



Ban and fine for real estate agent over trust account misuse (Tracey Leanne Wilson)

A Victoria Park real estate agent has been fined \$3,500 and disqualified from holding a licence and triennial certificate for 18 months by the State Administrative Tribunal (on 11 March 2015) after making illegal withdrawals from the agency's trust account.

Tracey Leanne Wilson, a former Director and employee of a Victoria Park real estate agency, faced disciplinary action by Consumer Protection after transferring \$2,185.77 from the agency's trust account to a 'suspense account' in January 2014 and then transferring the funds to her personal bank account in May 2014.

The money was deducted from the property management account relating to four apartments in South Perth which the agency had managed until their contract with the owners was terminated in November 2013. Ms Wilson mistakenly believed that a 'liquidated damages' clause in the contract allowed her to withdraw the money without the consent of her client.

Commissioner for Consumer Protection Anne Driscoll warns those in charge of real estate trust accounts not to act as judge and jury and to allow the Court to resolve any contract or financial disputes.

"Money held in trust does not belong to the agency, so those in control of trust accounts cannot make unilateral decisions when disputes arise and take funds without the agreement of the clients," Ms Driscoll said.

"The laws covering the handling of trust account moneys should not be flouted by agents or property managers. Owners expect complete honesty and a high standard of integrity when they place the management of their properties in the hands of a property manager, so that trust should not be abused," Ms Driscoll said.

"The trust account requirements are designed to separate the funds being held on behalf of owners and tenants from the day to day financial operations of the agency. It is a serious breach of the law if those in control of trust accounts take money from trust accounts for either business or personal purposes."

Information on the obligations of real estate agents and sales representatives is available on the Consumer Protection website: www.commerce.wa.gov.au/cp/realestate or enquiries can be made by email: consumer@commerce.wa.gov.au or by calling **1300 30 40 54**.