

Discipline Case: 2009-02 A/B

Subject Member: Registered Professional Foresters (names withheld)

Referred to: Complaints Resolution Committee

Date of Decision: March 2010

Allegations

This case resulted from a complaint from a member of the public about the conduct of two ABCFP members. The complainant felt that the subject members engaged in conduct unbecoming a member and may have contravened the following bylaws:

- 11.3.3. To have regard for existing legislation, regulation, policy and common law; and to seek to balance the health and sustainability of forests, forest lands, forest resources, and forest ecosystems with the needs of those who derive benefits from, rely on, have ownership of, have rights to, and interact with them.
- 11.4.1. To inspire confidence in the profession by maintaining high standards in conduct and daily work.
- 11.5.1. To act conscientiously and diligently in providing professional services.
- 12.2. Competence
 - 12.2.1. Competent members maintain sufficient knowledge in their field(s) of practice.
 - 12.2.2. Competent members ensure their work is complete, correct and clear.
 - 12.2.3. Competent members exercise appropriate judgment and discretion with due care.
- 12.4. Integrity
 - 12.4.1. Members, in private life, professional practice, or outside professional activities, always conduct themselves honourably and in ways which sustain and enhance their professional integrity and the integrity of the profession as a whole.

12.5. Due Diligence

- 12.5.1. Members exercise due diligence by being prudent and doing all work with constant and careful attention.

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 a very serious matter and involves the harvesting of timber on private land, the allegation of a trespass onto this land, as well as concerns about the conduct of the members in their dealings with the complainant. The two members in the complaint were involved in administering a timber harvesting contract for an area adjacent to the complainant's private property. The complainant alleged that the trespass onto his property was the result of unprofessional conduct by the subject members. The case was referred to the Standing Investigation Committee (SIC) and an investigation committee (IC) was selected to investigate the matter and the conduct of the subject members.

There was no evidence provided by the investigation that showed the members had insufficient knowledge relevant to the work. Furthermore, there was no evidence provided that showed the members did not act conscientiously or diligently in their work. The investigation determined that the effort exhibited in identifying the danger trees, ribbon, GPS points, maps, consent forms and contract did cover the basis for practising due diligence. The investigation committee concluded the members had taken reasonable steps to prevent an error from occurring. Despite these precautions a mistake did in fact occur. However, the investigation committee did not find sufficient evidence to support the claim that the members were by and large incompetent, were not practising due diligence, or that the mistake was intentional.

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The investigation committee also investigated the assertions that the members engaged in behaviour unbecoming members by examining relevant e-mail correspondence. Within the e-mails, there are replies to questions, requests and direct statements. The investigation found no personal attacks on the complainant, and felt that the responses were germane to the questions asked and exhibited tact and diplomacy. The e-mails do not appear to be malicious or derogatory in any way. The investigation committee also noted that both members apologized for the mistake and offered some measures to compensate and rectify the cutting of the incorrect trees. There was no evidence provided that showed that the members conducted themselves dishonourably or with a lack of integrity.

The investigation report concluded that that the committee did not believe that grounds exist for a discipline hearing under section 27 of the *Foresters Act*. The registrar and the Complaints Resolution Committee agreed that the mistake made by the members did not constitute behaviour unbecoming a member; however, we appreciate the gravity of the error and as a result of the investigation we will be sending letters to the subject members expressing our concerns over the circumstances. A letter of reprimand will be added to our files for these two members.