

Registration Panel Hearing

Case of

Mr David Stout

Brampton, Cumbria, CA8

On

Wednesday 11 January 2017

At

RICS, Parliament Square, London

Chairman

John Anderson (Lay Chair)

Members

Gillian Seager (Lay Member)

Christopher Pittman (Surveyor Member)

Legal Assessor

Peter Steel

RICS Representative

Annabel Joester

Background

1. This is an application by David Edward Stout for re-admission to membership of RICS. Mr Stout was a Professional Member of RICS from 1 October 1985 until 6 July 2011, when he was expelled from membership.
2. Mr Stout was expelled as a result of a Disciplinary Panel Hearing on 6 July 2011. Mr Stout admitted to the Disciplinary Panel that he had been convicted on 10 January 2011 at Oxford Crown Court of 3 counts of burglary and 3 counts of theft and had been sentenced to 8 months' imprisonment suspended for 2 years.
3. Mr Stout was reported to have stolen cash from a client on three occasions. The total sum stolen amounted to £260. The first of these thefts took place when Mr Stout was staying as a guest at his client's house. Mr Stout also stole other monies totalling £13,814.69 between September 2001 and October 2010. The Panel noted that an aggravating feature of the case was that Mr Stout was in a position of trust as a Land Agent and that the thefts took place over an extended period of time.
4. The Panel concluded that the appropriate and proportionate penalty in the circumstances was expulsion, though it noted the mitigation offered on Mr Stout's behalf, including his illness, his restitution monies and the many testimonials submitted on Mr Stout's behalf. It observed: "*[The Panel] recognises that Mr Stout may still be able to make a significant contribution to society as a member of RICS.*"

Procedure

5. The procedure for deciding whether to accept an application of this nature is governed by the "Rules setting out the procedure for re-admission to membership following disciplinary expulsion" dated 1 June 2009.
6. The Panel was required to have regard to Rule 2 as the supporting material and criteria for making an application.
7. In addition, the Panel was required to consider the provisions of Rule 5, that is, whether they were satisfied that the applicant:
 - a. Has complied with all relevant eligibility requirements of Bye-Law 2.3 and Regulation 2.2; and
 - b. That his re-admission was in the best interests of RICS.
8. Rule 5 goes on to provide that in determining whether an applicant is a fit and proper person for re-admission, the Panel may consider any or all of the matters listed within that Rule and any other matters it considers relevant in the particular circumstances of the application. The only feature relevant to this case was sub rule (f), being "steps taken by the applicant to address the issues for which he was expelled."

Submissions

9. Mr Stout indicated that although some of the matters he intended to cover in his submissions related to his health, he was nonetheless content for matters to proceed in public. He expressed his gratitude for the opportunity to present his case to the Panel for re-admission. He started by reminding the Panel of the observations of the Chair made at the previous Panel hearing set out above.
10. In explanation of the matters that had led to the Disciplinary Panel hearing, Mr Stout told the Panel he had never argued with or denied the reasons for his punishment or expulsion. He had experienced considerable guilt and self-loathing as a result of his own acts. The first step in his rehabilitation had been to engage with health professionals, which led to the diagnosis of longstanding chronic depression, accompanied by feelings of worthlessness and low self-esteem. This had been the background to his misconduct and subsequent conviction. He had undergone intensive treatment under a number of doctors.
11. There had been no logic to his crimes. Mr Stout said that he had not needed the money he stole, nor had he spent it. He had repaid the sums taken in their entirety. The crimes were in his view a product of his condition. Mr Stout said that he wished he had spoken up earlier, but his outward demeanour at that time, which was of a strong, confident leader, concealed the real person. As well as the criminal proceedings, Mr Stout said that he had undergone a divorce. He realised in hindsight that his unhappy marriage had also contributed to his illness. He had not wanted or intended to harm anybody.
12. Following his conviction, Mr Stout had moved to Cumbria, where he had the support of friends and family who cared for him. His son and daughter had been supportive and loving. Both were doctors and both had helped him in his understanding of his illness. He had taken considerable strides to rehabilitate himself professionally. He had started at first doing manual work. However, in due course he had resumed professional work, being involved in land surveying and small transactional work. He had been appointed to provide management services to a local estate owner, which work had been very successful. Mr Stout had been appointed as director of two subsidiary companies for one client, indicating the trust that client held in him.
13. Having rebuilt himself professionally and personally, Mr Stout now felt able to resume the professional responsibility of regulation by RICS. He told the Panel that it was important to his self-esteem and any further rehabilitation and progression to regain the credibility and status that membership of RICS would provide.
14. Mr Stout was at pains to point out that he accepted the need to disclose his past to anyone he worked for in the future. He was now extremely careful in all matters of propriety and conduct, almost excessively so and this would not change. Although he saw himself as a team player and intended to practice within a firm if re-admitted, he would consider setting up on his own under the RICS brand, which would provide the credibility he currently lacked.
15. Outside work, Mr Stout had resumed his involvement in rugby, which had led to him becoming the coach for a local team and a selector for the North East Under-18s team. He was a member of a choir and took part in charitable cycling and other sporting events.
16. In summary, he had never stopped apologising for his misbehaviour. The shame of it was always with him. Mr Stout however hoped that his open and frank approach to the application

would persuade the Panel that he was a fit and proper person to be re-admitted to membership of RICS, which was an organisation he would be proud to be a member of once more.

17. In answer to questions from the Panel, Mr Stout said that he recognised the need to bring his CPD up to date if re-admitted. He had participated in various training activities during the period of his expulsion. As to his ability to deal with similar stresses to those he had experienced, he now recognised the importance of opening up. He had friends in the North where he lived to whom he could speak. His children were both doctors and therefore very good at challenging his behaviour. Finally he had access to two independent counsellors, though he had not had cause to refer to them for the previous 3 years. He had not taken medication in the last 4 years. The challenge for him now was to make himself happy, which Mr Stout felt was in part to be remedied by returning to the work he had enjoyed so much and in which he had succeeded.
18. As to the question of protecting the public, Mr Stout said that it was important to differentiate between the underlying person, who had been an outstanding success and the condition from which he suffered. Having got on top of the condition, he was confident that the underlying man could be trusted. He would never shy away from disclosing his past, so that clients and others could be in no doubt. Mr Stout said that he had felt the need to explain and put into context what had happened. It was not a plea for sympathy, rather he wanted people to understand he had changed. He had been a proud upholder of the standards of RICS and desperately wanted to regain that title, not least because it would assist with his self-esteem. It was in his view best for both RICS and him to be able to contribute again by regaining his membership.

DETERMINATION

19. The Panel read the documents provided to it and listened carefully to the submissions of Mr Stout and Ms Joester on behalf of RICS. It accepted the advice of the Legal Assessor.
20. The Panel recognised that the events that led to Mr Stout's expulsion in 2011 were undoubtedly serious. However the Panel were impressed by his obvious sincerity in accepting responsibility for his conduct and the significant journey towards rehabilitation he had undertaken since then.
21. The Panel accepted that Mr Stout's medical history was a significant factor in his previous behaviour. It was reassured that he had now recovered sufficiently and had in place a support network that would assist him to cope were it necessary. The Panel noted that he had taken steps to resurrect his professional standing as well and it would not, in the Panel's view, undermine the standing of RICS or its members to permit re-admission. This was demonstrated by the professional references he had supplied and the fact he had retained the confidence of a number of former clients. Mr Stout's submissions also suggested that he had developed the appropriate insight into his unacceptable criminal conduct. Crucially he had also shown insight into his longstanding illness, which he was now better able to manage.
22. The Panel was satisfied in the light of all the evidence it had heard today that Mr Stout was a "fit and proper person" for the purposes of re-admission and that given the considerable efforts he had made to reestablish himself personally and professionally, it would be disproportionate to

refuse re-admission. In all the circumstances it was appropriate and in the best interests of RICS to grant him re-admission to membership at his former grade of membership.

23. The Panel was mindful of the need to protect the public interest but determined that Mr Stout's intended career plans did not present any undue risk and it accepted his expressed desire to uphold the standards of RICS scrupulously in future.

Panel's decision

24. In all the circumstances, the Panel took the view that, on balance, it was proportionate and in the best interests of RICS to accept Mr Stout's application for re-admission to membership.

Determination on Publication

25. The Panel directs publication in accordance with Supplement 3 to the Sanctions Policy (version 6)