

ROYAL INSTITUTION OF CHARTERED SURVEYORS**DISCIPLINARY PANEL HEARING BY WAY OF WRITTEN REPRESENTATIONS**

Date Monday 30 March 2015

Via telephone conference

Case of Mr D M Alexander MRICS [0088874]
Location, Postcode London W12

Chairman John Anderson
Member Andrew Winscom

CHARGES HEARD

The Panel considered the following:

1. David Alexander may be liable to disciplinary action under Bye-law B5.2.2 (d) by reason of having been convicted of criminal offences which could result in a custodial sentence, namely that on 17 March 2013 he was convicted by Luton Crown court of an offence of criminal damage under S. 1 of the Criminal Damage Act 1971 and two offences of fraud by way of false representation under S. 1 of the Fraud Act 2006.

DETERMINATION**Findings of Fact**

2. In coming to a view, the Panel took fully into account all the documentation submitted by RICS and Mr Alexander.

3. Firstly the Panel considered whether service had been effected under Rules 23 of the Disciplinary and Appeal Panel Rules 2009 ("The Rules"). In coming to its view the Panel noted that the Notice letter dated 3 February 2015 in relation to the hearing scheduled to take place on 9 March 2015 was sent by E-mail, Special Delivery and First Class post. Mr Alexander responded to this correspondence on 7 February by subsequently applying to have the 9 March hearing adjourned. On 12 February Mr Alexander acknowledged the refusal to grant his adjournment indicating his wish to resign his membership of the Institution. RICS responded at 15:40 on 12 February and set out the position in terms of Bye-Law 5.2.3 and that for the avoidance of doubt, the Disciplinary Panel would go ahead on 9 March 2015.

4. In the e-mail dated 10 March 2015, RICS informed Mr Alexander that his case could not be heard on 9 March but was rescheduled to take place on 30 March 2015.

5. For the above reasons the Panel is satisfied that service to be in accordance with Rule 23.

6. The Panel next considered whether the case was suitable to be heard by way of Written Representations. The bundle included a Certificate of Conviction and the Panel also noted the Listing Questionnaire signed by Mr Alexander in which he confirmed that he is content for the hearing to proceed by way of written submissions. Accordingly the Panel finds it to be suitable to proceed with the hearing on the basis of Written Representations.

Panel's Decision

7. The Panel found the facts proved in respect of the conviction in regard to which Mr Alexander was given a custodial sentence. Mr Alexander was also found liable to disciplinary action under Bye-Law 5.2.2(d), owing to the serious nature of the criminal offences of which he is convicted.

Penalty

8. The Panel took into account the written submissions of RICS and Mr Alexander together with the Sanctions Guidance; it also had due regard to proportionality.

9. The Panel took particular note of the circumstances of the convictions. In particular it had regard to the sentencing remarks of the Judge which describes how Mr Alexander and his wife took part in an enterprise involving sophisticated fraud, which persisted over a length of time, required a significant degree of planning and had been dishonest from the outset.

10. Mr Alexander involved potential owners and other professionals in negotiating a property sale with him, which was a bogus sale right from the start, and in the process used somebody else's identity, and impersonated the real owners of the property. Mr Alexander also went into their property and changed the locks, and this is to which the Criminal damage conviction refers.

11. The Panel noted that Mr Alexander had shown some remorse and felt ashamed in regard to what he had done. The Judge stated that she thought that to a certain extent in regard to Mr Alexander there was no professionalism involved. Mr Alexander also states that he considers his conduct to have been as a private individual and that he does not consider his actions were in his capacity as a member of RICS.

12. In coming to a view the Panel considered no sanction, and also each of the sanctions available with due regard to balancing proportionality with the public interest. The Panel also considers that the key function of RICS as a professional regulator is to protect the public and uphold standards and public trust in the profession of Chartered Surveyor.

13. Mr Alexander apologises to RICS for his actions, any distress inadvertently caused to RICS and his fellow members. Notwithstanding this, in stating that he was acting in a private capacity in regard to matters associated with the above convictions, Mr Alexander shows little insight and a scant understanding that honesty and integrity are fundamental attributes of a Chartered Surveyor, and that these extend beyond acting in the professional arena. The Panel concludes however that there is also a significant nexus between the nature and background of Mr Alexander's two convictions for fraud and the day-to-day work of a Chartered Surveyor. Thus, in the Panel's view Mr Alexander has demonstrated behaviour which is significantly at odds with the high level of trust which clients, property owners and fellow professionals, are entitled to have in a Chartered Surveyor.

14. The convictions of which Mr Alexander stands convicted means he falls far short of the standard expected of a Chartered Surveyor, and in professional terms, renders him no longer a fit and proper person. Whilst taking into account the degree of remorse submitted by Mr Alexander, his criminal behaviour is not only of a very serious nature but also is of such gravity that it is fundamentally incompatible with continued membership of RICS. Therefore the Panel has concluded that the only appropriate penalty is to expel Mr Alexander from membership of RICS.

Determination on Publication and Costs

Publication

15. The Panel directs publication in accordance with Supplement 3 to the Sanctions policy.

Costs

16. The Panel orders that Mr Alexander pays costs in the amount of £600.

Appeal Period

17. Mr Alexander 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.

18. 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.