

Discipline Case: 2010-03

Subject Member: Ronald M. Parker, RPF

Referred to: Discipline Panel

Date of Decision: January 25, 2013

Type: Decision by a Panel of the Discipline Committee

The Complaint

In 2010 the association received a complaint alleging that Mr. Ronald M. Parker, RPF, had submitted inaccurate data in three small scale salvage (SSS) permit applications. Specifically the complaint alleged he misrepresented the amount of “endangered” Douglas-fir trees by submitting higher than actual tree volumes for green-attacked trees and higher than actual total volumes. The complaint was accepted by the registrar and was referred to the standing investigation committee for review and investigation.

An investigation was conducted by the standing investigation committee and the complaint was determined to have substance. The findings of the committee were reported to the registrar for resolution.

Mr. Parker and the registrar presented an Agreed Statement of Facts dated December 13, 2012 to the discipline committee panel. In addition to the Agreed Statement of Facts, Mr. Parker provided the registrar with a statement that he did not receive any monetary benefit associated with the conduct alleged in the complaint.

Finding of Fact

The following were accepted to be fact:

1. Ronald M. Parker was a member in good standing of the association at the time of the alleged incidents
2. Since 1996 Mr. Parker has been primarily engaged in assisting clients in acquiring permits under the Small Scale Salvage Program on public forestlands in the Prince George area.
3. In 2009, the year of the alleged incident, Mr. Parker prepared 37 applications under the SSS Program for Douglas-fir salvage.
4. Of the 37 applications submitted on behalf a client, 21 applications were accepted by the then Ministry of Forests and Range and processed into salvage licences. Two of these applications were field checked by the Ministry and the information contained in the applications considered reasonable. Fourteen (14) of the remaining applications were withdrawn for reconsideration. Some were resubmitted and others abandoned.

5. Of the 37 applications submitted by Mr. Parker on behalf of the client, three applications were suspended by the Ministry of Forests and Range due to what Ministry officials felt was the submission of inaccurate data.
6. The Ministry of Forests and Range conducted field checks of the three suspended applications a number of seasons after the Mr. Parker's initial assessment and found significant differences between their field estimates of "dead and down volume" and "green-attacked volume" and estimates provided by Mr. Parker.
7. The information submitted by Mr. Parker to the Ministry of Forests and Range consistently over-estimated the volume of Douglas-fir trees in both the "dead and down volume" and "green-attacked volume" categories.
8. The Ministry of Forests and Range estimates were likely more accurate than those presented by the Mr. Parker due to the fact the Ministry estimates were based fully on field work while Mr. Parker's estimates were from an uncontrolled and undocumented source.
9. The field procedures and indicators to determine whether individual trees were green attacked and likely to die were somewhat subjective and open to professional opinion. The government's Regional Standard Operating Procedure at the time contained little information on the reliable detection of individual attacked trees. This subjectivity could explain why minor variances in estimates may occur.
10. The field procedures and indicators to determine whether individual trees were dead and down were straightforward and should have led to a higher degree of correlation between government estimates and Mr. Parker's estimates than presented in the evidence. The magnitude of the differences in all three of the applications in question does suggest a degree of bias, sloppiness, or error.
11. Initially Mr. Parker carried out detailed field inspections and surveys when preparing applications for SSS licences.
12. After a time Mr. Parker stopped doing field inspections and instead relied on estimates provided to him by his client. The client was an experienced salvage operator having worked in the Vanderhoof area since 1994. Mr. Parker did do a visual check of the client's estimates when in the field doing GPS work but did not take many notes.
13. Mr. Parker unintentionally entered inaccurate information on two of the SSS licence applications.
14. Since the two licences were suspended and the complaint against Mr. Parker was filed, the Ministry of Forests and Range has changed its SSS application forms, data requirements and mandatory field procedures.
15. Mr. Parker has changed his practices. He no longer relies on his client's estimated volumes even if the client is well experienced.

16. Mr. Parker was working as an employee during the relevant time and did not receive any financial benefit as a result of his actions and the licence applications he prepared on behalf of the client.

The Settlement

The following are the key terms of the settlement:

Member Parker:

1. Has fully disclosed his conduct in this case.
2. Admits that he has contravened his professional obligations and the association Bylaws specifically:
 - a) Bylaw 11.4.1, to inspire confidence in the profession by maintaining high standards in conduct and daily work
 - b) Bylaw 12.5.1, to exercise due diligence by being prudent and doing all work with constant and careful attention
3. Admits that he has acted in a manner unbecoming of a member in relation to his work on the small scale salvage licence applications.
4. Admits that his actions related to this matter were inconsistent with the association's Code of Ethics and Standards of Practice.
5. Will provide a written apology for his actions to the association.
6. Will attend and complete the association's workshop on Professional Ethics and Obligations by September 30, 2013.
7. Will attend and complete the association's workshop on Professional Reliance by September 30, 2013.
8. Will consistently abide by the Code of Ethics and Standards of Practice while being a registered member of the association.

The association will:

1. Make a summary of this Negotiated Settlement available to the complainant;
2. Publish a Discipline Case Digest naming Mr. Parker;
3. Put a letter of reprimand on Mr. Parker's file;
4. Take no further disciplinary action provided Mr. Parker made no misrepresentations and complies with the terms of the settlement.

Discussion and Considerations

In determining if the settlement should be accepted, the panel considered Mr. Parker's circumstances and reaction to the complaint, investigation, and settlement. In addition, the panel evaluated if the settlement satisfied the association's obligations to the public and the profession.

The panel considered the following circumstances with respect to Mr. Parker:

1. He cooperated with the investigators of the standing investigations committee.
2. He has no previous discipline record.
3. He was willing to be party to an alternative dispute resolution process.
4. He received no monetary benefit beyond his normal wages.
5. His qualified admission that he unintentionally entered inaccurate information on two of the applications
6. His prompt and open response to additional questions posed to him by the registrar
7. The majority of the SSS applications prepared by Mr. Parker in the time frame of concern presumably met the standards of the application process then in force

In considering whether the settlement meets the association's obligations to the public and profession, the panel applied a series of tests developed by discipline committee panels when reviewing settlements in previous cases and considered to be appropriate in this case:

1. Given the facts, what sanction or range of sanctions might reasonably apply under the *Foresters Act*?
2. Is one or more of those sanctions reflected in the settlement?
3. Does the settlement:
 - a) Adequately reflect the harm caused to the profession, the public, and the member's client?
 - b) Remove any economic benefit the member may have gained as a result of his actions?
 - c) Provide a specific deterrent to the member and a general deterrent to other members?
 - d) Rehabilitate the member?

Decision

The panel has approved this settlement for the reasons provided below.

Mr. Parker has admitted that his conduct in relation to applications under the SSS Program contravened the association Bylaws, failed to inspire confidence in the profession, was unbecoming of a member, and lacked the care and attention generally expected of members working on public forestland. Had Mr. Parker been the subject of a hearing under Section 27 of the *Foresters Act* and been found guilty of similar breaches of conduct, then the hearing panel would be obliged to apply one or more of the sanctions listed in Section 27(4). It is reasonable to believe that this same range of sanctions would be appropriate in the case of this settlement. The settlement between Mr. Parker and the association does explicitly apply two of those sanctions, namely:

- Section 27(4)(a) – reprimand the member
- Section 27(4)(f)(i) – require the member to complete a remedial program

The panel next considered if these sanctions plus the public naming of Mr. Parker to be reasonable consequences given the nature of the case. The panel determined the primary harm caused by Mr. Parker's actions is to the reputation of the profession. Professional accountability is a primary tenet of provincial forest policy and procedure. Members and others governed by the profession are expected to act responsibly without a high degree of third party scrutiny. The use of the forest professional's seal and signature is meant to imply that work has been completed competently, accurately, and to high standards including appropriate recordkeeping and reasoning around prescriptions. Mr. Parker's actions clearly undermine the confidence the government and public have in the profession. Partly as a consequence of Mr. Parker's actions, regulatory bodies have implemented new application procedures that would have an impact, most likely negative, on other members.

While there was no evidence to suggest that there was irreparable harm done to the forest environment, there certainly could be a perception that Mr. Parker's careless and inattentive work led to inappropriate timber harvest on Crown land. Relying on a client's estimates where the client has a direct vested interest is naïve and highly unprofessional. Mr. Parker and other practising foresters must continually ask themselves,

1. How will others (public, regulatory officials, etc.) perceive my practices?
2. Am I protecting myself and, by association, the profession from the perception of bias or wrongdoing?

In this case the panel accepts Mr. Parker's admission that he personally did not derive any economic benefit from his actions but there is a strong feeling within the panel that if there was any hint of financial gain on Mr. Parker's part or collusion with a client then this settlement would be inappropriate.

The panel believes that the public naming of Mr. Parker plus the agreed consequences of a repeat offence provide a reasonable deterrent to him from relaxing his professional standards again. The public naming of a fellow forest professional plus the time and costs associated with the imposed education requirements should provide a general deterrent and point of contemplation for other forestry professionals. The panel believes the two education requirements will be effective in helping Mr. Parker reinforce the changes he has already made to his professional practices. No further rehabilitation measures are required.