

Disciplinary Panel Hearing

Case: Robert Heald [0060676]

Date: Monday 07 – Friday 11 October 2024

Time: 10:00 hrs BST

The formal charges are as follows:

Sandown House

1. *On or about 19 December 2016, Wallakers ('the Firm') was instructed by or on behalf of the leaseholders of Sandown House to assist them with regard to a dispute between the leaseholders and the Freeholder of Sandown House ["the Property"] over the cost of insuring the property ["the Insurance Instruction"]. In dealing with the Insurance Instruction, Robert Heald failed to carry out his professional work with due skill, care and diligence in that he did not, between around August 2017 and July 2018 submit a valid application to the First Tier Tribunal, or alternatively explain why such an application had not been submitted.*

Contrary to Rule 4 of the Rules of Conduct for Members version 6

Robert Heald is therefore liable to disciplinary action under RICS Bye-law

5.2.2(c)

2. *In dealing with the Insurance Instruction, Robert Heald:*
 - a. *Made some or all of the representations set out in Schedule A;*
 - b. *At the time of making the relevant representation he knew it to be untrue.*
3. *His conduct in respect of 2a. above was:*
 - (a) *Misleading;*
 - (b) *Dishonest*

Contrary to Rule 3 of the Rules of Conduct for Members Version 6

Robert Heald is therefore liable to disciplinary action under RICS Byelaw 5.2.2

(c)

4. *In dealing with the Insurance Instruction, Robert Heald acted without integrity in that he:*
 - a. *Made some or all of the representations set out in Schedule A;*
 - b. *At the time of making the relevant representation he knew or ought to have known that the relevant representation was inaccurate and/or misleading.*

Contrary to Rule 3 of the Rules of Conduct for Members Version 6

Robert Heald is therefore liable to disciplinary action under RICS Byelaw 5.2.2

(c)

5. *On or about 19 September 2017, Wallakers was instructed by or on behalf of the leaseholders of Sandown House to assist them with regard to a dispute between the leaseholders and the freeholder of Sandown House over the cost of major building works done at the property [“the Major Works Instruction”], and the amount of money that might be needed to rectify deficiencies in the work. In dealing with the Major Works Instruction, Robert Heald failed to carry out his professional work with due skill, care and diligence in that he:*
 - a. *Failed to obtain and/or provide to the Leaseholders a quotation for producing a report from Bentley Pugh, a surveyor, alternatively failed to inform the Leaseholders why it was not possible to obtain such a quotation.*
 - b. *Failed to appoint, or recommend for appointment, an independent building surveyor to assess the cost of remedying the defects in the major work or inform the leaseholders that he could not identify a suitable surveyor to instruct;*
 - c. *Failed to inform the leaseholders that he had not appointed an independent building surveyor;*
 - d. *Submitted to the Tribunal his own valuation report on the cost of remedying the defective works despite having no instruction to do so.*
 - e. *Prejudiced the Leaseholders case before the Tribunal by acting as their representative, thereby preventing the Court from taking account of his report on the Major Works;*
 - f. *Failed to inform the leaseholders of the outcome of the hearing promptly, or at all, on or after 17 September 2019;*

- g. Failed to inform the leaseholders of the Tribunal's decision within the 28-day appeal period;*
- h. Failed to inform the leaseholders that the Freeholders had made a costs application in respect of the proceedings;*
- i. Failed to revert to the leaseholders about how the money owed to the leaseholders for the substandard works could be obtained.*
- j. Failed promptly to acknowledge a formal complaint ["the Complaint"] made by the leaseholders on or around 29th October 2019.*
- k. Failed to respond formally to the Complaint;*

Contrary to Rule 4 of the Rules of Conduct for Members Version 6

Robert Heald is therefore liable to disciplinary action under RICS Byelaw 5.2.2 (c)

Cherwell Court

- 6. Between around 2016 and 2021 Wallakers were the appointed managing agents of Cherwell Court.*
- 7. In or around January 2021 Wallakers were instructed by or on behalf of the Cherwell Court Board to begin formal recovery, via solicitors, of some outstanding service charges ["the Arrears Instruction"]. In dealing with the Arrears Instruction, Robert Heald failed to carry out his professional work with due skill, care and diligence in that he:
 - a. Failed to instruct solicitors to recover the arrears;*
 - b. Failed to inform the Cherwell Court Board that he had not instructed solicitors to recover the arrears;*
 - c. Failed to inform the Board as to why he had not instructed solicitors to recover the arrears.**

Contrary to Rule 4 of the Rules of Conduct for Members version 7

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2(c)

- 8. In dealing with the Arrears Instruction, Robert Heald:
 - a. Made representations to the following effect:**

- i) *On or around 15 March 2021 – that he had been advised by solicitors that the arrears had been collected;*
 - ii) *On or around 2 June 2021 – that he had asked Howell Jones and Partners to deal with recovery of the arrears and/or that he had asked Howell Jones for a copy of their file so he could see what action had been taken.*
- b. *At the time of making representation i) and/or ii) above he knew it to be untrue.*

9. *His conduct in respect of 8a. above was:*

- a. *Misleading;*
- b. *Dishonest.*

**Contrary to Rule 3 of the Rules of Conduct for Members version 7
Robert Heald is therefore liable to disciplinary action under byelaw 5.2.2(c)**

10. *In dealing with the Arrears Instruction, Robert Heald acted without integrity in that he:*

- a. *Made representations to the following effect:*
- i) *On or around 15 March 2021 – that he had been advised by solicitors that the arrears had been collected;*
 - ii) *On or around 2 June 2021 – that he had asked Howell Jones and Partners to deal with recovery of the arrears and/or that he had asked Howell Jones for a copy of their file so he could see what action had been taken.*
- b. *At the time of making representation i) and/or ii) above he knew or ought to have known that the relevant representation was inaccurate and/or misleading.*

**Contrary to Rule 3 of the Rules of Conduct for Members version 7
Robert Heald is therefore liable to disciplinary action under RICS Bye-law
5.2.2 (c)**

11. *In or around October 2020, the occupants of Flat 32, Cherwell Court [“the Flat”] prepared an insurance claim [“the Flood Claim”] relating to costs incurred as a result of a flood at the flat.*
12. *Wallakers had, or assumed, responsibility for submitting the Flood Claim to the insurer.*
13. *In dealing with the Flood Claim, Robert Heald failed to carry out his professional work with due skill, care and diligence in that he:*
 - a. *Failed to submit the insurance claim or ensure that it was submitted;*
 - b. *Failed to inform the occupants of Flat 32 that he had not submitted the Claim or ensured that it was submitted;*
 - c. *Failed to inform the occupants of Flat 32 as to why he had not submitted the Claim or ensured that it had been submitted.*

Contrary to Rule 4 of the Rules of Conduct for Members version 7

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2

(c)

14. *In dealing with the Flood Claim, Robert Heald:*
 - a. *Made representations to the following effect:*
 - i) *On or around 12 February 2021 to the occupants of Flat 32 – that the insurance monies for the claim had been received and/or that he intended to send them the money by transfer; and/or*
 - ii) *On 28 April 2021 to Shabir Khan – that the claims had been “sorted” and would be “on the payment run this week”.*
 - b. *At the time of making the representation(s) in i) and/or ii) above, he knew it to be untrue.*

15. His conduct in respect of 10a. above was:

- a. Misleading;
- b. Dishonest.

Contrary to Rule 3 of the Rules of Conduct for Members version 7

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2

(c)

16. In dealing with the Flood Claim, Robert Heald acted without integrity in that he:

- a. Made representations to the following effect:
 - i) On or around 12 February 2021 to the occupants of Flat 32 – that the insurance monies for the claim had been received and/or that he intended to send them the money by transfer; and/or
 - ii) On 28 April 2021 to Shabir Khan – that the claims had been “sorted” and would be “on the payment run this week”.
- b. At the time of making the representation(s) in i) and/or ii) above, he knew or ought to have known that the relevant representation was inaccurate and/or misleading.

Contrary to Rule 3 of the Rules of Conduct for Members version 7

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)

Blakes Avenue

17. On or around 30 November 2020, Robert Heald was instructed to act as Party Wall Surveyor by the owner of an address in Blakes Avenue, in New Malden in Surrey [“the Party Wall Instruction”]. In dealing with the Party Wall Instruction, Robert Heald failed to carry out his professional work with due skill, care and diligence or provide good quality and diligent service in that he:

- a. *Failed on one or more occasions to respond promptly, or at all, to communications about the Instruction;*
- b. *Failed to progress the Instruction in a timely manner;*
- c. *Stated that he had issued a "14 letter before County Court proceedings" without providing an explanation of what it was;*
- d. *In making the representation at c above Mr Heald:*
 - i) *Misled his client in that he claimed to have issued a letter before action when he had not done so, alternatively*
 - ii) *Issued a letter before action which he had no instructions to issue.*
- e. *Failed to respond promptly, or at all, to a complaint from the owner.*

Contrary to Rule 4 of the Rules of Conduct for Members version 7 and/or Rule 3 of the Rules of Conduct with effect from 2 February 2022

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)

18. *On or around 25 May 2022, while acting as a Party Wall Surveyor in relation to a property in Blakes Avenue, New Malden, Robert Heald stated in an email that he had issued a '14 letter before County Court proceedings'. In making that representation, Mr Heald acted without integrity in that:*
- i) *He claimed to have issued a letter before action when he had not done so, alternatively*
 - ii) *He issued a letter before action which he had no instructions to issue.*

Contrary to Rule 1 of the Rules of Conduct with effect from 2 February 2022

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)

Cedars Resident Management Limited

19. *Between 6 August 2013 and 6 June 2022, while Robert Heald was the registered company secretary of Cedars Resident Management Limited (CRML):*

- a) *Robert Heald knew that the sole director of CRML, Mr W, had tendered his resignation as director on 7 August 2013;*
- b) *Robert Heald informed Mr W on 7 August 2013 that he would arrange his resignation at Companies House and that Mr W did not have to do anything else;*
- c) *Robert Heald did not terminate Mr W's director appointment until 6 June 2022;*

- d) *Robert Heald did not inform Companies House that CRML had no directors;*
- e) *Robert Heald did not appoint a new director until 6 June 2022 at which time he was appointed as the sole director of CRML;*
- f) *Robert Heald, as company secretary of CRML, caused or allowed CRML to operate without anyone with legal responsibility for CRML.*

Robert Heald, by doing or by failing to do any or all of those matters set out in b) to f) above, acted without integrity.

Contrary to Rule 3 of the Rules of Conduct for Members version 6 and/or Rule 3 of the Rules of Conduct for Members version 7 and/or Rule 1 of the Rules of Conduct with effect from 2 February 2022

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)

20. Between around 28 February 2015 and 13 April 2022, Robert Heald as company secretary of CRML, completed or caused to be completed, and filed or caused to be filed with Companies House on behalf of CRML eight Directors' Report and Financial Statements (the annual reports) for the years ending June 2014, June 2015, June 2016, June 2017, June 2018, June 2019, June 2020 and June 2021.

- a) *Each of the annual reports named Mr W as the sole director of CRML;*
- b) *Each of the annual reports bore forged signatures purporting to be the signature of Mr W.*

Robert Heald acted dishonestly in that he:

- i) *Named Mr W as a director of CRML on the annual reports when he knew that Mr W had tendered his resignation on 7 August 2013 or alternatively to i)*
- ii) *Caused or allowed another to name Mr W as a director of CRML on the annual reports when he knew that Mr W had tendered his resignation on 7 August 2013 and/or*

- iii) *Falsified Mr W's signature on the annual reports or alternatively to iii)*
- iv) *Caused or allowed Mr W's signature to be falsified on the annual reports and/or*
- v) *Filed the annual reports with Companies House knowing that they contained false information or alternatively to v)*
- vi) *Caused or allowed the annual reports to be filed with Companies House knowing that they contained false information.*

Contrary to Rule 3 of the Rules of Conduct for Members version 6 and/or Rule 3 of the Rules of Conduct for Members version 7 and/or Rule 1 of the Rules of Conduct with effect from 2 February 2022

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2

(c)

21. *Between around 28 February 2015 and 13 April 2022, Robert Heald, as company secretary of CRML, completed or caused to be completed, and filed or caused to be filed with Companies House on behalf of CRML eight Directors' Report and Financial Statements (the annual reports) for the years ending June 2014, June 2015, June 2016, June 2017, June 2018, June 2019, June 2020 and June 2021.*

- a) *Each of the annual reports named Mr W as the sole director of CRML;*
- b) *Each of the annual reports bore forged signatures purporting to be the signature of Mr W.*

Robert Heald acted without integrity in that he:

- i) *Named Mr W as a director of CRML on the annual reports when he knew that Mr W had tendered his resignation on 7 August 2013 or alternatively to i)*
- ii) *Caused or allowed another to name Mr W as a director of CRML on the annual reports when he knew that Mr W had tendered his resignation on 7 August 2013 and/or*

- iii) *Falsified Mr W's signature on the annual reports or alternatively to iii)*
- iv) *Caused or allowed Mr W's signature to be falsified on the annual reports and/or*
- v) *Filed the annual reports with Companies House when he knew or ought to have known that they contained false information or alternatively to v)*
- vi) *Caused or allowed the annual reports to be filed with Companies House when he knew or ought to have known that they contained false information.*

Contrary to Rule 3 of the Rules of Conduct for Members version 6 and/or Rule 3 of the Rules of Conduct for Members version 7 and/or Rule 1 of the Rules of Conduct with effect from 2 February 2022

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)

22. *Between 1 December 2014 and 22 December 2015, Robert Heald, as the company secretary of CRML, filed or caused to be filed with Companies House on behalf of CRML the following documents:*

- a) *Form AR/01 for the year ending 21 December 2014 in which Mr W was listed as the sole company director; and/or*
- b) *Form AR/01 for the year ending 21 December 2015 in which Mr W was listed as the sole company director.*

Robert Heald was dishonest in that he knew:

- i) *That Mr W had resigned as a director on 7 August 2013 and/or*
- ii) *That CRML had no effective director.*

Contrary to Rule 3 of the Rules of Conduct for Members version 6

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2 (c)

23. *Between 1 December 2014 and 22 December 2015, Robert Heald, as the company secretary of CRML, filed or caused to be filed with Companies House on behalf of CRML the following documents:*

- a) *Form AR/01 for the year ending 21 December 2014 in which Mr W was listed as the sole company director; and/or*
- b) *Form AR/01 for the year ending 21 December 2015 in which Mr W was listed as the sole company director.*

Robert Heald acted without integrity in that he knew or ought to have known:

- i) *That Mr W had resigned as a director on 7 August 2013 and/or*
- ii) *That CRML had no effective director.*

Contrary to Rule 3 of the Rules of Conduct for Members version 6

Robert Heald is therefore liable to disciplinary action under RICS Bye-law 5.2.2

(c)

SCHEDULE A

On or around the date indicated, Robert Heald made the representation indicated, or a representation to that effect:

- (a) *16 August 2017 – that a valid application had been sent to the First Tier Tribunal;*
- (b) *26 August 2017 – an implied representation that a valid application had been sent to the FTT (in explaining the lack of acknowledgement of the court by reference to the usual delay in receiving an acknowledgement).*
- (c) *19 September 2017 – that an acknowledgement had been received.*
- (d) *9 October 2017 that “the file is before the Chair of the panel so that directions can be issued”.*
- (e) *15 November 2017 – that the application was ready and/or that he was awaiting a date from the Tribunal, and/or that he had spoken to the Tribunal that morning, and/or that he had been informed that the hearing would likely take place towards the end of January 2018.*
- (f) *7 December 2017 – that a hearing date had been confirmed for 30th January 2018, and/or that there was a deadline for the evidence bundle of 16th December 2017.*

- (g) 23 January 2018 – that the hearing had been postponed because of a clash.*
- (h) 6 February 2018 – that he was due to receive a new hearing date that coming week.*
- (i) 28 February 2018 – that the hearing date had been set for 27th or 28th March 2018.*
- (j) 16 March 2018 – that there was a two-day window for the hearing, and/of it would be held in London or Cambridge, and/or that he would know the details the following week.*
- (k) 20 March 2018 – that the hearing would take place on 28th March 2018.*
- (l) 12 June 2018 – that the hearing had gone ahead and that he had been told that the Tribunal had directed a new valuation should be undertaken due to the two valuations being so different.*
- (m) 25 June 2018 – that the Tribunal had made a determination that the two valuations provided by the leaseholder and the freeholder were too far apart and the Tribunal had therefore instructed that a new valuation be done.*
- (n) 29 June 2018 – that he was preparing a report with his recommendations.*
- (o) 21 July 2018 – that the Tribunal had ordered an independent valuation to determine whether the insurance premium was excessive, and/or that he had provided suggested valuers to the Tribunal, and/or that he understood the Freeholders had done the same and or that the suitability of the suggested valuers was being assessed.*
- (p) 24 July 2018 – that there had been a misunderstanding and/or that the Tribunal had not made a determination and/or the matter was still ongoing.*
- (q) 26 July 2018 – that he had spoken to Chris Last about a strategy, and/or he (Robert Heald) was instructing a local surveyor at his own cost to prepare a comparable reinstatement cost valuation to support the leaseholders' case at the Tribunal.*

Anyone wishing to attend should contact:

Mrs Jae Berry
Regulatory Tribunal Executive
e jberry@rics.org