanted furnished. In early 2012, there was a change of tenant. That necessitated moving a number of Mrs Newman's personal items and furniture from the property into storage. The defendant was involved in this process on behalf of Harcourts Thames, as was Audrey Newman's son, Grant Newman.

[7] In late January 2012, the defendant removed a metal three-tier stand belonging to Audrey Newman from the property and took it to her (the defendant's) home. She was interested in acquiring the stand from Mrs Newman and had made that clear to her and her son.

[8] In late January and February 2012, emails were exchanged between the Newmans and the defendant about the stand. However, no agreement was reached as to the defendant buying the stand from Mrs Newman.

[9] In February 2013, Mrs Newman moved back into the property and moved her belongings back to the property. On 13 February 2013 Mrs Newman went to the offices of Harcourts Thames and spoke to the defendant about the stand. The defendant told Mrs Newman that the stand was at her (the defendant's) home and that she would return it when she came back home from a short trip out of Thames. She seems to have returned the stand to Mrs Newman on either the afternoon of 19 February 2013 or on 20 February 2013.

[10] The following evidence is disputed:

[a] The defendant states that, before taking the stand from the property, she spoke to Grant Newman at the property about buying the stand and enquired as to whether she should take it home while Mrs Newman considered whether or not to sell it. She states that Mr Newman replied: *“Yeah, you might as well”*.

[b] Mr Newman denies giving the defendant permission to take the stand.

[c] Mrs Newman states that she was surprised to learn that the stand was at the defendant's home when she was told that by the defendant on 13 February 2013, and that she had never given the defendant permission to take it or keep it at her home.

A Summary of Salient Evidence Adduced to us

The Evidence the Complainant Mrs A Newman

[11] Mrs Newman lives at the said property 209b Oakley Crescent, Thames, having had her family trust purchase it in August 2009. She is living back there now but, for various reasons, did not live there much between 2010 and 2013 and arranged various tenancies between that period through Harcourts in Thames. As the Harcourts manager at Thames for rental properties, the defendant was responsible for managing the letting. At material times this involved letting the property unfurnished so that in January 2012 Mrs Newman's belongings needed to be moved out and stored under the supervision of the defendant.

[12] Mrs Newman's son Grant, whose evidence we refer to below, assisted in these arrangements and there were a number of communications between him, his mother, and the defendant by telephone and email over material times.

[13] As a postscript to an email of 3 February 2012 from the defendant to Mrs Newman, the defendant had written "*P.S. did Grant ask you if you would like to sell the iron 3 tier stand in the upstairs bathroom if so, I would love to purchase it and please advise how much ?*". We were shown a photograph of that stand which is painted white and made of iron and might be used to hold flannels, towels, soap or the like.

[14] Mrs Newman said she had owned the stand for several years and could not remember how much she had paid for it "*but I know it was new when I purchased it and was not cheap*". She said she had no recollection of her son mentioning anything to her about the defendant wanting to purchase it so she responded to the postscript on the email saying she had no idea what it was worth. The defendant responded to that by saying she would check out second hand shops in the area and make Mrs Newman an offer. Mrs Newman said that was the last she had heard from the defendant about that three-tier stand.

[15] However, in February 2013 Mrs Newman was moving back to the property herself and was arranging through Harcourts Thames for her furniture and possessions to be taken from storage and put back in the property. She said that at a first look she could not find the stand in issue so she asked her son about it and she telephoned the storage unit and the removal company, but could not trace the whereabouts of the stand. On 14 February 2013 she went to the Harcourts office at Thames to see the defendant about other matters relating to the property. Mrs Newman happened to mention that she could not find that particular bathroom stand. Mrs Newman then said to us (in her evidence-in-chief) "*to my amazement Sharon [the defendant] told me that she had the stand at her home. She told me that she had not used it and that it had got a bit rusty and asked me if I wanted her to paint it. I declined and asked her to return the stand to me*". The defendant then told Mrs Newman that she, the defendant, would return the stand to her but did not do so immediately.

[16] Mrs Newman's attitude was that the defendant had never asked her if she could take the stand to her home and had only ever asked if she could buy it to which Mrs Newman had responded that she had no idea what she had paid for it. Mrs Newman added "*I had not given Sharon Campbell permission to take the stand. It had never been discussed that she could have it and she has never paid me any money for the stand. ... the stand was not returned to me until after my son Grant*

had made a complaint to the agency on 19 February 2013 and then Sharon suddenly appeared with it at my front door.”

[17] In further evidence-in-chief to us, Mrs Newman stated that she had never wanted to sell the stand and that, by saying to the defendant that she did not know what it was worth; she meant to be signalling that she was not interested in selling it. She also said she had expected that the stand had been stored in Thames with her other furniture, and it had never occurred to her that it would have been at the home of the defendant in Thames.

[18] Mrs Newman was carefully cross-examined by Mr Fraser (counsel for the defendant licensee) and it was emphasised, inter alia, that there is nothing in the recorded emails between them to suggest that Mrs Newman did not want to sell the stand. However Mrs Newman is adamant that she thought she had made that clear by indicating that she did not know its worth.

[19] Mrs Newman, candidly, said that she had been ill not long before material times to this case and could not recall all events at this stage as her memory is a little “cloudy”.

[20] There is no doubt that, when the matter of the stand rose in Harcourts office at Thames on 13 February 2013, the defendant immediately told Mrs Newman that she, the defendant, had it stored at her home and it had been there for a year and she was happy to return it. She also indicated that she was about to be out of Thames for four days and would return it as soon as she got back. There is no dispute that late on the day when she had returned she did bring back the stand to Mrs Newman at her home.

The Evidence of Mr G Newman

[21] The complainant’s son, Mr Grant Newman, also gave evidence for the prosecution and noted that although his mother is elderly she is “*very competent*” but he assists her in many things. He confirmed that, at material times, he helped organise packing up and storing his mother’s furniture and household goods as at late January 2012.

[22] He said, in the course of that, the defendant asked him if his mother would be willing to sell to her a three-tier stand which his mother had in her bathroom. In his evidence-in-chief Mr Newman also stated “*I advised Sharon that the stand belongs to my mother and that she would have to ask my mother ... I was not in a position to sell or lend the stand to anybody. I did not agree to lend it to Sharon and that she could give it back when my mother moved back into the house. Neither did I give Sharon Campbell permission to take the stand from my mother’s home to her home.*”

[23] Mr Newman also stated: “*On 31 January 2012 I received an email from Sharon Campbell confirming that all my mother’s belongings had been taken to the storage unit. In the email Sharon also wrote – “not sure if you remembered, but did you ask Audrey if she wanted to sell the stand in the upstairs bathroom and if so, how much ?”*” He then said that after receipt of that email he mentioned as an aside to his mother that the defendant was interested in buying the stand, but his mother expressed surprise and said she was not interested in discussing that with the defendant.

[24] Before us Mr Newman added that the defendant had asked him several times in about January 2012 if she, the defendant, could purchase the stand and he always said he needed to ask his mother and he had no authority to give any permission to do with the stand. Mr Newman was asked whether there had been any discussion by the defendant with him of the defendant storing the stand in her home and he answered *“Not that I can recall”*. He said he had not seen the defendant take the stand on the Saturday when Mrs Newman’s goods were being packed at her home in late January 2012 and he had been working in the garage of the property when the defendant left it after helping him organise matters.

[25] Of course, Mr Newman was carefully cross-examined by Mr Fraser. Mr Newman seemed to agree that he had indicated to the defendant that he would be happy to ask his mother if she would sell the stand to the defendant. This was as at the end of January 2012 and he regarded that as a long time ago so he did not specifically recollect all relevant details.

[26] Inter alia, it was put to Mr Newman by Mr Fraser that, on that Saturday, the defendant said she would store the stand at her home until whether she could purchase it from Mrs Newman was sorted out and he had replied *“might as well”*. He responded before us that he would never have said that. He also seemed to be saying that he knew his mother was not interested in selling the stand so that it would have been *“crazy”* to have it stored with the defendant.

[27] There was then helpful background evidence for the prosecution from Ms Charlotte Gerrard as a specialist investigator.

Evidence for the Defence

Evidence from the Defendant

[28] The defendant has worked as a licensee and property manager in the Thames area since 2000 but specialises in the property management and rental side of the said business. Inter alia, that requires her to oversee the day to day running of the business including training of staff. The defendant confirmed her involvement in managing the complainant’s property, particularly, over 1 July 2011 to 5 July 2013.

[29] She said that on a Saturday late in January 2012 she met with Mr Newman at the property to discuss the removal of items and to assist identification of which items were to be stored and which would remain in the property for the use of the incoming tenant. In the course of that she noticed the stand located in the property’s upstairs bathroom. She regarded it as rather *“quirky”* and is interested in such items and owns an old-style property herself. She indicated to Mr Newman that she liked the stand and asked whether his mother might like to sell it. She added to us *“this was not a one off request as there had been previous discussions about the sale of some of Mrs Newman’s items. The previous discussions did not relate to me purchasing the items myself but rather assisting with the sale of those items and therefore reducing the cost of storing furnishings that Mrs Newman did not require”*.

[30] The defendant had understood that Mrs Newman would be interested in selling some of the items whether she eventually returned to the property to live or not. Mr Newman indicated he would be happy to ask his mother about that and, as the defendant was about to depart from the property, she again enquired further of Mr Newman about the stand. As she put it to us in her evidence-in-chief *“given that all the items were going into storage and should Mrs Newman be willing to sell the*

stand, it would be difficult to retrieve it from storage. I enquired whether I should take it home in the meantime as everything was going into storage. The response from Mr Newman was "Yeah, you may as well" ... my understanding given the statement from Mr Newman was that he had consented to me taking the stand back to my home. I understood that Mr Newman had been given consent by Mrs Newman to deal with her belongings at the property. ... I consequently went back into the house to the upstairs bathroom. I collected the metal stand and carried it to my vehicle which was parked in the driveway ...". The defendant made it clear to us that she thought Mr Newman had consented to her taking the stand home "in anticipation that I would be able to buy it from Mrs Newman".

[31] She also covered the email communications between the parties to which we refer further below. She noted that in a telephone call from her to Mrs Newman, which must have been in late January 2012, she offered \$50 for the stand and Mrs Newman responded that she would get back to the defendant as to whether she would accept that or not. The defendant then stated:

"21. Following this phone call it was my understanding that Mrs Newman would return with a decision on the price for the stand. This response was never forthcoming and the matter fell by the wayside and I did not give it any further thought.

22. At no point in time did I believe that I had the right to retain the stand indefinitely until an agreement was completed. However, as the rest of Mrs Newman's belongings were in storage and the property was tenanted I felt the stand was in safe storage at my home."

[32] She then continued that nothing more was mentioned between the parties regarding the stand until 13 February 2013 at Harcourts office at Thames from February 2012. She said that *"without hesitation I explained that I had the stand in my home. It was my belief that Mrs Newman knew the stand was at my home and was surprised that she had enquired of such. I therefore did not hesitate in telling her that I had the stand"*. She said she then further enquired whether Mrs Newman still wished to sell the stand and the response from Mrs Newman was that she would like the stand returned. The defendant added *"during this discussion I clearly advised Mrs Newman that I would be happy to return the stand but I could not until the following week as I was heading out of town. She understood this and did not appear to have a problem with waiting for the stand to be returned"*. The defendant also added that she then realised there had been a misunderstanding about the stand and, for the sake of good relations, offered to have it repainted and then returned to Mrs Newman but Mrs Newman declined that. The defendant concluded her typed evidence-in-chief as follows:

"26. In my view there was simply a misunderstanding. I have good reason to believe that I had the consent and authority to remove the stand from the property to store it until Mrs Newman and I agreed on a price. If we did not agree on a price it would be returned."

[33] The defendant was thoroughly cross-examined by Mr Clancy and there was particular reference to an email of Friday 3 February 2012, from the defendant to Mrs Newman with a copy to Mr Newman, dealing with various matters but containing the postscript *"did Grant ask you if you would like to sell the iron 3 tier stand in the upstairs bathroom if so, I would love to purchase it and please advise how much?"* The defendant was pressed that, at that point, the stand was no longer in the upstairs

bathroom and was thought by the Newmans to be in storage whereas in fact it was in the hallway of the defendant's home so that the postscript could be misleading. The response of the defendant is that she was endeavouring to describe the stand in issue which had been in the upstairs bathroom of Mrs Newman's property and she saw no need to cover that she already had it in the passageway of her home because she thought she had authority to put it there from Mr Newman; but now realises he may not have seen her actually take it from the property at the end of January 2012 because he might have been working in the garage to the property at that time.

[34] The defendant emphasised that, at all material times, she believed that she had Mr Grant Newman's authority to remove the stand to her own home for the time being. Nevertheless, she agreed with Mr Clancy that Mr Newman seemed to be a person who wanted matters done in a formal manner and was not a casual type. The defendant said she never thought to document the arrangement between her and Mr Newman about the stand as "*I didn't think it necessary*". She accepts that there was never any sale agreement between her and the Newmans about the stand and, after a while, she simply did not think any more about it because she felt it was safely stored in her home until Mrs Newman's furniture in storage was again dealt with. Accordingly, when she met Mrs Newman at Harcourts, Thames, on 13 February 2013 and Mrs Newman enquired about the stand, that immediately triggered off in the defendant's mind that she was storing it in her large hallway and she explained that immediately to Mrs Newman. She again asked Mrs Newman if she would sell it, but Mrs Newman said please return it.

[35] Under cross-examination, the defendant insists adamantly that Mr Newman gave her permission to store the stand at her home as she had. She said that all her staff knew that she was storing the stand for Mrs Newman and that she hoped to eventually purchase it.

[36] The defendant collects "*collectables*" and regarded the stand as a quirky collectable, not something she particularly needed to have, but something she would rather like to acquire.

The Evidence of Ms T M Hill

[37] The final witness was Ms T M Hill also a property manager at the Thames branch of Harcourts. She put it that she and other Harcourts staff had found Mrs Newman and her son rather difficult to deal with at times and that, in particular, Mrs Newman sometimes "*had difficulty in understanding our procedures*" but that all at Harcourts treated the Newmans professionally and courteously. The witness was present on 13 February 2013 when Mrs Newman attended the Harcourt office as covered above and Ms Hill said: "*I recall that Mrs Newman discussed a number of matters around her property with Sharon and then asked about the location of a metal stand that she was unable to find in her stored furniture*". She added:

"9. *I recall that Sharon responded to Mrs Newman telling her that the stand was at her home. Sharon's response was immediate and forthcoming. It was my impression from the way that Sharon responded that she thought Mrs Newman knew or should have known that the stand was at Sharon's home. I also recall Sharon asking if she still wanted to sell the stand and Mrs Newman replied that she did not and just wanted it returned.*

10. *As the discussion progressed, I recall Sharon offering to have the stand painted and she told Mrs Newman she would return the stand but she was heading away out of town for approximately four days early the next morning and she could not return the stand until the following week. Mrs Newman seemed to accept this and when she departed she did not appear to be annoyed or upset in any way."*

[38] Inter alia, Ms Hill stated that it was not unusual for an agent in Thames to have a client's belonging stored at the agent's home and that the location of the stand had not seemed to be an issue between the defendant and Mrs Newman.

[39] In the course of the cross-examination of Ms Hill, it emerged that Harcourts had had certain maintenance work done on Mrs Newman's property from time to time and were happy with the standard of work but that Mr Newman was not and was concerned that the work had been done without his specific permission.

Relevant Emails

[40] Quite a number of copies of emails were adduced to us. There seemed to have been many communications between the defendant and Mr Newman during the letting of the property from February 2012. These lead to an email from the defendant to Mr Newman dated Tuesday 31 January 2012 at 5.46 pm confirming that all the belongings have been taken to storage. That email contains the sentence "*not sure whether you had remembered, but did you ask Audrey if she wanted to sell the stand in the upstairs bathroom and if so, how much?*". In another email from the defendant to Mrs Newman, but copied to Mr Newman, dated Friday 3 February 2012 at 2.34 pm, there is the P.S. referred to above "*did Grant ask you if you would like to sell the iron 3 tier stand in the upstairs bathroom if so, I would love to purchase it and please advise how much??*". There is a reply to that at 12.53 pm on 8 February 2012 from Mrs Newman stating she had no idea what the stand was worth. At 12.56 pm that day the defendant responded "*Hi Audrey, thank you for your reply but I will check it out with the second hand shops if you like and make an offer which you could consider ...*".

Discussion

[41] We note that the complaint leading to these proceedings was made by Mr Grant Newman in the name of his mother and himself as the theft of a household property item. The complaint was made just after 12 noon on 19 February 2013 and the stand was described as "*rusty from being in her [Mrs Newman's] steamy bathroom*". One infers from the wording of the complaint that, as at 19 February 2013, Mr Newman was concerned that the item "*has still not been returned*". We understood that it was returned that afternoon or, certainly, by 5.00 pm on 20 February 2013.

[42] Did the defendant honestly believe she had the owner's authority to take the stand and place it in the hallway of her own home for the time being?

[43] If we conclude that, on the balance of probabilities, the defendant cannot have believed she had permission to take the stand, the question is then whether or not agents of good standing, or reasonable members of the public, would reasonably regard her conduct in taking the stand as disgraceful. They probably would.

[44] Most residential property management services are excluded from the definition of real estate agency work at s.4 of the Act by virtue of the related definition of

“*transaction*”, which does not include the grant, sale, purchase, or other disposal or acquisition of a tenancy to which the Residential Tenancies Act 1986 applies.

[45] However, on a number of occasions we have confirmed that a finding of misconduct under s.73(a) of the Act may relate to conduct of a licensee which is not real estate agency work. Any finding of dishonesty will be highly likely to involve a sufficient nexus to disgraceful conduct under s.73(a).

[46] As Mr Clancy put it, in the present case, if we accept that the defendant did not believe she had permission to take the stand, it must follow that her conduct was a marked or serious departure from accepted standards. There would be a sufficient nexus between such conduct and the defendant’s fitness to carry out real estate agency work; and a licensee must be able to be trusted to act honestly in accordance with a client’s instructions and to keep a client informed of matters relevant to a client’s interest.

[47] For the defendant, Mr Fraser puts it that the defendant believed she had authority to remove the stand from the property, that her behaviour has been entirely consistent with that, and she either had such authority or held an honest belief that she did. He submits that, in the circumstances of this case, the defendant’s conduct does not meet the requirement of s.73(a) of the Act that it be reasonably regarded by agents of good standing or reasonable members of the public as disgraceful.

[48] Mr Fraser accepts that the sole factual issue for our determination is whether the defendant had authority to remove the stand or honestly believed that she did. He submits that her conduct could not be described as disgraceful in the circumstances of this case.

[49] Mr Fraser also submits that we should reject Mr Newman’s evidence that he did not discuss with the defendant whether she could remove the stand. He submits that, in any case, if she did remove it without authority then this is a relatively minor matter. However, he emphasises that the defendant had no intent to steal the stand. He refers to the email and telephone discussions between the defendant and Mrs Newman in which the defendant sought to purchase the stand and Mrs Newman seemed to entertain the possibility of selling the stand.

[50] Mr Fraser emphasised that, on 13 February 2013, the defendant freely and openly advised Mrs Newman that the stand was at her home and offered to return it to her fairly promptly. Mr Fraser noted that had the defendant not removed the stand to her home, it would have been placed in storage; and there has been no detriment to Mrs Newman; and that the stand is an item of low value and did not seem to be of sentimental value to Mrs Newman and had previously been left at the property while tenanted.

Our Views

[51] Immediately upon the conclusion of the hearing, our Chairperson stated our views that we do not find the charge proven against the defendant and we accept the evidence given by the defendant in explanation of her conduct. He also made it clear that we realise that the standard of proof required by the prosecution in this case is not the criminal standard of proof beyond all reasonable doubt, but that of the standard of the balance of probabilities. Indeed, our Chairperson put it as follows:

“... Well essentially it’s an issue of credibility isn’t it. Put it this way, I wouldn’t like you to think we are being casual or precipitous or too quick. But we are conscious that this is not a criminal trial so it’s not a question of proof beyond all reasonable doubt. And if it was, there’s no way there would be a conviction in my experience.

The test here is the balance of probabilities and, as I say, we’ll put our views in writing fairly soon but even on the standard of proof of the balance of probabilities, I think we ought to say here and now that we do not find the charge proven.

We accept the evidence of the defendant but we’ll cover it in writing reasonably succinctly, soon I hope. However, we see this as a serious matter that had to be pursued by the Authority and that’s our overall view. It’s not a casual view, it’s a considered view. So we’ll leave it at that and you’ll hear from us in the usual way. But thank you very much. This matter needed coverage and I’m sure Harcourts at Thames will learn one or two things about it in terms of acting with the greatest possible propriety over other people’s possessions and, perhaps, to document a situation better than they did in this case.

But, nevertheless, our overall view is that Ms Campbell, is so to speak, acquitted as far as we’re concerned. Thank you.”

[52] The question is whether the defendant wrongfully took the item from Mrs Newman’s property; that issue is one of credibility.

[53] We believe the defendant that she took the item and placed it in her own home’s hallway in the belief that she could buy it from Mrs Newman when she knew what price Mrs Newman required and, otherwise, that she would store it until Mrs Newman required it back, rather than have it placed in storage with the rest of Mrs Newman’s furniture and effects.

[54] Having so cleared the defendant of the charge, we observe that her casual approach to respecting other people’s ownership of property got her into this predicament. Licensees need to be careful to meticulously respect other people’s property-ownership rights. They would be well advised to document any arrangements made over the possessions of clients or customers, especially, something a little out of the ordinary such as the likelihood that the agent might purchase the property.

[55] Also, it would have been better, when the defendant referred to the property in the said 3 February 2012 email postscript (to an email to Mrs Newman and copied to Mr Newman) as being the stand in Mrs Newman’s bathroom, if the defendant had made it clear that, of course, the stand was no longer there, nor was it in storage, but it was in the hallway of the defendant’s home for the time being.

[56] There has been an air of casualness on the part of the defendant which has led to this prosecution.

[57] Also, some people would regard it as unprofessional for agents managing a customer’s property to be seeking to purchase items from that property and, it seems rather unusual.

[58] It is relevant to all this that both Mrs Newman and her son Mr Grant Newman seem a little vague as to their recollections of who said what to whom at material times.

[59] We also observe that had the defendant been more conscientious and immediately returned the stand to Mrs Newman, when she had told her at Harcourts Thames office on 13 February 2013 that it was in the defendant's hallway, rather than giving priority to her work and to her four day out of town trip, then Mrs Newman may not have become so disturbed about the whereabouts of this item of property. There might not have been a complaint if the defendant had got her priorities right and focussed on immediately returning the stand on 13 February 2013. It should have been returned within the hour of the defendant realising that Mrs Newman wanted it returned to her.

[60] As indicated above, licensees involved in handling other people's possessions must carefully respect the true ownership of those items. In this case an elderly lady and her son have been put to much unnecessary stress; although they could, perhaps, have been a little more tolerant of the innocent casualness of the defendant. However, there was a certain degree of confusion and misunderstanding between the parties.

[61] Nevertheless, absolute honesty of agents towards their customers' property is so fundamental to the professionalism of the real estate industry that the Authority had little option in this case but to charge the defendant and clarify the merits of this complaint.

[62] We confirm the finding we delivered after the hearing at Thames on 3 April 2014 that this charge is dismissed.

[63] Pursuant to s.113 of the Act, we record that any person affected by this decision may appeal against it to the High Court by virtue of s.116 of the Act.

Judge P F Barber
Chairperson

Mr J Gaukrodger
Member

Ms C Sandelin
Member