

## SINGLE MEMBER OF REGULATORY TRIBUNAL

### RICS Regulatory Tribunal Rules 2020

#### Part VI, Regulatory Tribunal Single Member Decision

**Regulated Member:** Ms Maria Dolores Garcia Perez [1252182]

**Case Number:** CON001593

**Single Member Decision of:** Ron Barclay-Smith

**Date of Decision:** 16 December 2022

**Charge:**

The formal charge against the Regulated Member is: -

*“Between 1 January 2021 and 1 February 2022, you have failed to comply with RICS’ requirements in respect of Continuing Professional Development (CPD) in that you have not completed or recorded, or caused to be recorded, at least 20 hours of CPD on the RICS CPD portal. An extension period was granted by RICS until 26 May 2022 by which date you had still failed to complete and record or caused to be recorded at least 20 hours of CPD on the RICS CPD portal for the period between 1 January 2021 and 1 February 2022.”*

**Alleged Rules Breach:**

RICS alleges that the Member’s actions are contrary to Rule 6 of the Rules of Conduct for Members 2007 version 6 and that, as a result, she is liable to disciplinary action under Bye-law 5.2.2(c).

**Materials Considered:**

In considering this case, I have relied upon a bundle of evidence comprising 67 pages plus a two-page covering document. The bundle comprises statements and evidence provided solely by RICS. The member has not provided any documentation or statement as far as I am aware, and certainly none are included in the bundle of evidence provided by RICS. The bundle includes extracts from RICS Rules, Guidance, Law and Procedure as they apply to this matter, an investigation report, and a number of associated documents which comprise variously extracts and downloads from RICS computer systems, statements by RICS staff and extracts of the relevant RICS Guidance, Rules and Policies. Finally, the bundle includes an assessment of

the evidence and materials by means of a report provided by Ms Emma Dowds, and a statement of costs incurred by RICS.

**Background:**

The Member has been liable since at least 2013 to undertake CPD in accordance with RICS Regulations. Evidence provided by RICS shows that the Member has failed to record CPD in the years 2015, 2019 and 2020, and that she apparently received a Caution in 2015 and a Caution and Fine in 2019. Apparently the fine has not been paid. There is no evidence provided in the bundle which indicates that the Member sought exemption from the need to comply with CPD requirements for the year which is the subject of the charge against her, nor that she produced any evidence to suggest that she should receive any special consideration. Indeed, the member appears to have recorded 10 hours of informal CPD for the year in question thus it is reasonable to assume she was aware of the requirement to record CPD. Moreover, extensive efforts were made by RICS to contact the member using the information contained in her personal details to remind her to complete and record her CPD for the year in question. It is reasonable to assume, therefore, that the Member did receive reminders to complete her CPD and, as has been stated above, was aware of her responsibility so to do and, indeed, she had recorded informal CPD during 2021. There is no evidence in the bundle which explains the Member's lack of full compliance with RICS' regulations.

**Findings of Fact:**

In determining the facts of this case, I have relied on the evidence bundle provided by RICS. No other material relevant this matter has been drawn to my attention. Accordingly, I have reviewed and carefully considered all of the material provided to me in the evidence bundle. Rule 6 of RICS Rules of Conduct for Members 2007 version 6 requires that members shall comply with RICS' requirements in respect of CPD. RICS' requirements in respect of CPD are set out in the document "CPD Requirements and Obligations". The Document includes the requirement that "All members must undertake a minimum of 20 hours CPD each calendar year (January to December)" and that "Members must record their CPD activity online by 31 January".

Of the 20 hours CPD required each year, at least 10 must be formal CPD as defined. The remainder can be informal CPD. It is clear from the documentation and downloads from RICS' computer system that the Member has failed to record, and thus presumably complete, any formal CPD for 2021 (although she appears to have completed 10 hours of informal CPD) and is therefore in breach of RICS' CPD requirements for 2021. I also note from the records and statements provided to me that this is the Member's fourth breach of CPD requirements within a 10-year period and, moreover, there is no evidence that the Member has offered any reasonable explanation for failing to comply with RICS' CPD requirements.

I therefore find that the Member has failed fully to meet her CPD requirements for 2021 and, moreover, note that this is her fourth breach of the CPD requirements within 10 years.

#### **Liability for Disciplinary Action:**

As stated above, I find that the Member has failed to comply with her CPD obligations in 2021 and, moreover, that this is the fourth breach of RICS' CPD requirements within 10 years.

The Regulated Member has not made any statement of regret for her failure to record CPD. The rules are completely clear and require Regulated Members to complete 20 hours of CPD per calendar year. The reasonable assumption must be that she was well aware of the annual requirement. Furthermore, the Member has failed to substantively to engage with RICS and has not offered any explanation by way of mitigation for her failure to complete CPD training in 2021. 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.

#### **Regulatory Sanction:**

I note that this is the fourth 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 the Sanctions Policy 2020 (Paragraphs 15.1, 21.1 and 22.1). I note that Paragraph 22.1 of the RICS Sanctions Policy Guidance, 2020, is clear as to the sanction which is appropriate for a third – never mind a fourth - breach. 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.

#### **Order Made:**

In accordance with Part VI of the Regulatory Tribunal Rules I make the following order: **that the Member be expelled from membership of the RICS.**

#### **Taking Effect of Order:**

In accordance with Part VI of the Regulatory Tribunal Rules 2020, this Order will take effect 14 days from service of the Single Member's decision upon the Regulated Member, unless notification in writing is received in writing from the Regulated Member or RICS stating that they consider that the findings and/or the Regulatory Sanction imposed by the Single Member are wrong.

#### **Costs:**

In accordance with Part VI of the Regulatory Tribunal Rules 2020, I make the following order in respect to costs: **that the Member shall pay to RICS the sum of £350.00.**

#### **Publication:**

In accordance with Part VI of the Regulatory Tribunal Rules 2020, the Single Member's Record of Decision will be published following the expiry of 14 days from service of the Single Member's decision upon the Regulated Member.