

SINGLE MEMBER OF REGULATORY TRIBUNAL DECISION SHEET

RICS Regulatory Tribunal Rules 2020

Part VI, Regulatory Tribunal Single Member Decision

Regulated Member: Peter Horner 0054407
Single Member Decision of: Ron Barclay-Smith
Case Number: CON001614
Date of Decision: 19 March 2023

Charge:

“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, he 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 71 pages. The bundle comprises statements and evidence provided solely by RICS. The Regulated Member has not provided any substantive documentation or statement as far as I am aware, save for a single email dated 2 December 2022 in which the Regulated Member indicates that he is “retired from professional work”. No further communication from the Member has been 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, extracts of the relevant RICS Guidance, Rules and Policies and emails between RICS’ staff and the Regulated Member. Finally, the bundle includes an assessment of the evidence and materials by means of a report provided by Ms

Francesca Richards, a Regulatory Technical Specialist at RICS, 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 on two previous occasions, and that he received subsequently a Caution and then a Caution and Fine. 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 him, nor that he produced any evidence to suggest that he should receive any special consideration. The member has undertaken sufficient CPD in most of the previous years under review. It is thus it is reasonable to assume he was aware of the requirement to undertake and record CPD. Moreover, extensive efforts were made by RICS to contact the member using the information contained in his personal details to remind him to complete and record his CPD for the year in question. It is reasonable to assume, therefore, that the Member did receive reminders to complete his CPD and, as has been stated above, was aware of his responsibility so to do and, indeed, he had successfully recorded CPD in previous years. 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 recorded no hours of CPD for 2021 and is therefore in breach of RICS' CPD requirements for that year. I also note from the records and statements provided to me that this is the Member's third 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, save by an email which stated the Member had ceased to practise. On

the other hand, the Member has apparently not offered any further information to RICS to substantiate this assertion.

I therefore find that the Member has failed fully to meet his CPD requirements for 2021 and, moreover, note that this is his third 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 his CPD obligations in 2021 and, moreover, that this is the third breach of RICS' CPD requirements within 10 years.

The Regulated Member has not made any statement of regret for his 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 he was well aware of the annual requirement. Furthermore, the Member has failed substantively to engage with RICS and has not offered any substantive explanation by way of mitigation for his 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 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 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 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.