



Institute
and Faculty
of Actuaries

Determination Report for Adjudication Panel

24 January 2018

**Institute and Faculty of Actuaries (the IFoA),
Staple Inn, High Holborn, London, WC1V 7QJ**

Jose Carlos Rodrigues FFA (the Respondent)

Panel Members:

Ian Farr FFA (Chair/Actuary member)

Philip Hodson (Lay member)

Peter Ridges FIA (Actuary member)

Legal Adviser:

James Stythe - Solicitor

Judicial Committees Secretary:

Pauline Wharton

On 24 January 2018 the Adjudication Panel considered an allegation against the Respondent that:

1 He failed to comply with the CPD requirements of the 2015/2016 CPD reporting year in that he failed to record online the appropriate minimum amount of CPD, or he failed to confirm his decision to comply with the CPD requirements of one of the recognised International Actuarial Association bodies and complete the required amount of Professional Skills Training within the required timescales, his actions being in breach of;

(a) The integrity principle of the Actuaries' Code (version 2.0)

(b) The compliance principle of the Actuaries' Code (version 2.0)

2 He failed to engage with or respond to communications from the Membership Department of the Institute and Faculty of Actuaries on the matter of CPD for the 2015/2016 CPD reporting year, his actions being in breach of;

(a) The integrity principle of the Actuaries' Code (version 2.0)

(b) The compliance principle of the Actuaries' Code (version 2.0)

(c) The communication principle of the Actuaries' Code (version 2.0)

His actions, in all or any of the above, constituted misconduct in terms of Rule 1.6 of the Disciplinary Scheme of the Institute and Faculty of Actuaries (effective 1 June 2016).

Determination:

The Panel determined that the Case Report disclosed a *prima facie* case of Misconduct and that the Respondent be invited to accept a reprimand and to pay a fine of £1,000 by 30 April 2018.

Reasons:

The Panel's reasons were as follows:

1. The Respondent is based in South Africa and is a Fellow of the Actuarial Society of South Africa (ASSA). He has also been a Fellow of the IFoA since 25 June 2001. As a member of the IFoA, he was subject to the CPD requirements as set down in the IFoA CPD Scheme 2015/16.

2. The Respondent had been partially regulated by the IFoA from 1 July 2014 to 30 June 2015 as a category 3 member under the CPD Scheme 2014/15, having submitted a certificate of eligibility application to the IFoA.

3. On 16 June 2015, the Head of Membership at the IFoA had emailed the Respondent, at his preferred email address, to advise that should he wish to apply for partial regulation under the CPD Scheme 2015/16 he should do so by completing the attached certificate of eligibility as soon as possible, noting that all such applications needed to be made by 15 December 2015. On 22 June 2015, a reminder was sent from the Membership Department of the IFoA to existing partially regulated members, including the Respondent, advising that any application for partial regulation over the 2015/16 CPD year should be submitted by 15 December 2015.

4. The Respondent did not reapply for partial regulation and was therefore fully regulated, as a category 2 member, under the CPD Scheme 2015/16.

5. Over the period from 4 February 2016 to 14 October 2016, the Head of Membership of the IFoA sent a series of emails advising the Respondent about his CPD position, the options which were open to him and reminding him of various deadlines the last of which was 11 November 2016 – all in the context of the IFoA having received no written communications from him in respect of CPD Scheme Year 2015/16.

6. The first written communication which the IFoA received from the Respondent concerning the CPD Scheme 2015/16 was an email on 20 February 2017 to the Case Manager in response to her letter of 31 January 2017. There followed a series of written exchanges between the Case Manager and the Respondent during which written confirmation was received from the Respondent of the CPD he had carried out during the period 1 July 2015 to 30 June 2016 together with a copy of a certificate from the ASSA confirming that it was

the primary regulator for professional conduct purposes and that the Respondent had met its CPD requirements for the periods 1 December 2014 to 30 November 2015 and 1 December 2015 to 30 November 2016. Within this correspondence, there was no mention of the Respondent having carried out any Professional Skills Training during the IFoA CPD year 2015/16 which is a requirement for partial and full regulation by the IFoA.

Allegation 1

7. Copies of all the communications between the IFoA and the Respondent referred to in the previous paragraphs are contained in the Case Report. The three limbs of the allegation are all stated as requirements in the CPD Scheme 2015/16 and the deadlines for each are all well before the first written communication received by the IFoA from the Respondent on 20 February 2017. The contents of these communications confirm all three limbs of the allegation. The Panel concluded from this evidence that there was a *prima facie* case in relation to this allegation. The Panel then considered whether there was a *prima facie* case that the Respondent's actions breached either the integrity or compliance principles of the Actuaries' Code (version 2.0).

8. In relation to the integrity principle of the Actuaries' Code, in the absence of any evidence of dishonesty on the part of the Respondent the Panel concluded that his actions did not amount *prima facie* to a breach of this principle.

9. In relation to the compliance principle of the Actuaries' Code, the Panel, having determined that there was a *prima facie* case that the Respondent had not complied with the CPD Scheme 2015/16 - which was an important professional requirement, concluded that there was a *prima facie* case that the actions of the Respondent had breached this principle.

Allegation 2

10. Paragraphs 3, 4 and 5 above refer to the communications between the Membership Department of the IFoA and the Respondent, copies of which are contained in the Case Report. There were numerous emails from 16 June 2015 to 14 October 2016 sent to the Respondent's preferred email address. Not one reply was received by the Membership Department of the IFoA. The Panel concluded from this evidence that there was a *prima facie* case in relation to this allegation. The Panel then considered whether the Respondent's actions had breached any one or more of the integrity, compliance and communication principles of the Actuaries' Code (version 2.0).

11. In relation to the integrity principle of the Actuaries' Code, in the absence of any evidence of dishonesty on the part of the Respondent the Panel concluded that his actions did not amount *prima facie* to a breach of this principle.

12. In relation to the compliance principle of the Actuaries' Code, the Panel, having determined that there was a *prima facie* case that the Respondent had not engaged with or responded to communications from the Membership Department of the IFoA – which is an important professional requirement (particularly in relation to the operation of the CPD Scheme), concluded that it must follow that there was a *prima facie* case that the actions of the Respondent had breached this principle.

13. In relation to the communication principle of the Actuaries' Code, in the light of the evidence showing no communication from the Respondent to the Membership Department of the IFoA despite numerous requests over a long period, the Panel concluded that there was a *prima facie* case that the Respondent had breached this principle.

Misconduct

14. The panel then considered whether there was a *prima facie* case that the Respondent's actions in any or all of the allegations constituted Misconduct in terms of Rule 1.6 of the Disciplinary Scheme of the IFoA (effective 1 June 2016).

15. Compliance with the CPD Scheme by members of the IFoA is important for the maintenance of public confidence in the profession and the upholding of the profession's reputation. The Respondent is a Fellow of both the IFoA and the ASSA. He failed not only to report his CPD but also to carry out the important requirement in respect of Professional Skills Training. The Panel determined that there was a *prima facie* case that the Respondent's actions in allegation 1 were sufficiently serious as to constitute Misconduct under the Disciplinary Scheme of the IFoA.

16. Engagement with and responding to communications with the Membership Department is an important professional requirement, particularly in relation to the operation of the CPD Scheme. The number of communications unanswered were numerous over a long period. The Panel determined that there was a *prima facie* case that the Respondent's actions in allegation 2 were sufficiently serious as to constitute Misconduct under the Disciplinary Scheme of the IFoA.

Sanctions

17. In considering sanctions, the Panel bore in mind the relevant guidance notes issued by the IFoA. The Respondent did eventually engage with the Case Manager in 2017 – reference to the evidence for this is given in paragraph 6 above – during which he expressed the wish to be partially regulated again by the IFoA and claimed that he had found difficulty with the practicalities of the administration. There was evidence that the Respondent had complied fully with the CPD requirements of his primary regulator, the ASSA. The level of fine imposed reflects some mitigation for these matters.

Publication:

The publication of this determination should follow the normal procedure.

Date of determination: 24 January 2018

Date of publication: 16 March 2018