

# Discipline Case Digest



COLLEGE OF  
**APPLIED BIOLOGY**  
Professional Accountability

Discipline File 11-02

Subject Member: Registered Professional Biologist (name withheld)

Status: Dismissed by Discipline Committee

Date of Decision: June 2012

**Allegation:** that the member of the College engaged in professional misconduct concerning actions related to a development application.

**Background:** Potential development in this area had been controversial for decades, and the complaint itself addressed issues that had taken place over the last 4 years.

Paraphrased in terms of the CAB Code of Ethics (as in force when the events occurred), the complaint is that the member offered professional services on matters for which he was not qualified (Code 1(ii)), was not objective and honest (Code 1(ii)), failed to clearly indicate on whose behalf he was presenting arguments (Code 1(iii)) and allowed his professional judgement to be influenced by non-biological considerations (Code 2(i)). Basically, the complaint asserts that the member has a pro-development bias.

Following a review and consideration of the information submitted by the complainant, the response of the subject member and the counter response of the complainant, the Discipline Committee finds:

1. **Allegation:** that the subject member had no expertise in using or applying the biogeoclimatic ecosystem classification system and should not have given professional advice on ecosystem associations and plant communities

**Finding:** the subject member retained the services of other professionals, and while he did not adopt all recommendations of those other professionals, he provided reasonable explanation for why recommendations were not adopted.

2. **Allegation:** that the subject member was neither objective nor honest

**Finding:** a review of the emails in support of this allegation demonstrated to the satisfaction of the Committee that the subject member did not pre-judge plant community absence, and that explanations proffered on third party confidentiality and qualifications appeared reasonable.

3. **Allegation:** that the member used manipulative arguments to argue against conservation



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**Finding:** a review of the arguments cited by the complainant and responded to by the subject member when read against the terms of reference under which the subject member was working demonstrated to the satisfaction of the Committee that the member's actions appear to have been in general conformance with expectations.

**4. Allegation:** that the subject member made statements well beyond his area of expertise and disregarded the opinion of qualified professionals

**Finding:** this allegation was found to overlap with the first allegation. The committee is of the view that the subject member, in providing his subcontractors' conclusions and formulating his own recommendations, engaged in normal practice for a consulting professional. It is noted that the subject member, in the terms of reference, was asked to provide his view on areas for development and conservation, and that appears to be what was provided.

**5. Allegation:** that the subject member was influenced by non-biological considerations

**Finding:** the committee notes that the member was asked to assist the decision maker in identifying potential development areas, including identifying areas having significant ecological values and measures to adopt in order to maintain ecological value. The Discipline Committee finds that the complainant's view of clause S2(i) of the Code of Ethics misrepresents the intent of the wording used. The Committee finds that the intent of this clause is to prohibit a member from allowing professional judgement to improperly or unduly be influenced by non-biological factors. The committee is of the view that no such influence appeared to occur.

**6. Allegation:** that the subject member acted as a lobbyist for the landowner while not clearly indicating that he was working for the landowner

**Finding:** the committee notes that the subject member was clear in early communications and in reports that he was being paid by the landowner and working to terms of reference developed by the approving agency. While there is awkwardness in a contractor being paid by one client while working to instructions set by another, full disclosure was made by the subject member. In reviewing the file material provided, the committee is of the view that the subject member was not acting as a lobbyist and provided an opinion with both recommendations and risks.

**7. Allegation:** that the subject member's main rationales are contradicted by an ecologist in a government agency.



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**Finding:** on reviewing the file material supporting this allegation, the committee notes that the ecologist replied in general terms to questions posed by the complainant. The committee is of the view that no particular contradiction arose from the subject member's specific views and the ecologist's general response.

**8. Allegation:** that the subject member failed to access numerous credible value-neutral information sources

**Finding:** the committee notes that the complainant lists sources they assert should have been considered; the subject member responded that he had sufficient knowledgeable and credible sources to aid discussion on development and conservation options. On reviewing the file material, the committee is of the view that the sources used were adequate.

**9. Allegation:** that the subject member misrepresented the condition of the two parcels

**Finding:** the committee notes that there was disagreement between conclusions of one individual and the subject member, and that both individuals appear to have presented reasonable basis for their divergent opinions. The committee notes that the divergent opinions and rationales were both presented in the reports submitted by the subject member.

**Decision:** The committee notes that the subject member provided a rational explanation for the issues raised by the complainant, and that the explanations provided appear in general conformance with the Code of Ethics (as in force at the time of the complaint). College Rule 15.15 provides that when a complaint is deemed by the committee to be unfounded, it should be dismissed. Therefore the complaint was dismissed.

**Comments:** The committee notes that the development of this property is and has been controversial for some time. When professionals are involved with issues such as these, it is important that the professionals maintain a professional style of communication and conduct. While the committee has found that the actions of the subject member generally conform with the Code of Ethics, the committee notes that the subject member's communication style has not always been helpful in addressing many of the issues raised in this file. The subject member was so advised.