

Discipline Case Digest

Case: 2009-07

Subject Member: Registered Professional Forester (name withheld)

Referred to: Complaints Resolution Committee

Date of Decision: August 2009

The Complaint:

A complaint was received from the RCMP regarding an ABCFP member who was stopped after he was observed taking and being in possession of two wood blocks, specifically that of recently cut Western broadleaf maple from a provincial park.

Agreed Statement of Facts:

1. The member was found to be in possession of blocks of big leaf maple that were taken from a park on February 19, 2009.
2. The subject member was stopped by the Special Constable/Forest Officers while in the process of packing the maple blocks out of the provincial park toward his parked vehicle.
3. An RCMP Constable arrived shortly thereafter and interviewed the subject member who stated the following:
 - That he did not cut down the maple trees
 - That he knew the maple trees had been cut down illegally and the maple blocks had been cut out of the tree situated at an illegal theft harvest site.
 - That the area was a provincial park,
 - That he was taking the maple blocks home to turn them.
 - That he did not have any paperwork nor had he been given any authority to collect the maple blocks and/or to transport them on a public highway.
 - That he is a Registered Professional Forester.
4. The park staff noted in mid-January 2009 that unknown person(s) were cutting off chunks of bark as well as felling mature Western broadleaf maple trees within the park. The felled mature maple trees were being cut up into blocks and subsequently pieces containing compression marks, commonly known as "Curly Maple" were being illegally harvested. By mid-February there were approximately eleven known trees that had been felled in this manner. The RCMP has been working with the Compliance and Enforcement Unit of the BC Ministry of Forests and Range for the past three years in an effort to stop this illegal harvesting and milling of Western broadleaf maple.
5. In this specific case rural surveillance was being conducted on these theft sites at which time the subject member was observed entering a theft site and seen taking a number of previously cut maple blocks.

6. A senior person in a position of authority was able to vouch with regards to the subject member's integrity and subsequently proved that the subject member did not formulate criminal intent when he took the blocks of maple wood. This was corroborated with the absence of any adverse historical interactions with police and/or law enforcement persons.
7. Nevertheless the subject member did admit to planning to contravene a number of sections of the *Forest and Range Practices Act* and the Provincial Park, Conservation and Recreation Area Regulation namely:
 - Fail to mark timber
 - Unauthorized activity (Possession and removal of natural resources)
8. The subject member was informed by the RCMP that no charges under the Criminal Code and/or the *Forest and Range Practices Act* would be pursued.
9. The subject member was informed that a letter outlining the events of February 19, 2009 would be forwarded to the Association of BC Forest Professionals.
10. The subject member fully intended to inform the authorities of the illegally cut trees that he found in the park.
11. The subject member has no previous history of this type of behaviour.
12. At the time of the incident the subject member's judgement was impaired due to a recent diagnosis of a very serious illness.

Citation:

The registrar issued a citation stating that the ABCFP would be enquiring to the following allegations:

1. That the subject member has contravened the *Foresters Act* by engaging in conduct unbecoming a member.
2. That the subject member has breached the ABCFP bylaw 11.3.3, and has failed to have proper 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.
3. That the subject member has breached the ABCFP bylaw 11.4.1, and has failed to inspire confidence in the profession by maintaining high standards in conduct and daily work.
4. That the subject member has breached the ABCFP bylaw 12.4.1, and has failed to meet the standards of practice required of members and to conduct yourself honourably and in ways which sustain and enhance their professional integrity and the integrity of the profession as a whole.

Negotiated Settlement and Penalty:

Under Section 23 (1) of the *Foresters Act* (SBC 2003, c. 19) and Bylaw 14.11 the Registrar initiated an alternative complaint resolution process with the subject member. The resulting negotiated settlement was reviewed by a panel of the Discipline Committee and approved. The settlement includes:

- a. A letter of reprimand from the ABCFP.
- b. A written apology from the subject member to the ABCFP.
- c. A requirement to perform community service to the ABCFP through volunteer work.
- d. A requirement to make an anonymous donation to the ForesTrust Auction in 2010 with an approximate retail value of \$120.00.

Discussion:

This matter has produced harm to both the profession and the public. No client of the member is involved in this matter. The profession was harmed in this situation because a professional is held to a higher standard than other individuals to maintain professional status and service. The public relies on professionals to protect their interests by complying with high standards of professional practice. Professionals are guided in the meaning of these expectations by the *Foresters Act*, and the Association's Bylaws and Standards of Professional Practice.

While the Bylaws cover a wide range of responsibilities, none should come before regard for one's conscience and moral obligations to society. In this case, the member has admitted to three Bylaw breaches, and failing to maintain high standards of professional conduct. The information provided by the parties supports this admission, and that this is a contravention of the Bylaws.

The panel considered whether the Settlement Proposal meets the Association's obligations to the public and profession based on the following questions:

1. Given the facts of the case, what is the appropriate range of sanctions or remedies the association might reasonably and fairly apply in order to meet its duties under the *Foresters Act*?
2. Is one or more of those sanctions, remedies or actions included in the Settlement Proposal?
3. In addition, does the Settlement Proposal as a whole meet the following specific tests:
 - a. Does the proposal adequately reflect the harm caused to
 - i. The profession,
 - ii. The public, and
 - iii. The member's client?

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- b. Does the proposal remove any economic benefit the member may have gained as a result of the admitted breach?
 - c. Is the proposal sufficient to provide a specific deterrent to the subject member and a general deterrent to other members?
 - d. Is the proposal sufficient to rehabilitate the member?
4. Is the severity of the sanctions in the Settlement Proposal commensurate with the relative degree of harm caused under 3(a)?

We believe that the activities of this member are completely inappropriate for a forest professional. However there were mitigating factors that had to be taken into consideration when considering the penalty that would be appropriate for this offence. The ABCFP considered the fact that the member had an unblemished record for over 25 years; the member had just been diagnosed with a very serious illness, and a senior person in a position of authority was able to vouch for the member's integrity. The member admitted guilt and was cooperative in the review of the evidence and in agreeing on the facts of the matter. After consideration of all of the issues the panel accepted the settlement and penalty as described above.