

## **Disciplinary Panel Hearing**

### **Case of**

**Mrs Taiwo Omotoye MRICS [1130192]**

**Watford, WD25, UK**

### **On**

Tuesday 17 September 2019

### **By telephone conference**

### **Panel**

Alison Sansome (Lay Chair)  
Ferdinand Balfourt (Lay Member)  
Helen Riley (Surveyor Member)

### **Legal Assessor**

Ben Kemp

### **The formal charge:**

On 14 December 2015, at St Albans Crown Court, you were convicted of trafficking a person into the UK for the purposes of exploitation. On 05 February 2016, you were sentenced to 3 years' imprisonment and were required to pay compensation of £5,000.

**You are therefore liable to disciplinary action in accordance with Bye-Law 5.2.2(d).**

## **DETERMINATION**

### **Representations and Service**

1. Notice of this hearing dated 06 August 2019 was sent by special delivery post and email to the postal and email addresses most recently notified by Mrs Omotoye to RICS.
2. The postal and email addresses used were the preferred addresses held on the RICS system, which Mrs. Omotoye has indicated are her preferred addresses for correspondence with RICS. RICS has produced the relevant postal and email delivery receipts. A written statement

produced by Mrs. Emma Jones, a RICS employed officer, speaks to notice having been served upon Mrs. Omotoye.

3. The Panel is accordingly satisfied that service has been properly undertaken in accordance with the RICS Disciplinary Panel Rules (the Rules).
4. The Panel notes that the case has been referred by the RICS Head of Regulation in accordance with RICS Rule 9 (c) for a paper (rather than oral) hearing under Rule 43a. Mrs. Omotoye has not elected to proceed in the alternative by oral hearing. The Panel is satisfied in the circumstances that it is appropriate and in the interests of justice to proceed with a paper hearing in the absence of Mrs. Omotoye.

## **Burden and standard of proof**

5. The burden of proof is on RICS and the standard of proof is the balance of probabilities.

## **Background**

6. Mrs. Omotoye has been a professional member of RICS since June 2008.

## **Findings of Fact**

7. The Panel has regard to the RICS bundle, including relevant correspondence between RICS and Mrs. Omotoye.
8. The documentation before the Panel includes a copy Certificate of Conviction from the Crown Court at St. Albans, UK. This confirms that, on 14 December 2015, Mrs. Omotoye was convicted by that Court of trafficking a person into the UK for the purposes of exploitation, and was in consequence on 05 February 2016 sentenced to 3 years' imprisonment and required to pay compensation of £5,000.
9. In accordance with Rule 41(b), a certified copy of a conviction or equivalent shall be admissible as conclusive evidence of that conviction and of the Relevant Person's commission of that offence. The Panel notes that Mrs. Omotoye has accepted in correspondence with RICS the fact of her conviction and of the sentence imposed on her.
10. This is sufficient basis upon which to find the facts of the charge proved, and the Panel so finds.

## **Liability for Disciplinary Action**

11. RICS Bye-law 5.2.2 (d) provides that a Member may be liable to disciplinary action by reason of, "*having been convicted of a criminal offence which could result in a custodial sentence*".
12. The Panel recognises that whether or not there is a liability to disciplinary action is nonetheless a matter for its judgement, having regard to the specific circumstances of the case. It has had regard to written representations from both RICS and Mrs. Omotoye. Having done so, it has

no difficulty in concluding that a liability to disciplinary action does arise in this case. The criminal conviction was on any view a serious one, resulting in Mrs. Omotoye serving a significant custodial sentence and paying compensation. It is unnecessary in reaching this conclusion to look beyond the fact and terms of the conviction, which is plainly of a seriousness such as to fall significantly short of the standards of behaviour reasonably to be expected of a professional member of the RICS. The Panel is reinforced however in this conclusion by the sentencing remarks of the Judge in the case, also included in the RICS bundle, which give some indication of the seriousness and extent of the conduct giving rise to the conviction. The Judge refers in some detail to an unlawful scheme which Mrs. Omotoye and her partner pursued in order to secure through illegal means a “*permanent live-in house worker to be used as [they] saw fit*”. The Judge refers to “*abusive treatment*” of the victim for a period totalling around 6 years, and to Mrs. Omotoye being, “*the driving force behind this offending*” and to being, “*principally responsible for how [the victim] was treated throughout*”.

13. The Panel has no difficulty in the circumstances in finding a liability to disciplinary action.

## Sanction

14. The Panel next considers sanction. It has regard to the RICS Sanctions Policy, bearing in mind the overriding principle of proportionality. It has received and accepts the advice of its legal assessor.
15. The Panel bears in mind that the purpose of sanctions is not to be punitive, though that may be their effect. The purpose of sanctions is to declare and uphold the standards of the profession, to safeguard the reputation of the profession and of RICS as its regulator, and to protect the public. Sanctions must be proportionate to the matters found proved.
16. The Panel has considered carefully the written representations made on behalf of RICS and Mrs. Omotoye and the mitigating and aggravating factors of this case. It has had regard in particular to three character testimonials and a letter produced by the daughter of Mrs. Omotoye.
17. The Panel has decided that Mrs. Omotoye is liable to disciplinary action. Having done so it first has to decide whether to impose a sanction, and if it so decides the Panel commences at the lowest sanction, and only if it decides that that sanction is not appropriate does it move to the next level of sanction. The Panel bears in mind that more than one sanction may be imposed.
18. In mitigation, the Panel notes that Mrs. Omotoye has no previous disciplinary record. It further notes that she has served her sentence, having been released from prison after approximately 13 months in March 2017 and thereafter complied satisfactorily, for the remainder of her sentence, with a period of probation in the community. Mrs. Omotoye refers in her representations to some leniency being allowed to her while in prison as a result of a favourable assessment of her, “*suitability, honesty, character, and personal circumstances*”. Mrs. Omotoye refers to the considerable hardship inevitably experienced by her and her family and invites this Panel to demonstrate leniency in its determination of this case.
19. The Panel nonetheless considers that the circumstances giving rise to this case are too serious not to impose a sanction. It considers that any criminal conviction of this seriousness is incompatible with the behaviours expected of a member of the surveying profession and risks bringing the profession, and the RICS, into disrepute. It accordingly decides that the seriousness of the conviction and conduct requires the imposition of a sanction.

20. The Panel does not consider that a caution or reprimand would be sufficient in the circumstances of this case. It does not consider that an additional fine would serve any meaningful purpose, noting the compensation order of £5,000 already imposed by the criminal Court. It has considered the possibility of conditions, but is concerned that Mrs. Omotoye has not demonstrated in her correspondence with RICS any real sense of understanding or insight as to the gravity of her conduct and conviction. In those circumstances the Panel can have no confidence that the imposition of conditions would be effective in addressing the significant risk arising from this case to the reputation of the profession and the RICS.
21. The Panel, having considered all of the correspondence, as well as the testimonials produced by Mrs. Omotoye and the sentencing remarks of the Judge, is troubled by the clear evidence that Mrs. Omotoye has demonstrated scarce if any insight into her wrongdoing, or real acceptance of her conviction and reason for it. Mrs. Omotoye seeks leniency, but there is no real evidence of any appreciation of the seriousness of the conviction, or of lessons learned and addressed. Her substantive position seems to amount to an assertion of innocence, on the one hand, and a very limited reference to 'cultural misunderstanding' as the underlying explanation, on the other. She refers to her conduct being an isolated incident in an otherwise unblemished career and history. The Panel notes however that the conduct giving rise to the conviction persisted for some six years. Mrs. Omotoye focuses in her representations on the inconvenience and hardship experienced as a result of her conviction by her and her family. She demonstrates on the other hand little if any insight, remorse or empathy in terms of the impact of her conduct, including most obviously on the individual described by the Judge as the vulnerable victim of the crime she has committed.
22. The Panel has considered what allowance should be made for the passage of time, for the fact that the criminal sentence has now been served and that Mrs. Omotoye seeks now to move on in her life. It notes however that the delay in this case coming before the Panel appears to arise principally because of Mrs. Omotoye's own failure to report her conviction timeously to RICS as her professional body, as required by RICS.
23. In the circumstances and having regard to its overarching duty to the public interest, the Panel concludes that it has no alternative in this case but to impose the sanction of expulsion. It so orders.

## Publication

24. The Panel has considered the guidance as to publication of its decisions. It accepts the legal assessor's advice. The advice was, and the guidance provides, that it is usual for decisions of the Panel to be published on RICS' website and in RICS Modus. The Panel sees no reason to depart from the normal practice in this case. Part of the role of the Panel is to uphold the reputation of the profession, and publication of its decisions is an essential part of that role.
25. The Panel orders that this decision is published on RICS' website and in RICS Modus, in accordance with Supplement 3 to the Sanctions Policy 2008, version 6.

## Costs

26. RICS has asked for costs in the total sum of £600. It has provided a costs schedule to Mrs. Omotoye in advance of the hearing. The Panel has had regard to submissions made by Mrs. Omotoye relevant to her financial position.

27. The Panel has considered carefully the costs sought and determines that they are reasonable and proportionate. The Panel orders Mrs. Omotoye to pay RICS' costs in the sum of £600, as sought.

## **Appeal Period**

28. Mrs. Omotoye may appeal to an Appeal Panel against this decision within 28 days of notification of this decision, in accordance with Rules 58 – 70 of the Rules.
29. The Honorary Secretary of RICS may require a review of a finding or penalty imposed by a Disciplinary Panel within 28 days from service of the notification of the decision, in accordance with Rule 59 of the Rules.