

**ROYAL INSTITUTION OF CHARTERED SURVEYORS  
APPEAL PANEL HEARING**

**Case of**

**Yiannaki Stavrou MRICS [1218034]  
Herts, EN4**

**Held on Wednesday 21 January 2015.**

**At RICS, Parliament Square, London**

**Chairman**

Julian Weinberg (Lay Chair)

**Members**

Ian Hastie (Member)  
Jack McKinney (Lay Member)

**Legal Assessor**

Stephen Murfitt

**RICS Representative**

Daniel Gutteridge

**Background**

1. This is an appeal by Mr Yiannaki Stavrou MRICS under Rule 59 of the Disciplinary, Registration and Appeal Panel Rules 2009 ("the Rules") against a decision of the Disciplinary Panel dated 16 October 2014.
2. Mr Stavrou faced one charge namely that he was liable to disciplinary action under Bye-law 5.2.2(d) by reason of having been convicted of a criminal offence, namely that on 1 April 2014 he was convicted at the Southwark Crown Court for the offence of Affray.
3. In accordance with the provisions of the Rules, and in particular Rules 9(c) and 43A, Mr Stavrou consented to have his case heard by way of written submissions.
4. The Disciplinary Panel considered the charge in the absence of the parties on 16 October 2014. The Disciplinary Panel had before it the papers which appear at tab 2 of the present

appeal bundle, Mr Stavrou's submissions which appear at tab 3, and the tabled papers which are at tab 4. A copy of the Disciplinary Panel's decision appears at tab 5 of the appeal bundle. The Disciplinary Panel determined to expel Mr Stavrou from membership of RICS, ordered full publication in accordance with the Policy contained within Supplement 3 to the Sanctions Policy and made an order for costs in the fixed sum of £600.

5. By notice of appeal dated 23 October 2014, Mr Stavrou lodged grounds of appeal in which he stated:
  - i. He took issue with the Disciplinary Panel's conclusion that he lacked insight, contrition, remorse, and that he attempted to evade the consequences or causes of his conviction;
  - ii. The letter written to the Judge at his criminal trial should lead to a different interpretation of the conviction;
  - iii. The RICS Disciplinary Panel decision of Mr Kim Lydon (13 January 2014) was relied upon by Mr Stavrou, but was not referred to in the decision;
  - iv. The Disciplinary Panel decision made no reference to a statement of means submitted by Mr Stavrou.
6. Mr Stavrou seeks to admit a copy of his letter dated 16 April 2014 which he wrote to the Crown Court Judge who had conduct of the criminal trial.. Mr Gutteridge opposes the admittance of the letter to the Judge and relies on the decided case of Ladd v Marshall 1954. Mr Gutteridge, in relation to the previous decision of Kim Lydon, advances a submission that there is no evidence to suggest the Disciplinary Panel disregarded the Lyndon decision, and that a Panel should not simply follow previous decisions made and that each case should be decided on its own facts.
7. Mr Gutteridge submits that there is no right of appeal against an order for costs made by a Disciplinary Panel and he relies on paragraph 27.3 of the Sanctions Policy. In the alternative Mr Gutteridge submits the application for costs was rightly submitted and that the decision to award £600 was right.
8. Mr Stavrou has attended the appeal hearing today and gave evidence to the Panel.

## **Decision**

9. In accordance with Rule 64 of the Rules this appeal is by way of a review and not a re-hearing. Importantly therefore it is not for the Appeal Panel (the "Panel") to consider afresh all the evidence before the Disciplinary Panel and substitute its own decision. The role of the Panel is to review the decision of the Disciplinary Panel and consider whether or not Mr Stavrou satisfies the Panel that the decision was wrong. Only if Mr Stavrou satisfies the Panel that the decision is wrong, can the appeal be allowed. Under Rule 66, the burden is on Mr Stavrou.
10. Rule 64 requires the Panel to review the decision of the Disciplinary Panel having regard to:
  - i. The evidence presented to the Disciplinary Panel;
  - ii. Any representations made to the Disciplinary Panel, including any transcript of the hearing;
  - iii. The Appellant's grounds of appeal; and,
  - iv. Representations made by the Appellant, and on behalf of the RICS, to the Panel.
11. The Panel has taken careful note of what Mr Stavrou said in his Notice of Appeal and in his evidence before the Panel today. The Panel has also taken into account Mr Gutteridge's submissions. The Panel has accepted the advice given to it by the Legal Assessor.
12. The Panel has carefully read the decision of the disciplinary hearing on October 2014. The Panel needs to determine two preliminary issues before considering the substantive appeal. The first question relates to the admittance or otherwise of the letter written by Mr Stavrou to the Crown Court Judge, and Mr Gutteridge's submission that the Panel is unable to consider an appeal against a cost order directed by the Disciplinary Panel.

13. Rule 65 provides that neither party may provide new evidence to the Panel without leave of the Panel. The Rule provides no test to be applied, and Mr Gutteridge has directed the Appeal Panel's attention to the decided case of *Ladd v Marshall*, a copy of which he has placed in the appeal bundle. The Legal Adviser has made reference to Rule 52.11.2 of the Civil Procedure Rules 1988 which provides that the appeal court will not receive fresh evidence (oral or written) 'unless it orders otherwise'. The principles of *Ladd v Marshall* remain relevant to the extent that they are matters which the appeal court must consider in the exercise of its discretion and the Panel has considered each of the three tests. The Panel has determined that the right approach is one of exercising discretion to give effect to the overriding objective of doing justice. Taking all these matters into consideration the Panel has decided to admit the letter.
14. Mr Gutteridge relies on paragraph 27.3 of the Sanctions Policy for his submission that the Panel has no jurisdiction to hear an appeal against an order for costs made by a Disciplinary Panel. Paragraph 27.3 states: 'There is no right of appeal against an order for costs made by a Disciplinary Panel'. The Policy is clear in its guidance which the Panel accepts, and determines that the Panel has no jurisdiction to consider an appeal in relation to the costs order made by the Disciplinary Panel.
15. The first ground of appeal is that the Disciplinary Panel reasons stated a total lack of insight, contribution, remorse and an attempt to evade the consequences of the conviction. Mr Stavrou seeks to demonstrate that this is not the case. In reaching that conclusion the Disciplinary Panel considered a submission made by Mr Stavrou when he stated '*I do not accept what has been stated about the course of events that evening or my actions by the prosecutor, I hope that the points raised by the judge and my barrister regarding my good character and no previous convictions will be noted*'. The Disciplinary Panel notes at paragraph 24 of its reasons that although the Crown Court Judge accepted that there was a genuine expression of remorse, there was no such expression to RICS.
16. The Disciplinary Panel made reference to a letter dated 23 May 2014, written by Mr Stavrou to RICS, when he stated '*I would like to explain and detail to you what happened and not what the prosecution or media will have you believe. I will then take you through the process of how we were unfairly indicted and the dismal manner in which this case was conducted and handled by the Crown prosecution. Finally I will conclude with my thoughts and most importantly the impact this has had on me, an innocent victim of the failure of the Metropolitan police and justice system*'. The Disciplinary Panel concluded from these matters that 'Mr Stavrou has no contrition, no insight and no remorse' (paragraph 25).
17. The Disciplinary Panel concluded that the submissions of Mr Stavrou were an attempt to go behind the facts of the conviction, and it rejected the approach having identified that the sentencing Judge at Southwark Crown Court accepted that there was a genuine expression of remorse. The Panel determines that the Disciplinary Panel carefully considered the submissions of Mr Stavrou and was nevertheless entitled to reach its conclusions. The Panel therefore rejects this ground of the appeal. The Panel does note that the Disciplinary Panel referred to Mr Stavrou's sentence as being one of 6 months in prison suspended for two years whereas the suspension period was in fact eighteen months. However, this error does not in the Panel's view lead it to conclude the Disciplinary Panel findings were wrong because Mr Stavrou was and remains subject to a suspended term of imprisonment.
18. The second ground of appeal relates to the letter dated 16 April 2014 written by Mr Stavrou to the Crown Court judge. Whilst the Panel agrees to this letter being submitted in the interests of justice, the Panel remains of the view that the Disciplinary Panel reached a correct view on the evidence given that it took into account that he had expressed remorse at his Crown Court hearing. However, having read the content of his letter of the 16 April 2014 there is nothing in the letter that enables this Panel to conclude that the Disciplinary Panel's findings were wrong.
19. The third ground of appeal relies on the previous Disciplinary Panel decision of 13 January 2013 in relation to Mr Kim Lydon. Mr Stavrou correctly states that the Disciplinary Panel did

not make specific reference to this case in their determination. Having accepted legal advice the Panel determines that each case should be decided on its own merits. The Panel rejects this ground of appeal.

20. Mr Stavrou does not make clear in his written grounds of appeal that he wishes to challenge the Disciplinary Panel's decision to expel him from membership of RICS, but that is clearly his intention from the evidence he gave to the Panel. It is the view of the Panel that Mr Stavrou has not discharged the burden upon him to persuade the Panel that the decision of the Disciplinary Panel was wrong. The Disciplinary Panel had proper regard to the evidence and submissions before them and came to the conclusion that it was the appropriate sanction to impose to expel Mr Stavrou from membership of RICS. The Panel therefore rejects Mr Stavrou's appeal in its entirety.

### **Publication and costs**

21. The costs of this appeal are not claimed by RICS .
22. The Panel is mindful of the presumption in the Sanction Policy in favour of publication and sees no reason to depart from that in this case. The Panel therefore orders publication in Modus, on the RICS website and in newspapers local to where Mr Stavrou's firm is based.