

Discipline Case: 2010-01

Subject Member: Registered Forest Technologist (name withheld)

Referred to: Complaints Resolution Committee

Date of Decision: May 2010

Allegations

This case resulted from a complaint from an ABCFP member about the conduct of a fellow ABCFP member. The complaint alleges that:

1. The subject member wrote a letter to the complainant's supervisor that was critical of the complainant's competence and integrity regarding the administration of a multi-phase contract for timber development.

The complainant felt that the subject member engaged in conduct unbecoming a member and may have contravened the following bylaws:

- 11.2.4. Member has responsibilities to other members
- 11.3.8. Not to make misleading or exaggerated statements regarding the member's qualifications or experience
- 11.4.3.1 To raise the matter with that other member, and if the matter is not resolved, to inform council immediately in writing of the particulars.
- 11.4.4 Not to misrepresent the facts
- 11.6.2 Not to unfairly criticize the work of other members or attempt to injure the professional reputation or business of another member.

Decision

Upon reviewing the evidence and the recommendations of the Complaints Resolution Committee (CRC) the registrar declined to issue a citation.

Reasons for Decision

This complaint addresses very serious matters regarding professional obligations when professionals are in disagreement over professional matters dealing with contract related issues. The subject member did write a letter to the complainant's supervisor that was critical of the complainant's professional credentials and competence. The subject member was a contractor who had documented a significant number of concerns regarding the work on the contract. The subject member blamed the complainant for

delays in completion of the contract work. The subject member was of the opinion that the complainant lacked some of the competencies required to administer the technical requirements of the contract. The complainant did not dispute this opinion and stated that other competent experts were engaged and relied on to provide advice in areas where the complainant lacked the necessary competencies. Various e-mails document numerous changes to block designs and a significant dispute about the acceptability of cruise data. There was evidence of some miscommunication and the involvement of a host of other parties in the work greatly complicated the contract. There was also a certain amount of time when the complainant was called away to fight fire and so others were in charge of the contract during that time. The complainant was also in a difficult position because some direction on the contract work had to come from others and the work of these other parties was part of the reason for delays.

With regards to Bylaw 11.3.8, the complainant believes that the letter sent by the subject member to the complainant's supervisor contains misleading or exaggerated statements regarding the subject member's qualifications and experience. The subject member believes that there is documentation and field data to back up the position as expressed in the letter. The letter points out a number of examples of what was thought to be poor direction provided by the complainant in relation to the harvesting chance. These examples demonstrate that the subject member believed that the concerns raised had a basis. Consequently, it was found that the letter was not in contravention of Bylaw 11.3.8.

With regards to Bylaw 11.4.3.1 there is evidence in the form of many e-mails that demonstrate that the parties had many conversations with respect to the work that the subject member was doing under contract. These communications illustrate a number of efforts on both sides to discuss differences of opinion between the parties regarding the changes to the harvesting plans and the assessments of the logging chance. In this correspondence there is evidence that the parties had significant differences of opinion and were well aware of each others' positions. Since both parties had made each other aware of their concerns there was no failure to raise issues of concern with the other member and no violation of Bylaw 11.4.3.1.

Bylaw 11.4.4 requires members not to misrepresent facts. In this complaint two different versions of the facts have been presented. The complainant believes that the subject member was fairly and appropriately informed about the requirements of the contract. The subject member believes that the complainant provided information regarding the block reconnaissance that was not up to a professional standard. There appears to have been a significant misunderstanding or miscommunication regarding: (1) the wood that should have been developed; (2) the acceptable costs for the development; and (3) the need for further roads to access the timber that was identified in the original recce maps.

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The subject member provided several specific examples of this in the letter written to the complainant's supervisor. The complainant disputes some of the claims made by the subject member about the cutblock layout. There is clearly a disagreement between the parties regarding the facts; however, the evidence presented does not support the finding that there was a misrepresentation of fact by the subject member in violation of Bylaw 11.4.4.

The requirements of Bylaw 11.6.2 speak to a member acting in an unfair manner. Was the criticism of the complainant by the subject member unfair? It would be unfair for the subject member to criticize the complainant if the subject member had no evidence or information to back up the position. As noted above, there appears to have been a significant misunderstanding or miscommunication between the parties regarding the contract and the wood that should have been developed. As a result, the complainant and the subject member had a serious dispute about how the identified timber should be developed. The contract difficulties the subject member experienced provided ample evidence to support the view stated in the letter in the subject member's opinion. We cannot determine whether this evidence is more or less credible than the evidence provided by the complainant. Consequently, the evidence presented does not support the finding that the subject member acted unfairly in contravention of Bylaw 11.6.2.

This case raises questions about how far an ABCFP member can go in criticizing another member's conduct. In this case the criticism was done in a private letter to another member's immediate supervisor and this was deemed to be acceptable given the circumstances. Had this criticism been raised in a public forum such as a letter to the editor that would have been different matter.