

RICS, Disciplinary, Registration and Appeal Panel Rules 2019

Part VI, Regulatory Tribunal Single Member Decision.

Regulated Member: Mr E Craig Suhrbier

Case Number: 1234180

Single Member Decision of: Ron Barclay-Smith

Date of decision: 24 March 2022

DECISION

Having read the papers and considered the evidence, in accordance with Part VI of the Disciplinary Registration and Appeal Panel Rules, I make the following orders:

1. That the Member shall be expelled from membership of RICS.
2. That the Member shall pay costs of £350 to RICS.
3. That this decision be published on the RICS website and in Modus.

REASONS FOR DECISION

1. Background

Mr Suhrbier (“the Member”) is a Fellow of the RICS currently based in North America. The Head of Regulation, on the basis of her delegated authority so to do, decided to refer alleged failure by the Member to record CPD during 2020 to a single member of the Regulatory Tribunal for a single member decision (SMD).

2. Alleged Rule Breach

Members are required to comply with Rule 6 of the Rules of Conduct for Members 2007, which states that:

Members shall comply with RICS’ requirements in respect of continuing professional development.

The requirements of the Rule are as follows:

- (i) All RICS members must undertake a minimum of 20 hours CPD each calendar year (January to December).

- (ii) Of the 20 hours at least 10 hours must be formal CPD. The remainder can be informal CPD
- (iii) All RICS members must maintain a relevant and current understanding of RICS professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD
- (iv) All members must record their CPD activity online.

3. Facts

The Member received a Caution in 2014 and a Caution and Fine in relation to non-completion of CPD in 2014 and 2019 respectively. For the 2020 CPD year, the Member was, beyond reasonable doubt, contacted by email up to seven times at the email address held on RICS' records, to remind him of the requirement to complete his CPD. It can be implied from subsequent correspondence that the Member received all or some of these emails since he authorised his "Executive Assistant", Ms Lucy Stout, to act for him in the matter of recording his CPD. It is significant that in an email 4 November 202, contained in the case bundle under Exhibit FR/2, from Ms Stout, that the Member, referring to the need for CPD for 2020, was of the view that "he doesn't have hours for 2020 and in Washington State we are required *[to undertake CPD]* every two years".

4. Decision

I have carefully considered the statements and documentation submitted by RICS. As is stated in paragraph 3 above, the Regulated Member, along with the rest of RICS membership, was on clear notice of the need to complete and record CPD, from the numerous communications from RICS over a considerable period of time. It is equally obvious that the Member had received some or all of the reminder emails since he then authorised his Executive Assistant to deal with the matter of his CPD recording on his behalf, and the bundle provides evidence of subsequent exchanges of emails and voicemails regarding the matter.

In the bundle, RICS confirms that it believes that up to seven reminders were sent to the Regulated Member's preferred email address over time. The recording of CPD is

RICS' only way to ensure a member's compliance and, in turn, give protection to the public. I am satisfied that the reminders were correctly addressed to the preferred address then held on file for the Regulated Member. The recording of the Member's CPD activity on-line could, and should, have been appropriately prioritised and incorporated within the span of the Regulated Member's professional activities. The Regulations are clear, and it is not acceptable to fail to comply with CPD on the basis of some erroneous and unsubstantiated local (Washington State) convention as to the recording of professional CPD.

As a result of these considerations, I find that the facts are proved and that the Member is in breach of his professional obligation to record CPD for 2020.

5. Regulatory Sanction

The Regulated Member has not made any statement of regret for his failure to record CPD. Indeed, as described above, it would appear that the Member was under the erroneous impression that CPD was required only every two years as he was located in Washington State. By contrast, the rules (as quoted in paragraph 2, above) are completely clear and require Regulated Members to complete 20 hours of CPD per calendar year. Moreover, the record shows that the member in the past has completed annual CPD so the reasonable assumption must be that he was well aware of the annual requirement. Furthermore, the member has failed to engage personally with RICS and has not as stated above expressed any regret for his lack of action in relation to CPD, nor has he offered any cogent explanation by way of mitigation for his failure to complete CPD training in 2020 but for the email mentioned above from his executive assistant. I therefore have come to the conclusion that the Member is liable to regulatory sanction.

In coming to this conclusion, I have carefully balanced the impact of the failure to complete CPD on the Regulated Member's professional standing, and the public interest.

I note that this is the third breach of CPD requirements within a ten-year period. In reaching my decision as to sanction, I have taken careful note of the relevant

Guidance, in particular paragraphs 20.2 and 21.1 of the RICS Sanctions Policy Guidance, Version 8. In all the circumstances, expulsion from membership is both proportionate and appropriate, as Regulation is pivotal in protecting the public and in maintaining the public's confidence in Chartered Surveyors and trust in the RICS. I therefore order that the Member be expelled from membership of the RICS.

6. Costs

In accordance with Rule 119 of the Disciplinary Registration and Appeal Panel Rules I make the following order in respect of costs: that the member shall be liable for costs of £350.

7. Taking Effect of the Order

The order will take effect in accordance with Rule 114 of the Disciplinary Registration and Appeal Panel Rules, which states the following:

114. Following the expiry of 14 days from the service of the Single Member's decision upon the Regulated Member, The Regulatory Sanction will be deemed to be accepted by the Regulated Member and the Regulatory Sanction imposed will take effect forthwith, unless notification has been received under Rule 116.

The Regulated Member must notify the Head of Regulatory Governance and Tribunals within 14 days of receipt of this decision, if he does not accept this decision, failing which the order will be deemed accepted by the Regulated Member and will take effect.

8. Publication

This decision will be published in accordance with Rule 120 of the Disciplinary Registration and Appeal Panel Rules, which states the following:

120. in accordance with the Regulatory Sanctions Publication Policy.

- a pending the expiry of 14 days following service of the record of decision upon the parties, the Regulated Member's name, charge/s and Single Member's decision as to whether the charge/s were found proved or not proved, and Regulatory Sanction if applicable will be published in accordance with the Regulatory Sanctions Policy and*

- b the Single Member's Record of Decision will be published following the expiry of 14 days.*