

Media Release



Government of South Australia

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Not so great realty

Phillip Greatbatch and his company Greatrealty Pty Ltd of Hahndorf have been fined a total of \$40,000 for inappropriate use of a trust account. The defendants pleaded guilty to a total of 50 counts relating to breaches of the *Land Agents Act 1994* in the Mt Barker Magistrates Court.

Mr Greatbatch was both the managing agent and tenant of his business premises and effectively gave himself free rent by writing cheques from his business account but not banking them. Instead the landlord was paid out of the trust account using his other clients' trust money.

Of the 50 counts, 34 related to failing to deposit cheques into the trust account as soon as practicable and 16 related to unauthorised withdrawal of money from the trust account.

Land agents hold money in trust, including rental payments and deposits for the sale of land.

Commissioner for Consumer Affairs Mal Hemmerling said managing trust money is a very serious responsibility.

"Trust Account money is held in trust. It does not belong to agents and should only be used in accordance with the strict guidelines in the *Land Agents Act 1994*."

The Court heard that the breaches related to cash flow problems of the business but Magistrate Johansen SM said that cash flow problems are no excuse to improperly deal with monies that are held in trust.

"The Company blatantly breached the trust required of it and was obtaining a financial benefit as a result of its actions," he said.

The 68 year old land agent failed to deposit cheques into the trust account, with the delay in banking cheques ranging from between one month to 15 months. The amount of cheques not banked in a timely fashion totalled over \$16,500.

He also dipped into the trust account to cover shortfalls in a separate trust account in Queensland. The total amount of unauthorised withdrawals was nearly \$10,000.

The Office of Consumer and Business Affairs took court action against Greatrealty Pty Ltd and Mr Greatbatch after breaches were detected during a random trust account audit.

Magistrate Johansen SM noted that the company's improper use of trust money was repeated almost monthly over a period of approximately two years.

The company was fined \$20,000 and Mr Greatbatch was also fined \$20,000, plus levies, court fees and costs of \$800.

Mr Hemmerling said "This result should send a clear message to land agents that they need to manage their trust accounts correctly or face the consequences."