

Discipline Case Digest

Case: 2009-03

Subject Member: Registered Professional Forester (name withheld)

Referred to: Complaints Resolution Committee

Date of Decision: April 2009

Allegations:

The case resulted from a complaint from a member who felt that the members of the Complaints Resolution Committee (CRC) had failed to live up to their professional obligations in consideration of a previous complaint that was dismissed by the ABCFP. The complaint was not to dispute or appeal the previous decision. The complaint concerned the process used by the ABCFP in reaching the decision as documented in the rationale that was sent to the complainant by the ABCFP. The complainant alleges that the members of the CRC failed in their professional duties in the course of reaching their decision regarding the previous complaint. The complainant submits that the CRC had a duty to act in accordance with following bylaws:

- 11.3.7 To practice only in those fields where training and ability make the member professionally competent.
- 11.4.4 Not to misrepresent the facts.
- 12.2.2 To ensure their work is complete, correct and clear.
- 12.5.1 To exercise due diligence by being prudent and doing all work with constant and careful attention.

Decision:

Upon reviewing the evidence and the applicable law the registrar declined to issue a citation.

Reasons for Decision:

The CRC met with the member who lodged the complaint in order to better understand the substance of the complaint and to see if there was an opportunity for the parties to resolve the complaint. The parties were not able to resolve the complaint. However, the CRC did agree that the letter from the ABCFP regarding the decision on the original complaint was not a clear and succinct summation of the deliberations made by the CRC or of the rationales used to dismiss the original case. As a result the complainant had not been given a clear understanding of all of the considerations and rationales employed by the ABCFP.

The CRC is created by council under Bylaw 14 to act as an integral part of our discipline process. Our Act does not have any provisions to allow for the appeal of a decision of the CRC or of a decision by the registrar to issue or not to issue a citation. Under Bylaw 14.8 at least one member of the CRC is required to be a lay person and such a person would not be permitted to practise forestry. In our opinion, the CRC is not practising forestry as defined by the Act when undertaking its duties as defined in the bylaws. Notwithstanding the fact that the deliberations of the CRC are not the practice of professional forestry, the ABCFP still expects that the ABCFP members on the CRC will conduct themselves in a thoroughly professional manner when undertaking the duties assigned to the CRC.

The complainant identifies a number of important points of confusion in the letter that was sent by the ABCFP, outlining the rationale for dismissing the original complaint. The registrar has reviewed the issues with the members of the CRC and determined that the original letter from the ABCFP to the complainant was certainly not as concise or instructive as it could or should have been. It failed to clearly inform the complainant of all of the facts in support of and the complete rationale for the original decision.

The registrar believes that the ABCFP failed to accurately communicate the necessary information to the complainant. In other words, the problem in this case appears to be with the administrative process used to communicate the decision rather than with the decision of the CRC itself. In future when the ABCFP is communicating the rationale for dismissing a complaint to the complainant, it must ensure that it provides a professional quality rationale for the decision.