

Disciplinary Panel Hearing by way of written submissions

Case of

**Mr Olayinka Jawando BSc(Hons) [1116219]
Dunstable, LU5**

On

Monday 11 November 2019

By telephone conference

Panel

Angela Brown (Lay Chair)
Jane Bishop (Lay Member)
Nick Turner (Surveyor Member)

Legal Assessor

Peter Steel

The formal charge is:

1. On 19 March 2019, at Luton Crown Court, the Member was upon his own confession, convicted on indictment of the following:
 - a. Dishonestly make false representation to make gain for self/another or to cause loss to other/expose other to risk

The Member is therefore liable to disciplinary action in accordance with Bye Law 5.2.2(d)

Response

1. Mr Jawando had not responded to the Notice of Hearing dated 23 September 2019. The Panel therefore proceeded on the basis that the above charge was not admitted.

Summary

2. Mr Jawando was first referred to the RICS by his former employer, Luton Borough Council (the Council), in June 2017. The Council reported that Mr Jawando, who had been the Strategic and Commercial Estate Manager, had been “detected in an act of fraud”.
3. A criminal investigation ensued. Mr Jawando had transferred money out of the Council’s account into a multitude of different accounts under different names all over the country. He had used parts of client names and addresses in order to make the accounts in question appear genuine.
4. On 19 March 2019, Mr Jawando pleaded guilty at Luton Crown Court of the offence of “Dishonestly make false representation to make gain for self/another or to cause loss to other/expose other to risk”. On 30 April 2019, he was sentenced at Luton Crown Court to two years’ imprisonment.
5. At the sentencing hearing on 30 April 2019, the sentencing judge noted that Mr Jawando had stolen nearly £170,000 from Luton County Council. The Member had made some efforts to repay the sums, resulting in the overall loss being in the region of £110,000.

Service and proceeding in absence

6. The Panel were provided with a statement from Maria Choudhury dated 7 November 2019, which showed that the notice of the hearing had been served in accordance with Rule 43a of the Disciplinary, Registration and Appeal Panel Rules 2009 to Mr Jawando’s preferred postal and email addresses held by the RICS. A track and trace receipt for the postal delivery showed that the notice had been delivered to Mr Jawando’s postal address on 25 September 2019. Prior to this hearing, Mr Jawando had not indicated in accordance with Rule 23.e. that he wished to request an oral hearing.
7. Having received the advice of the legal assessor and having considered all the relevant circumstances, the Panel concluded that it was not necessary in the interests of justice or in the public interest to refer the matter to an oral hearing. The Panel therefore dealt with the case as a paper hearing without any further representations from Mr Jawando.

Findings of Fact

8. The Panel was provided with a certificate of conviction from Luton Crown Court dated 25 June 2019 showing that Mr Jawando had been on his own confession convicted on indictment of “Dishonestly make false representation to make gain for self/another or to cause loss to other/expose other to risk” on 30 March 2019 and that on 30 April 2019 he had been sentenced to 2 years’ imprisonment.

9. Accordingly, the Panel found the conviction proved, on the basis of the documentary evidence produced.

Liability to Disciplinary Action

10. The Panel was satisfied that any conviction of a member that led to an immediate custodial sentence was sufficiently serious to give rise to a liability for disciplinary action. In reaching this conclusion the Panel took into account the fact that the offence to which Mr Jawando had pleaded guilty was an offence of dishonesty, committed for personal gain and which had resulted in loss to public funds.
11. Accordingly, the Panel concluded that Mr Jawando was liable to disciplinary action.

Sanction

Panel's Approach

12. The Panel took into account the submissions of the RICS as set out in the Case Summary in the bundle and had regard to the RICS Sanctions Policy. It accepted the advice of the legal assessor.
13. The Panel bore in mind that the purpose of sanctions is not to be punitive, although it may have that effect. The purpose of sanctions is to declare and uphold the standards of the profession, to safeguard the reputation of the profession and of the RICS as its regulator and to protect the public. Sanctions must be proportionate to the breach and all the circumstances and a decision should be reached having taken into account any mitigating and/or aggravating factors.
14. The Panel did not have the benefit of any submissions from Mr Jawando but took into account such mitigating features as it could establish from the judge's sentencing remarks contained in the Bundle.

Decision

15. As noted above, Mr Jawando had not provided any account of the circumstances which led to his conviction. The Panel however accepted as mitigation the matters identified in the judge's sentencing remarks, namely:
 - His offending was driven by a gambling addiction, which he had at the time of sentencing taken steps to address;
 - Mr Jawando's personal circumstances, including his own health and the illness of a close family member;
 - Mr Jawando's insight, as demonstrated by his guilty plea; and
 - Mr Jawando's previous good character and apparently blameless professional career.

16. The Panel was also not informed of any other RICS disciplinary history other than this matter.
17. The Panel considered that the following aggravating factors were present in this case:
- Mr Jawando had been convicted of an offence of dishonesty motivated by personal gain;
 - The consequent loss to public funds was substantial, amounting to some £110,000;
 - Mr Jawando's offending conduct was repeated and extended over a significant period of time; and
 - The offence was committed in the course of his employment, which was likely to have an adverse effect on the surveying profession as a whole.
18. The RICS is a professional membership organisation and sets standards of conduct for its members as a condition of membership. One of those duties is to behave in a way that upholds the standing of the profession generally, whether professionally or personally. As was made clear in the case of *Bolton v Law Society* [1994] 1 WLR 512 (and in countless professional disciplinary cases since), "*The reputation of a profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.*"
19. The Panel first considered whether it was appropriate to impose any sanction at all. The Panel concluded that this conviction was obviously serious and imposing no sanction would be inappropriate. In reaching this conclusion the Panel noted that Mr Jawando's conduct was repeated and deliberate.
20. The Panel went on to consider whether to impose a caution. The Panel concluded that a caution would not adequately reflect the seriousness of the case, recognising the role of the RICS regulation in protecting the reputation of the surveying profession. As noted above, if members are dishonest in their dealings with their employers to the extent of stealing from them, such behaviour can only damage that reputation, to the detriment of the profession as a whole. The Panel also considered the imposition of a reprimand, but concluded that similarly this did not reflect the seriousness of Mr. Jawando's conduct, which reflected a complete disregard of appropriate societal and professional standards.
21. The Panel also concluded that it would not be appropriate or workable to impose an undertaking given that it was a fundamental requirement of membership of the RICS that members should act with honesty and integrity. It would serve no purpose for Mr. Jawando to undertake to be honest or to avoid criminal conduct in the future in these circumstances.
22. The Panel then considered whether to impose a fine. It decided that a fine would not be an appropriate sanction. Mr. Jawando's blatant disregard for the law and his professional responsibilities was plainly reprehensible. The scope and gravity of his misconduct were unacceptable for someone who wished to remain part of a respected profession.

23. For similar reasons, the Panel considered and dismissed the imposition of a condition on Mr Jawando's continuing membership as an adequate response to the misconduct demonstrated by this case. Again, it noted that Mr. Jawando was required to be honest in any event and it would be pointless to impose a condition relating to his future honesty.
24. The Panel took into account paragraph 20.1. of the Sanctions Policy, which states that in the absence of extenuating circumstances, instances of fraud, dishonesty or lack of integrity and convictions for a serious criminal offence (meaning an offence for which the penalty could be a custodial sentence) are likely to result in expulsion. Given the serious nature of Mr Jawando's criminal conduct and the lack of any explanation that could possibly justify it, the Panel considered there was no good reason in this case to depart from the Sanctions Policy. Having carefully considered all the information before it, the Panel concluded that the only appropriate sanction to protect the public and to maintain the reputation of the surveying profession in this case was expulsion. It therefore ordered that Mr Jawando be expelled from membership of the RICS.

Publication

25. The Panel has considered the policy on publication of decisions, The Sanctions Policy Supplement 3 - Publication of Regulatory Disciplinary Matters. The Panel was unable to identify any reason to depart from the presumption that decisions will be published on the RICS website and in the RICS magazine Modus.

Costs

26. RICS applied for costs in the sum of £600.
27. The Panel considered carefully the issue of costs. The costs figure represents a contribution towards the costs incurred by the RICS in preparation for the hearing and the hearing itself. The Panel had no reason to doubt that the costs application was fair and reasonable.
28. The Panel concluded that it was appropriate for Mr Jawando to make a contribution towards the costs of bringing this case, otherwise the full cost of these proceedings would fall on the profession as a whole.
29. The Panel orders that Mr Jawando pays to the RICS costs in the sum of £600.

Appeal Period

30. Mr Jawando has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Rules.

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