

Registration Panel Hearing

Case of

Mr Mohammed Basharat (in attendance, unrepresented) [1155315]

On

Tuesday 19 September 2023

Held remotely via Microsoft Teams

Panel

Alison Sansome (Lay Member, Chair)

Mohamed Shehata (Surveyor Member)

Jane Bishop (Lay Member)

Legal Adviser

Rosemary Rollason

RICS Representative

Donna Carr

Member's Representative

None

Regulatory Tribunal Executive

Maria Choudhury-Rahman

Introduction

1. This is the hearing of an application by Mr. Mohammed Basharat for re-admission as a professional member of RICS following disciplinary expulsion on 5 November 2018. The application is made under Rule 130(a) of the RICS Regulatory Tribunal Rules, Version 2 (with effect from 02 March 2022) Part VIII Registration Panel Procedures (the Tribunal Rules), and the Rules setting out the procedure for re-admission to membership following disciplinary expulsion (the Re-admission Rules).

The burden of proof

2. Under Rule 135 of the Tribunal Rules, the burden is on the Applicant, Mr. Basharat, to satisfy the Registration Panel that he should be re-admitted to membership of RICS.

Background

3. Mr. Basharat became a member of RICS in December 2004. On 5 November 2018 he was expelled from membership of RICS by a Disciplinary Panel as a result of his criminal conviction at Bradford Crown Court on 6 December 2016 for an offence of conspiracy to defraud. Two days after his conviction, Mr. Basharat was sentenced to a term of 42 months imprisonment.
4. During the course of the criminal investigation into this matter, and prior to the conviction, RICS became aware of the matter. On 20 January 2015, an RICS panel imposed an interim measure suspending Mr. Basharat's membership of RICS.
5. Mr Basharat's case arising from his criminal conviction was considered by an RICS Disciplinary Panel on 5 November 2018. The Disciplinary Panel found that as a result of his conviction, Mr. Basharat was liable for disciplinary action and decided that the appropriate sanction was expulsion from membership of RICS.
6. The Disciplinary Panel was referred to a transcript of the sentencing comments of His Honour Judge J Durham Hall QC at Bradford Crown Court which described the circumstances of the criminal offence and the role played by Mr. Basharat in the conspiracy. In the sentencing remarks, it was explained that the conspiracy extended over some four and a half years, from March 2009 to October 2013. In summary, Person A set up an unlicensed immigration advisory service trading as Law Direct Associates Ltd. (LDA). Person A filed fraudulent applications with the Home Office for Chinese migrants seeking entry to the UK, or seeking to extend their stay in the UK.
7. Mr Basharat, in his capacity as a Chartered Surveyor, provided reports to LDA in support of the immigration applications. The purpose of such a report was to confirm whether the applicant's proposed residential property was fit for purpose. Mr. Basharat did not attend the premises to undertake an inspection, but instead he would agree the wording of the report with LDA, the firm making the applications. Mr Basharat received a fee for every report.

8. The Disciplinary Panel was referred to extracts from the transcript of the sentencing comments in explanation of the nature of the offence. At pages 8 to 10, the learned Judge stated:

“Your participation was clearly a major element in this fraud for what more persuasive document can there be to those sitting in an office in South West China who have to be satisfied that the accommodation was such as would be suitable to sustain et cetera, et cetera, what better evidence could there be than a member of the Royal Institute of Chartered Surveyors who was promising the authorities that he had inspected, a date of the inspection, and that the inspection had all the authority of a qualified surveyor? Your participation was a major element in this fraud.”

9. And further, at page nine:

“And from that moment on you lied to the Home Office, to the Police, to the court, to your co-accused and further, you were prepared to prepare or contribute to further reports and covering letters, all false. You doctored Home Office emails. You sexed up reports on the state of hygiene. You lied about visits. You embellished your lie with photographs...”

Preliminary matters

10. The Registration Panel had sight of the Notice of Hearing dated 30 August 2023. The Panel noted correspondence from RICS to Mr Basharat, dated 29 August 2023, inviting him to agree to waive the full period of notice required under the rules, 56 days, in order that this hearing could take place today. In an email response on the same date, 29 August 2023, Mr Basharat agreed.
11. In these circumstances, the Panel was satisfied that the requirements of the rules in relation to notice and service had been met and that it was appropriate to proceed.
12. It was agreed that Ms Carr would open the hearing setting out RICS’ position and that Mr Basharat would then present his application.

RICS’ submissions regarding the application

13. Ms Carr referred to the documents in the hearing bundle which was before the Registration Panel. These included:
- RICS’ Case Summary dated 14 August 2023;
 - The written decision of the Regulatory Tribunal resulting in Mr. Basharat ’s expulsion from RICS, dated 5 November 2018;
 - A copy of the transcript of the sentencing remarks of His Honour Judge J Durham Hall QC;
 - Mr. Basharat’s formal, written application for re-admission and supporting documents, including a letter from a current RICS member and other supportive testimonials;
 - Relevant correspondence between Mr. Basharat and RICS.

14. Ms Carr reminded the Panel of the provisions of the RICS' Byelaws, Regulations and the Tribunal Rules relating to applications for re-admission to membership. Ms Carr confirmed to the Panel that Mr. Basharat had satisfied the formal eligibility requirements of Rules 1 and 2 of the Tribunal Rules.
15. Ms Carr further confirmed that no issue was raised by RICS as to Mr. Basharat 's professional competence, as referred to in Regulation 2.2
16. Ms Carr said that the issues for the Registration Panel to determine were whether it was now appropriate to grant re-admission and in particular:
 - whether Mr Basharat was now a fit and proper person to be a member of RICS, bearing in mind the factors set out at Rule 5(a) to (f) of the Re-Admission Rules; and
 - whether it was in the best interests of RICS that Mr Basharat should now be re-admitted.
17. Ms Carr submitted that the Panel should consider:
 - The seriousness of the matter which led to the expulsion;
 - The length of time since expulsion;
 - The risk of re-occurrence;
 - Insight or lack of insight.
18. The Panel was reminded that the burden of satisfying the Panel of these matters was upon Mr Basharat as the applicant, in accordance with Rule 135 of the Tribunal Rules.
19. In relation to the conviction which led to Mr Basharat's expulsion from membership, Ms Carr informed the Panel that whilst Mr Basharat had completed his criminal sentence, the conviction would not become spent under the Rehabilitation of Offenders Act 1974 until June 2025.

Submissions by Mr. Basharat

20. Mr Basharat referred to his written submissions dated 26 June 2023 which appeared in the hearing bundle. Mr. Basharat expressed deep regret and remorse for his past actions which led to the criminal conviction and subsequent expulsion from RICS. He said that he now acknowledged the gravity of his offence and the negative impact it had both on the profession and on his personal life.
21. In relation to the criminal proceedings, Mr Basharat stated *"I held on to my innocence due to a lack of acceptance regarding the complexity of the case there and a limited understanding of the specific requirements surrounding accommodation reports and their influence on decision-making processes within certain departments."*
22. Mr. Basharat stated that he has since embarked on a journey of self-reflection. He said that during discussions with his solicitors concerning a possible appeal, he began to comprehend the gravity of his mistakes and recognise the need to stop denying his failings and take responsibility for the errors he had made. He said that during his time in

custody, he had reflected upon his actions and the consequences for others. He actively engaged in rehabilitation efforts.

23. Mr. Basharat said that after his release in April 2018, he re-joined CPM Surveyors and has spent the last years providing honest and reliable service to clients. Mr. Basharat said that he remained committed, despite not being a member of RICS, to upholding the standards set by the Institution and had strived to demonstrate professionalism and ethical conduct in every aspect of his work.
24. Mr. Basharat said he had invested time and effort in educating himself by self-study and seeking guidance from experienced professionals in the field.
25. Mr. Basharat stated that he deeply regretted his past actions and the negative impact they had had on the profession and the individuals involved. He had learned invaluable lessons from his mistakes and carries the weight of remorse within him each day. He said that greed caused him severe consequences and he is resolved never to repeat such behaviour or compromise his professional integrity. He told the Panel that he pledges to uphold the highest standards of the profession if granted the opportunity to be re-admitted to membership of RICS.
26. In further oral submissions to the Panel, Mr. Basharat spoke further about how he came to accept and understand why his actions were wrong. He said that “the penny dropped” when he was discussing the possibility of an appeal and in speaking to another senior member of the profession who told him clearly why what he had done was wrong. He told the Panel he now fully accepts his past wrongdoing and wants to move forward. He has sought to re-build his career. He has begun to work in surveying work which does not require RICS membership. He has sought to rebuild the trust and confidence of clients, and some have supported him. He described how he has been completely transparent about his past. Mr Basharat expressed his commitment to RICS, to the profession and his wish to use his experience to help others and to contribute to the profession.

Registration Panel’s decision

27. The Panel carefully considered the submissions of the parties and the evidence presented. It received and accepted the advice from its legal adviser as to the relevant provisions of RICS rules, the issues it must consider in relation to an application for re-admission to membership and the decisions it has power to make.
28. The Panel was mindful throughout its considerations that it is independent of RICS and should reach its decision applying its own independent judgment.
29. The Panel bore in mind that the burden of proof was upon Mr Basharat, as the applicant, to satisfy the Panel that he should be re-admitted to membership.
30. The Panel noted that Mr Basharat’s application complied with the formal requirements of the relevant rules. This was accepted by RICS and the Panel had sight of the documentary evidence confirming compliance. Further, there was no issue relating to professional competence in Mr Basharat’s case, again, as confirmed by RICS.

31. The remaining issues for the Panel to determine were:
- Whether Mr. Basharat was a fit and proper person for the purposes of readmission, in accordance with RICS regulation 2.2.2; and
 - Whether it was in the best interests of RICS to allow him to be re-admitted.
32. The Panel was satisfied that no issue arose under paragraphs (a) to (e) of Rule 5 of the Re-admission Rules.
33. The Panel took careful account of the gravity of the matter which led to the conviction in 2015. The Panel took note of the comments of the sentencing Judge (as previously set out above) and his comment that Mr. Basharat had behaved with *“bewildering and staggering deceit and dishonesty for a significant period. As a professional gentleman you have brought great discredit upon yourself and your profession and you were of great use, a godsend to those with whom you are working.”*
34. The Registration Panel referred to the written decision of the Disciplinary Panel in November 2018 and noted that it identified no mitigating factors and considered that the following matters were aggravating factors:
- the conduct involved deliberate dishonesty over a prolonged period;
 - the failings were repeated;
 - a criminal conviction and lengthy custodial sentence resulted;
 - the conduct was for financial gain;
 - there was (at the time of the disciplinary hearing) no admission or expression of regret or apology and Mr. Basharat continue to maintain his innocence;
 - there was (at the time of the disciplinary hearing) no evidence of any insight into the impact of such a conviction on the public’s perception of the profession.
35. In deciding that expulsion was the appropriate sanction, the Disciplinary Panel referred to the highly detrimental impact such serious behaviour has upon the standing and reputation of the profession. It concluded that Mr. Basharat’s behaviour was fundamentally incompatible with remaining a member of RICS.
36. The Panel concurred with the reasoning of the Disciplinary Panel and took the view that the offence of which Mr Basharat was convicted was, and remains, extremely serious.
37. Whilst the Panel took into account the time which has passed since the conviction and his expulsion from RICS membership, which Mr Basharat had emphasised, this has less impact where the conviction is of such gravity and involves very serious findings of dishonesty. The Panel was particularly mindful of the aggravating factors identified by the original Disciplinary Panel and the comments of the learned Judge which demonstrate the protracted and deliberate nature of the deceit. The Panel also noted RICS’ submission that the conviction will not be considered spent until June 2025.
38. The Panel accepted from Mr Basharat’s written and oral submissions that he has developed greater insight into his past actions. He has now accepted his past wrongdoing, has reflected upon it and has expressed remorse and apology. However, the Panel remained concerned that Mr Basharat’s insight is not fully developed and in his answers to the Panel when he explained his actions at the time of these events, he did not appear

to acknowledge the scope and extent of the deliberate deceitful conduct as described by the sentencing judge. The Panel accepted that the risk of Mr Basharat repeating such conduct was probably low, but it had a lingering concern that there is a residual risk should Mr Basharat find himself in other challenging circumstances in the future.

39. The Panel acknowledged the considerable efforts and hard work Mr Basharat described having taken in seeking to rebuild his career and to regain the trust and confidence of his clients and associates. The Panel also took into account the supportive testimonials provided which speak to his commitment and professionalism in the work he is currently undertaking. Two of these testimonials were from current members of RICS. Mr Basharat has expressed his own commitment to RICS' values and standards and his desire to "give something back" to the profession and to RICS.
40. However, the Panel was of the view that in the light of the nature and seriousness of Mr Basharat's criminal conviction, he has not satisfied the Panel today that he is a fit and proper person to be a member of RICS. This is the primary concern for the Panel, although it also had concerns about the true extent of his understanding and insight into the gravity of his offence.
41. The Panel was not satisfied that re-admission would be in the best interests of RICS. The Panel was mindful of the impact upon public confidence in the profession and in RICS as its regulator. Surveyors hold a position of trust in relation to client matters. The Panel concluded that the reputation of the profession would be undermined if an applicant who holds a conviction of this nature were to be allowed to resume RICS membership at this time and concluded that his re-admission would not uphold the public interest.
42. On this basis that, the Panel accordingly rejects Mr Basharat's application for re-admission to RICS membership and dismisses this application.

Costs

43. Ms Carr made an application for RICS' costs. A schedule of costs had been provided to Mr Basharat in advance. The sum claimed by RICS on the basis that the application was not successful was £3,170.00.
44. The legal adviser referred to Rule 92 of the Tribunal Rules which provides that the Panel may make such order for costs as it considers fair and reasonable, subject to an estimate of costs having been provided to the other party at least 24 hours in advance. This had been complied with.
45. Mr Basharat made no submissions in respect of the costs claimed.
46. The Panel was satisfied that the costs claimed by RICS were fair and reasonable in the circumstances of the case. The Panel made an order that Mr Basharat should pay RICS' costs in the sum of £3,170.00.

Publication

47. The Panel considered the guidance as to publication of its decisions and accepted the legal advisor's advice. The Panel noted that the guidance provides that it is usual for decisions of the Panel to be published on RICS' website and in Modus. Having regard to the submissions of both parties and noting that no objection was raised by Mr Basharat, the Panel saw no reason for departing 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.
48. The Panel therefore orders that this decision be published on the RICS website and in RICS Modus.

Appeal

49. The Member may appeal a decision of a Registration Panel made under Rule 130 of the Tribunal Rules within 28 days of service of notification of the decision, pursuant to Rules 152 to 154 of the Tribunal Rules.