

Discipline Case: 2013-01

Subject Member: Registered Professional Forester

Referred to: Complaints Resolution Committee

Date of Decision: February 2013

Allegations

This case resulted from a complaint submitted on January 3, 2013 from an ABCFP member about the conduct of another ABCFP member. The complaint is concerned about the alleged lack of payment for services provided by the complainant to the subject member. These two members have been working together for about 10 years and this appears to be the first instance of a dispute about payment for services rendered. The complainant alleges that he did work for the subject member in this case and was not fully paid for the services he performed and he has been unsuccessful in negotiating with the subject member for full payment.

The complainant alleges that the following bylaws apply in this complaint:

1. Bylaw 11.5.7 – To levy only those charges for services rendered that are fair and due. The complainant submits that his charges were fair (same rate as always) and the work was fully completed.
2. Bylaw 11.6.4 – To give credit for professional work for whom the credit is due. The complainant submits that he is owed credit in terms of money for work done.
3. Bylaw 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. The complainant submits that he has raised this matter with the subject member and has not been successful at getting his invoice paid in full.

Decision

After reviewing the allegations and the actions of the complainant and subject member with the complaints resolution committee, the registrar concluded that this complaint should not proceed. The primary basis for refusing to accept this complaint is that it involves a private contractual dispute between two members which is appropriately resolved by the courts. It does not appear to involve a breach of the *Foresters Act*, bylaws or resolutions of the association under subsection 22(6)(c) of the Act .

The sections of the Code of Ethics that the complainant purports to rely on (Sections 5.7, 6.4 and 4.3.1) are inapplicable to this situation. Section 5.7 would have imposed a professional obligation on the complainant to "levy only those charges for services rendered that are fair and due;" however, that provision of the Code provides no basis for the association to inquire into the subject member's alleged non-payment of any

Discipline Case Digest

charges levied by the complainant. As for Section 6.4, the requirement "to give credit for professional work to whom the credit is due" has nothing to do with payment of professional fees. Section 4.3.1 puts the onus on members to lodge a complaint, but provides no basis for the association to inquire into the subject member's alleged non-payment of any charges levied by the complainant.

The registrar believes that Subsection 22(6)(b) of the Act provides a further basis to refuse to accept this complaint, on grounds that the complainant has not provided sufficient information to allow an investigation to proceed. The registrar is also of the opinion that subsection 22(6)(d) of the Act is another basis to refuse to accept this complaint, on grounds that it appears this matter involves a private contractual dispute which would be most appropriately resolved between the parties through the courts.

The registrar is satisfied that the parties can resolve this matter on a reasonable and appropriate basis by other means than the ABCFP complaints process. Consequently, the complaint was not accepted and this case is now closed.