

ROYAL INSTITUTION OF CHARTERED SURVEYORS

DISCIPLINARY PANEL HEARING

Case of

**Mr Christopher Jeff BSc, MRICS, [0082792]
HUNTINGDON, Cambridgeshire, PE19 7AB**

On

Wednesday 22 April 2015

At

RICS, Parliament Square, London

Chairman

Julian Weinberg

Members

Andrew Winscom (Member)
Carolyn Tetlow (Lay Member)

Legal Assessor

Rosemary Rollason

RICS Representative

Daniel Gutteridge

CHARGES HEARD

The formal charges are:

1. You failed at all times to act in accordance with your professional obligations **contrary to Rule 3 of the Rules of Conduct for Members 2007**, the particulars being that:
 - (i) You failed to notify RICS of a change in circumstances and/or material change in the particulars of your firm CSTM Design Ltd, as required by the Rules for the Registration of Firms 2007, which affected RICS' ability to regulate said firm.

2. You have failed to submit in a timely manner the following information reasonably requested by RICS staff, **contrary to Rule 8 of the Rules of Conduct for Members 2007**:
 - (i) A deregistration form for CSTM Design Ltd
 - (ii) A firm details form for CSTM Design
 - (iii) Proof of professional indemnity insurance cover for CSTM Design Ltd

3. You have failed to fully co-operate with RICS staff, **contrary to Rule 9 of the Rules of Conduct for Members 2007**, the particulars being that:
 - (i) You have not responded to correspondence from RICS between 23 July 2014 and 10 November 2014 inclusive

1. The Hearing

2. The member, Mr Christopher Jeff, did not attend the hearing and was not represented. RICS was represented by Mr D Gutteridge, Solicitor, RICS.

3. The Panel first considered RICS' application to proceed with the hearing in the absence of the member, Mr Jeff. The Panel was satisfied that the Notice of Hearing dated 12 March 2015 had been sent to Mr Jeff in accordance with the requirements of the Disciplinary, Registration and Appeals Rules 2009 and that there had been good service. The Panel accepted the advice of the legal assessor that it had a discretion as to whether to proceed in Mr Jeff's absence which must be exercised with utmost caution, with the fairness of the proceedings at the forefront of its mind. It took account of the guidance set out in the cases of R v Jones (Anthony) and Tait v RCVS.

4. Mr Jeff had not responded to any of the communications sent to him by RICS throughout the proceedings. He had not contacted RICS in relation to the hearing. He had not requested an adjournment of the hearing, nor contacted RICS to indicate any reason for not attending. The Panel concluded that RICS had made every reasonable effort to contact Mr Jeff. In the circumstances that Mr Jeff had neither contacted RICS nor requested an adjournment for any reason, the Panel had no reason to conclude that an adjournment would serve any useful purpose. On the contrary, it was in the public interest that the matter should be considered and dealt with today without further delay. The Panel therefore concluded that it was appropriate to proceed in Mr Jeff's absence.

5. At the beginning of the hearing, Mr Gutteridge made an application to amend Charge 2(iii) in the Notice of Hearing, to remove the words "CSTM Design and". He submitted he did not consider that this element of the charge could be made out by the evidence and it was proper and fair to Mr Jeff for it to be deleted.

6. The legal assessor reminded the Panel of its power to amend the charge as set out in Rule 41(e) where the amendment could be made without injustice and after hearing submissions from the parties and consulting the legal assessor. The Panel was satisfied that the amendment did not materially change the substance of the allegation, but rather had the effect of reducing the gravity of the charge. The Panel was therefore satisfied that the amendment was fair to Mr Jeff. The Panel therefore agreed to the requested amendment.

7. Factual background

8. The documents and information presented by Mr Gutteridge on behalf of RICS indicated that Mr Jeff has been a member of RICS since 1989. He was, until 2010, the sole director and principal of CSTM Design Limited, a firm registered for regulation with RICS since 2008. RICS became aware in July 2014, in the course of its investigation into this matter, that the company CSTM Design Limited was dissolved at Companies House on 9 November 2010 and thereafter, Mr Jeff continued to trade as "CSTM Design" which is not an RICS regulated firm.
9. The bundle of evidence submitted by RICS included documents and correspondence relating to RICS' Annual Return process for the regulated firm during the period 2010 to 2014. The Annual Returns for this period appear in the bundle. All relate to CSTM Design Limited and show its company registration number, 045556. The Annual Returns have been completed in relation to the limited company CSTM Design Limited. On each form, the declaration at the end of the Return form was completed by Mr Jeff, as contact officer for and sole director of the firm to certify that the information submitted in the Returns was accurate.
10. Throughout this period, Mr Jeff did not inform RICS of the changed status of the limited company or his changed trading status. RICS became aware of this in July 2014, when an officer of RICS spoke with Mr Jeff by telephone. He then confirmed that the limited company had been dissolved "about a year ago". RICS subsequently obtained written confirmation of the position from Companies House, which was presented to the Panel, showing that the company had in fact been dissolved on 9 November 2010. RICS then asked Mr Jeff formally to de-register CSTM Design Limited and to register his new sole practitioner unincorporated practice, CSTM Design.
11. The bundle submitted by RICS included a series of letters sent to Mr Jeff and records of several telephone calls made. Where RICS' letters had been sent by Special Delivery post, in some cases the Royal Mail Track and Trace return indicated that the letter was signed for in the name of "Jeff" or "Jeffs".
12. Throughout this matter, Mr Jeff has not responded to any written communication from RICS during its investigation into these matters. On 14 November 2014, RICS wrote to Mr Jeff informing him that the Head of Regulation had decided he should be referred for disciplinary action. There had also been no response from Mr Jeff to any of the communications sent to him by RICS since that date.

13. Submissions on behalf of RICS

14. Mr Gutteridge referred to the documents in the hearing bundle and set out the history of the matter as outlined above. He submitted that on the basis of the documentary evidence presented, the panel could be satisfied on the balance of probabilities that the charges were proved.
15. Mr Gutteridge further submitted that RICS' Rules for the Registration of Firms require firms to keep RICS informed as to any material changes which may affect their regulated status. Regulated firms are required to have in place appropriate professional indemnity insurance and free redress for their clients. He pointed out that as a result of not being provided with

information by Mr Jeff, RICS proceeded over a period of four years on the basis that it was regulating CSTM Design Limited and had advertised the same on its public facing website. Further, he submitted that a firm which no longer existed was registered with Ombudsman Services: Property and this remained the position as at the date of the hearing. There was therefore a risk that any client of the new firm would not have access to the free redress scheme.

16. Mr Gutteridge further submitted that as sole principal of CSTM Design Limited Mr Jeff had a professional obligation to keep RICS up to date with matters affecting the firm's registration and he compounded matters by failing to co-operate with RICS' investigation. Mr Gutteridge submitted that RICS' regulatory model, which relies on the openness of its members has been compromised and resulting in a risk that the reputation of RICS and its members could be damaged by Mr Jeff's actions.
17. Mr Gutteridge submitted that, in the light of the above position, the Panel should be satisfied that Mr Jeff was liable to disciplinary action under Byelaw 5.2.2(c).

18. DETERMINATION

19. Findings of fact and liability to disciplinary action

20. The Panel carefully considered all the evidence presented, including the oral submissions of Mr Gutteridge on behalf of RICS and the documentary evidence presented. No representations had been submitted on behalf of Mr Jeff.
21. The Panel has accepted the advice of the legal assessor and has been reminded that the burden of proof in these proceedings is upon RICS and that applies equally where the respondent is not present or represented. The standard of proof the Panel must apply is the civil standard, so that the Panel must be satisfied that it is more likely than not that an event occurred before finding it proved.
22. On the basis of the documentary evidence presented the Panel was satisfied that Charges 1(i), 2 (i), (ii), (iii) (as amended) and 3(i), as set out in the Notice of Disciplinary Panel Hearing dated 12 March 2015, are proved on the balance of probabilities.
23. In each case under Charges 1 and 2, the Panel was satisfied that RICS had made requests for information and that in each case, Mr Jeff had failed to respond or provide the information.
24. In respect of Charge 3, a number of letters had been sent by RICS between 23 July 2014 and 10 November 2014, and Mr Jeff had not responded to any of them.
25. The Panel agreed with the submissions of Mr Gutteridge in relation to liability to disciplinary action. The Panel was satisfied in respect of Charge 1 that by his actions Mr Jeff had breached Rule 3 of the Rules of Conduct for Members 2007 and that the matter was serious. Similarly, the Panel considered that in respect of Charge 2, there had been a breach of Rule 8 of the Rules of Conduct for Members 2007 and in respect of Charge 3, a

breach of Rule 9 of the Rules of Conduct for Members 2007, both of which were also serious matters.

26. In the light of the breaches found proved, the Panel was therefore satisfied that Mr Jeff is liable to disciplinary action.

27. Penalties

28. The Panel considered the submissions of Mr Gutteridge. No submissions in mitigation had been received from Mr Jeff. The Panel accepted the advice of the legal assessor.

29. Mr Gutteridge informed the Panel of Mr Jeff's disciplinary history, namely that he received a fixed penalty caution on 16 March 2015 in respect of non-completion of his CPD requirement for the year 2014. The Panel noted this, but gave the previous finding little weight given that the facts in this case occurred before the imposition of that caution.

30. The Panel was mindful that the purpose of a disciplinary sanction is not to punish but to protect the public, the reputation of the profession and to promote regulatory compliance. The Panel was mindful that it should adopt a proportionate approach and impose the lowest sanction necessary to protect these interests.

31. The Panel concluded that it had not been presented with evidence of any mitigating factors. The Panel considered that Mr Jeff's repeated failure to engage with his regulator and comply with his regulatory obligations over an extended period of time were aggravating factors in this case.

32. The Panel took the view that the charges proved were too serious for it not to impose any disciplinary sanction. The Panel considered that neither a caution nor a reprimand would be appropriate given the gravity of Mr Jeff's failings.

33. The Panel considered that it would not be possible or appropriate to require undertakings to be given in the light of the history of non-engagement by Mr Jeff in this matter. It did not consider that in the circumstances of the case, the imposition of a fine would address the nature of the breaches found proved.

34. The Panel next considered whether to impose conditions on Mr Jeff's continued membership of RICS. The Panel did not consider that such an order would be appropriate. The Panel concluded that the concerns raised in this case would not be addressed simply by Mr Jeff now providing the information required by RICS. Conditions would not address the underlying attitudinal issue in this case, namely Mr Jeff's persistent failure to engage with his regulatory body and meet his professional and regulatory obligations. The Panel has considered the history of the matter, including the number of opportunities Mr Jeff has been given to comply with RICS' requirements and the absence of any explanation from Mr Jeff for his failures. In these circumstances, the Panel can have no confidence that Mr Jeff would now comply with any conditions it might decide to impose.

35. The Panel therefore determined that the only appropriate sanction is the expulsion of Mr Jeff from membership of RICS, which the Panel so orders.

36. Determination on Publication and Costs

37. Publication

38. The Panel takes the view there is no reason to depart from the presumption of publication and so directs publication in accordance with Supplement 3 to the Sanctions policy.

39. Costs

40. The Panel orders that Mr Christopher Jeff pay the costs of the RICS in this case of £4,980.50. This allows for a reduction in the figure claimed by RICS of £400, to represent the shorter than anticipated length of the hearing.

41. Appeal Period

42. Mr Christopher Jeff has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Disciplinary, Registration and Appeal Panel Rules.

43. In accordance with Rule 60 of the Disciplinary, Registration and Appeal Panel Rules, the Honorary Secretary of RICS has 28 days, from the service of the notification of the decision, to require a review of this Decision.