



Australian College
of Professionals

College Chronicle

Overdrawn Trust Accounts

October 18, 2019



If you are one of ACOP's Facebook Followers then you may have heard this story recently, if you are not a subscriber we should first ask, why not? Tune in at 4.30pm on Wednesday afternoon's for our industry updates.

But back to the story, a solicitor was astounded recently when an agent had made a pretty big mistake when disbursing funds from the trust account. The solicitor was acting for the vendor in a sale and the agent was holding \$45,000 as deposit in their trust account. One week prior to settlement the solicitor, in accordance with the contract and permission from the purchaser's solicitor, had instructed the agent to release \$35,000 of the deposit as it was partially required to discharge the mortgage, leaving \$10,000 in the agency trust account. The agent followed the instructions and as such the settlement proceeded without issue.

A week later, after settlement had been completed and after business hours, the vendor's solicitor received an email from the vendor advising that they had received a large deposit that they were not expecting, the agent had deposited \$35,000 directly into the bank account of the vendor. It appeared that the agent had in fact released the \$35,000 twice... from a \$45,000 deposit.

The vendor's solicitor contacted the agent and the answer given, oh the accounts team must have made a mistake. A request was sent to the vendor from the agency to return the additional \$35,000.

Without considering the obvious trust account breach issues in this scenario, as well as the benefits of conducting daily reconciliations and having the Licensee-In-Charge responsible for the disbursement of trust monies, one major question raised is, has this agency followed the correct procedure in reporting this breach to NSW Fair Trading? This is not just a breach that the Licensee-In-Charge should note in their diary for when their annual audit is conducted, they must report this breach within a very short time frame.

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Section 89 of the Property, Stock and Business Agents Act 2002 states the following:

89 Licensee to notify trust account becoming overdrawn

A licensee must, within 5 days after becoming aware that a trust account of the licensee has become overdrawn, notify the Secretary in writing of:

- (a) the name and number of the account, and
- (b) the amount by which the account is overdrawn, and
- (c) the reason for the account becoming overdrawn.

Maximum penalty: 100 penalty units.

Whilst we do not know if the agent has made that report to NSW Fair Trading, and we would hope that there are not many agents out there making the mistake of accidentally releasing the same amount twice within a week to a vendor. We are pretty certain that not all agents realise that when a breach does occur, it MUST be noted with NSW Fair Trading even outside of your regular annual audit. Not doing so can attract a financial penalty to the Licensee-In-Charge.

‘Til next time, wishing you every success in your business ventures,

Rosy Sullivan | College Director & Principal

4 HOUR CPD SEMINARS Full 12 points

MON 4 TH NOV	BATHURST Stock & Station	THU 14 TH NOV	SYDNEY CBD Real Estate Sales
MON 4 TH NOV	BATHURST Sales & Prop Mgmt	THU 14 TH NOV	SYDNEY CBD Property Management
MON 4 TH NOV	MOREE Sales & Prop Mgmt	FRI 15 TH NOV	SYDNEY CBD Strata Management
THU 14 TH NOV	COFFS HARBOUR Sales & Prop Mgmt	THU 21 ST NOV	DEE WHY Sales & Prop Mgmt

2 HOUR CPD SEMINARS (8am - 10am unless specified otherwise). Full 12 points, Pre-reading required

THU 31 ST OCT	SYDNEY CBD Strata Management	THU 14 TH NOV	COFFS HARBOUR Strata Management
THU 7 TH NOV	PARRAMATTA Sales & Prop Mgmt	TUE 19 TH NOV	GOSFORD Sales & Prop Mgmt
MON 11 TH NOV	CASTLE HILL Sales & Prop Mgmt	FRI 22 ND NOV	SYDNEY CBD Sales & Prop Mgmt



From the office

And we turn around and it's mid October – how quickly is 2019 rolling by. As always, a busy fortnight at the College. Our trainers have travelled far and wide, from metropolitan locations of Forestville, Campbelltown, Caringbah, Castle Hill, Parramatta and Gosford to the regional areas of Batemans Bay, Tamworth, Gunnedah and Glen Innes...we certainly racked up some kilometres in the past couple of weeks. Not to mention the training that has occurred in our head office at Town Hall in the CBD. We have welcomed students for their entry level Certificate of Registration training through to advanced skills courses in Commercial and Retail Sales and Leasing. Many students are also benefiting from our regular webinars which keep our regional friends in touch with what is happening in the world of property compliance and best practice. We have assisted a few more agencies with compliance checks this past fortnight and working with them in the continuous improvement of their business from a compliance and a business success perspective.

We have spent the past fortnight assisting many property certificate holders to plan their training program to upgrade to a property licence, prior to the commencement of the industry reforms which are tentatively scheduled for March next year. These students are realising that if they are going to be successful in the future, they not only need to hold the appropriate licences and educational qualifications, but their training needs to be thorough and provide them with the tools, knowledge and skill sets that will equip them to support their customers in daily property transactions. It is great that so many of our students are recognising that quality training means that they need to make a commitment to advancing their knowledge and their skills – it makes for happy and satisfied students, and extraordinarily happy and satisfied trainers. It's a great equation.

Now, we have heard nothing of cakes so far in this edition of 'From the Office', and we know that many of you will be disappointed that we are letting the baking fraternity down. And you are right...there have been no cakes at ACOP this last fortnight. I think we are still all recovering from the HUGE number of cakes and celebrations of the previous fortnight. But watch this space, loyal readers – the fortnight ahead has distinct probability for an increase in ACOP cake activities.

CERTIFICATE OF REGISTRATION COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

MON 28TH WED 30TH OCT	PARRAMATTA
MON 11TH WED 13TH NOV	SYDNEY CBD
MON 25TH WED 27TH NOV	CASTLE HILL
MON 9TH WED 11TH DEC	SYDNEY CBD

FINANCE & MORTGAGE BROKING COURSES

Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

MON 28TH WED 30TH OCT	SYDNEY CBD Certificate IV in Finance & Mortgage Broking
28TH-30TH OCT & 7TH-8TH NOV	SYDNEY CBD Diploma of Finance & Mortgage Broking Management <i>(Upgrade Program - Must hold Certificate IV in Finance & Mortgage Broking)</i>

PROPERTY LICENCE COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

20 TH - 21 ST NOV	Staff Management SYDNEY CBD	18 TH - 19 TH NOV	Financial Management SYDNEY CBD
25 TH - 28 TH NOV	Sales for Real Estate SYDNEY CBD		
18 TH - 22 ND NOV	Stock & Station Agency Practices SYDNEY CBD	FRI 8 TH NOV	Trust Accounting + Insurance (Strata) SYDNEY CBD
4 TH - 7 TH NOV	Strata Management Agency Practices SYDNEY CBD	11 TH - 13 TH NOV	Trust Accounting PARRAMATTA
FRI 1 ST NOV	Real Estate Auctioneer Accreditation SYDNEY CBD	14 TH - 15 TH NOV	Property Management PARRAMARRA

View our course calendar for all course details.

DIPLOMA OF PROPERTY SERVICES (AGENCY MANAGEMENT) CPP50307

BATHURST	
MODULE 1	24 th - 25 th October
MODULE 2	7 th - 8 th November

SYDNEY	
MODULE 1	31 st October - 1 st November
MODULE 2	28 th - 29 th November

PROPERTY SERVICES

CONSUMER GUIDES

THESE 9 GUIDES WERE CREATED TO HELP YOU WORK MORE EFFECTIVELY WITH YOUR AGENT

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