

Registration Panel Hearing

Case of

**Mr Kevin Stone [0093533],
Derbyshire, DR4, UK**

On

Tuesday 08 August 2023

Held remotely via Microsoft Teams

Panel

Sally Ruthen (Lay Chair)
Ben Davies (Surveyor Member)
Roselyn Hayles (Lay Member)

Legal Adviser

Ben Kemp

RICS Representative

Hugh O'Brien Quinn

Member's Representative

None

Tribunal Executive

Adeel Qureshi

Member in attendance and unrepresented

Introduction

1. This is the oral hearing of an application by Mr Stone for re-admission following disciplinary expulsion, under Rule 130(a) of the RICS' Regulatory Tribunal Rules (Version 2, with effect from 02 March 2022) (the Tribunal Rules).

Burden of proof

2. Under Rule 135 of the Tribunal Rules, the burden is on the Applicant, Mr Stone, to satisfy the Registration Panel that the order being sought should be made.

Background

3. Mr Stone qualified as a Member of RICS on 08 December 1993. He owns and runs a construction business, Stone Construction Limited. He remained a member until expelled from RICS following a ruling made by a Disciplinary Panel on 31 July 2018. The sanction of expulsion was imposed for a third breach of Rule 6 of the RICS Rules of Conduct for Members. Rule 6 required Members to complete and record a minimum of 20 hours of CPD activity. Mr Stone failed to complete or record the required CPD activity for three consecutive years between 2015 and 2017 inclusive. The Disciplinary Panel also awarded costs against Mr Stone, in the sum of £400. Those costs were paid in full on 31 October 2019.

4. On 09 March 2023 Mr Stone submitted an application to be readmitted to RICS membership. It was a matter of agreement between the parties that his application satisfied the formal requirements for such an application as stipulated by the RICS Rules Setting Out the Procedure for Re-Admission to Membership Following Disciplinary Expulsion (version 2, with effect from 02 March 2020) (the Re-admission Rules). In particular, the application was made more than 12 months following expulsion, was in writing and in the prescribed form. Further, Mr. Stone had complied with requirements to pay all outstanding fees and costs etc., had paid the re-admission fee due, and provided the required compliance undertaking as well as a letter from a current member confirming that they were aware of the circumstances of Mr. Stone's expulsion and considered him to be a suitable candidate for re-admission. RICS accordingly took no issue with the formal validity of Mr. Stone's application.

Preliminary matters

5. The Panel was satisfied that the relevant requirements had been met in relation to notice and service. In particular, Mr Stone confirmed that he had waived the required notice period and had no objection in this respect. The Panel was satisfied in the circumstances that it was appropriate to proceed. It was agreed that Mr. Quinn would open the hearing, setting out the RICS position, followed by Mr Stone, who was self-represented.

RICS submissions regarding the application

6. The Panel had before it Mr Stone's formal written application for re-admission, the written decision of the Disciplinary Panel resulting in his expulsion from RICS in 2018, a supporting letter from a current RICS member (Mr. David Mason), the Case Summary and evidence bundle produced by RICS, including relevant correspondence and two reference letters from professional acquaintances of Mr. Stone.

7. Referring the Panel to the relevant provisions of the RICS Bye-laws and Regulations, as well as the Re-admission Rules, Mr. Quinn confirmed to the Panel that Mr Stone had satisfied the formal Eligibility requirements for re-admission and additionally that no issue was raised by RICS as to Mr. Stone's professional competence. Mr Stone had made a previous application for re-admission but had decided to withdraw that application, for personal reasons. Prior to this previous application he had satisfied all debts owed by him to RICS. The Panel had not been made aware of any prior disciplinary record, prior to the disciplinary decision giving rise to Mr Stone's expulsion in 2018.

8. It was a matter for the Panel to consider whether it was now appropriate to re-admit Mr Stone, and in particular, whether he was now a fit and proper person to be a member, and whether it was in the best interests of RICS that he should be so admitted.

Submissions by Mr Stone

9. Giving evidence before the Panel, Mr. Stone spoke of the circumstances giving rise to him failing to comply with RICS CPD requirements over a three year period, 2015-2017, and his lack of engagement with the disciplinary process which had ultimately resulted in his expulsion, in 2018. He said that he had been experiencing a combination of severe business, financial and health difficulties at the time. Three clients had failed to pay significant debts owed to his firm, causing existential risk to his business. Further, Mr. Stone had experienced severe health issues, which prevented him from working effectively. He had to prioritise his business and his health and his compliance with RICS CPD requirements had suffered as a result.

10. In response to questions from Mr. Quinn and Panel members, Mr. Stone confirmed that both his business and health were now on a better footing. He was working less as he approached retirement and had more time in which to ensure he completed CPD in future. He understood his compliance requirements and the purpose of CPD, and their importance in underpinning standards of practice. Mr. Stone indicated that he understood that he would need to be much more disciplined about compliance in future, if re-admitted. He observed that there might be a risk that someone in his position, towards the latter stage of their career, becomes complacent about CPD. He noted the importance of ongoing learning and development for all members, regardless of career stage and level of experience.

11. It was a matter of pride for him, Mr Stone stated, to seek to restore his membership of RICS. He had worked hard to achieve his membership of RICS. He had been distressed to lose his membership and, approaching the end of his career, he wished to put things right as he saw it.

12. Answering another question from the Panel, Mr Stone confirmed that he had colleagues who would support him in helping to ensure his compliance with CPD requirements going forward. These included a close professional acquaintance and fellow member who had provided a reference for the purposes of these proceedings and had offered to help him with his CPD submissions in the first year, were he to be re-admitted.

Registration Panel's Decision

13. The Panel considered, in accordance with Rule 5 of the Re-admission Rules:

- a. whether Mr Stone was a fit and proper person for the purposes of re-admission in accordance with RICS Regulation 2.2.2; and
- b. whether his re-admission was in the best interests of RICS.

14. The Panel received and accepted advice from its Legal Adviser. It noted that RICS had not raised any concern which might be considered a barrier to re-admission at this stage. It nonetheless recognised that it was for Mr. Stone to satisfy the Panel that he should be re-admitted, applying the criteria set out, and that it was in turn for the Panel to be satisfied that **Mr. Stone was fit and proper to be a member of RICS, and that it was in the best interests of RICS to allow him to be re-admitted.**

15. The Panel found Mr. Stone to be entirely credible in speaking of the personal and professional issues he had experienced, leading to his non-compliance and expulsion. It is of critical importance that members comply with CPD, in order to maintain standards and to enable RICS to uphold the reputation of the surveyors' profession. Failure to comply risks bringing the profession into disrepute and is quite properly treated seriously by RICS, particularly in the event of repetition. The Panel nonetheless recognised that this was not a case in which there was any suggestion of dishonesty or lack of integrity, nor was there any question as to Mr. Stone's professional competence. The Panel had not been made aware of any prior disciplinary record and the non-compliance, although repeated, had apparently been confined to a relatively short and discrete period of three years in an otherwise long and unblemished career.

16. It was clear to the Panel that Mr. Stone attached very great importance, and pride, in his RICS membership. It considered that the risk of further repetition was low, both because of the insight that Mr. Stone would undoubtedly have gained from this experience, and for the practical reason that Mr. Stone was now in a much better position with his health and business to ensure he proactively attended to his regulatory obligations.

17. The Panel was satisfied from the evidence before it that Mr. Stone is a fit and proper person to be a full member of RICS once more, and that it is in the interests of RICS that he should be re-admitted and accorded the opportunity to contribute once more to the profession. It had regard in this respect to the references produced and took some reassurance from the support which would be available to Mr. Stone from his professional colleagues. Professional membership is a privilege and CPD compliance is a critical part of the commitment which comes with being a member of RICS. While the Panel is reassured by Mr. Stone's submissions and insight, it would wish to encourage him to consider how he might mitigate further the risk of any reoccurrence, including engaging more proactively with RICS as his professional body, as well as colleagues, in the event that he were to encounter future difficulties.

18. The Panel considered that it was now appropriate that Mr. Stone should be accorded the opportunity to resume his membership of RICS, on the same basis as previously. It considered but saw no basis upon which to impose conditions upon his renewed membership as a Member of RICS. Mr. Stone will of course as such be required to observe all of his RICS professional obligations, including in relation to CPD, and the Panel feels confident in his commitment to do so.

Publication and Costs

Publication

19. The Panel considered the guidance as to publication of its decisions and accepted the Legal Adviser's advice. The advice was, and the guidance provides, that it is usual for the decisions of the Panel to be published on the RICS website and in RICS Modus. The Panel had careful regard to the submissions of both parties. Mr. Stone made no objection to publication of this decision. The Panel equally sees 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.

20. The Panel therefore orders that this decision be published on the RICS website and in RICS Modus, in accordance with Supplement 3 to the Sanctions Policy 2008, version 9.

Costs

21. RICS made an application for costs in the total sum of £2,170, reflecting the cost to RICS of running a one day Registration panel hearing. RICS submitted a schedule setting out those costs to the Panel, a copy of this schedule having also been notified to Mr. Stone in advance of the hearing. The Panel heard submissions from both parties and noted Mr. Stone's concern to the effect that the amount of costs sought was excessive, particularly having regard to the personal circumstances in which he had been expelled, and the fine and fees he had already paid.

22. The Panel, having heard from both parties, concluded that it was appropriate in all of the circumstances for Mr. Stone to make a contribution towards the costs of these proceedings,

otherwise the full cost of these proceedings would fall on the profession as a whole. It noted that RICS had sought only the costs directly associated with the hearing, and not the costs incurred by RICS prior to the hearing. The Panel was satisfied overall that it was just and reasonable that Mr. Stone should be expected to pay the costs of this hearing in the sum sought of £2,170. These costs will otherwise fall to be borne from subscription fees paid by the membership at large.

23. The Panel accordingly orders that Mr. Stone pays RICS its costs in this matter, as sought, in the sum of **£2,170**.