

# Discipline Case Digest



**Case:** 2013-13

**Subject Member:** Marc von der Gonna, RPF

**Referred to:** Discipline Committee

**Date of Decision:** February 21, 2017

**Type:** Consent Order

## The Complaint

This complaint was made by a member of the public regarding the conduct of Marc von der Gonna, RPF (“Mr. von der Gonna”), who at the time of the complaint was the manager of the McBride Community Forest Corporation (“MCFC”). The complaint cited the results of a 2013 Forest Practices Board (“FPB”) audit and report of the MCFC as evidence of non-compliance with provincial legislation, for which Mr. von der Gonna held decision-making responsibility. The complainant alleged that the FPB’s report was indicative of professional negligence on the part of Mr. von der Gonna and that Mr. von der Gonna had breached the bylaws of the ABCFP (the “Association”).

The complaint contended Mr. von der Gonna engaged in conduct unbecoming of a member as defined in the *Foresters Act*, where improper conduct is defined as that which:

- a. Brings or may bring the Association or its members into disrepute;
- b. Undermines the scientific methods and principles that are the foundation of the practice of professional forestry; or
- c. Undermines the principles of stewardship that are the foundation of the practice of professional forestry.

The complaint and Mr. von der Gonna’s response were reviewed by the Complaints Resolution Committee (CRC) and the case was referred to the Standing Investigations Committee for further investigation. Following the completion and a review of the investigation report and upon receipt of Mr. von der Gonna’s submissions, the CRC recommended that the registrar write a citation for a discipline hearing. The citation was issued and Mr. von der Gonna tendered a proposal to the registrar. The registrar and Mr. von der Gonna agreed to a set of terms that were provided to a panel of the Discipline Committee. The panel accepted the proposal and made an order under section 27(4) of the *Foresters Act* (the “Consent Order”).

As a term of publishing the Consent Order herein the Association acknowledges that there has been no admission by Mr. von der Gonna of the allegations against him, no findings of fact with respect to the allegations against Mr. von der Gonna, and no discipline hearing with respect to the allegations against Mr. von der Gonna.

## The Decision

See attached Consent Order.

ASSOCIATION OF B.C. FOREST PROFESSIONALS

Consent Order

In the matter of Mr. Marc von der Gonna RPF - Case 2013-13

The following order is made by a panel of the ABCFP's discipline committee as required under Section 27(4) of the *Foresters Act*. The terms of this order represent a negotiated agreement between the subject member and the registrar as specified in bylaw 13.41 and 13.42. The panel accepts the following statements and conditions which will be carried out by the subject member and the ABCFP.

WHEREAS:

- A. Von Der Gonna has been licensed as a Registered Professional Forester ("RPF") since 1990;
- B. From May 2003 to August 2015, Von Der Gonna was the General Manager of the McBride Community Forest Corporation ("MCFC");
- C. In 2012, the Forest Practices Board ("FPB") performed an audit of MCFC (the "FPB Audit") and the FPB Audit asserted that there were four areas of non-compliance and one area for improvement in the practices and management of MCFC;
- D. On December 4, 2013, the ABCFP received a complaint (#2013-13) regarding Von Der Gonna's role as an RPF and General Manager of MCFC (the "Complaint");
- E. On January 6, 2016 the ABCFP issued a citation to Von Der Gonna pursuant to section 24(4)(a) of the *Foresters Act*, SBC 2003, c 19 (the "Citation") alleging that in his capacity as General Manager of the MCFC, Von Der Gonna:
  - (a) Failed to show road locations on site plan maps, resulting in non-compliance with provincial legislation, pursuant to ABCFP bylaw 11.3.3, 11.4.1, 11.5.1, 12.2.3 and 12.5.1;
  - (b) Did not clearly identify cutblock boundaries, leading to subsequent non-compliances, pursuant to ABCFP bylaw 11.4.1, 11.5.1, 12.2.2 and 12.5.1;

- (c) Did not clarify licence obligations for logging contractors, leading to unauthorized harvest, pursuant to ABCFP bylaw 11.3.2, 11.4.1, 11.5.1, 12.3.1 and 12.5.1;
- (d) Failed to ensure that appropriate forest roads were permitted for use in operations, pursuant to ABCFP bylaw 11.3.3, 11.4.1, 11.5.1 and 12.5.1;
- (e) Failed to ensure that cutblock size limits in legislation were adhered to, pursuant to ABCFP bylaw 11.3.2, 11.3.3, 12.2.3, 12.5.1 and 12.6.1;
- (f) Did not ensure that Old Growth Management Area boundaries were adequately marked and maintained, resulting in harvesting incursions, pursuant to ABCFP bylaw 11.3.3, 11.4.1, 11.5.1, 12.2.3 and 12.5.1;
- (g) Did not ensure that proper procedures were in place to address the placement or alteration of *Wildlife Tree Patches*, resulting in harvesting incursion, pursuant to ABCFP bylaw 11.3.3, 11.4.1, 11.5.1, 12.2.3 and 12.5.1;
- (h) Failed to adequately track or report silviculture activities and obligations, resulting in non-compliance with provincial regulation, pursuant to ABCFP bylaw 11.3.3, 11.3.7, 11.4.1, 11.5.1, 12.2.2, 12.2.3 and 12.5.1;
- (i) Failed to provide adequate oversight in operations, resulting in an incursion and damage to a riparian area, pursuant to ABCFP bylaw 11.4.1, 11.5.1, 12.2.3 and 12.5.1; and
- (j) Failed to ensure that adequate controls were in place to ensure compliance with legislation and sound forest management practices while disregarding professional principles, thereby exposing his employer to undue risk and reflecting poorly on the forestry profession, pursuant to ABCFP bylaw 11.3.2, 11.3.3, 11.3.7, 11.4.1, 11.4.6, 11.5.1, 11.5.4, 12.2.2, 12.2.3, 12.3.1, 12.4.1 and 12.5.1;

- F. Von Der Gonna has never admitted the allegations in the Complaint and does not admit the allegations herein.
- G. Pursuant to the Foresters Act, SBC 2003, c 19, the ABCFP ordered a discipline hearing involving Von Der Gonna's conduct while licensed as a RPF.

H. ABCFP takes the position that no further action need be taken by the ABCFP in respect of the holding of a disciplinary hearing when a licensee or former licensee has:

(a) undertaken to surrender his or her license permanently and not re-apply for licensing; and

(b) consented to publication of the permanent resignation and the allegations set out in the Citation.

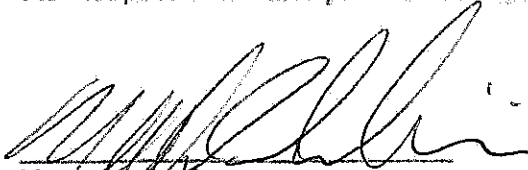
**NOW THEREFORE**, for mutual valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ABCFP and Von Der Gonna agree, each with the other, as follows:


1. Von Der Gonna undertakes and agrees to forthwith permanently resign in writing from the forestry industry as an RPF.
2. Von Der Gonna undertakes and agrees to forthwith permanently surrender his RPF license to the ABCFP.
3. Von Der Gonna undertakes and agrees not to reapply to the ABCFP at any time in the future for licensing as an RPF or any other category of membership.
4. The ABCFP agrees that nothing contained in this agreement shall be deemed or construed to be an admission of fault or liability or agreement with the allegations in the Complaint on the part of Von Der Gonna.
5. Von Der Gonna consents to the publication by the ABCFP on the ABCFP's website of the fact of Von Der Gonna's surrender of his license including the allegations in the Complaint set out above, provided however that, if the ABCFP publishes the aforesaid surrender and/or allegations in the Complaint, ABCFP will also clearly indicate in any such publication that there has been no admission of the allegations by Von Der Gonna, no findings of fact with respect to the *allegations against Von Der Gonna, and no discipline hearing with respect to these allegations against Von Der Gonna.*
6. The ABCFP hereby releases, acquits, and forever discharges Von Der Gonna, and his heirs, executors, administrators, successors, and assigns of and from any and all actions, causes of action, claims and demands, suits, debts, duties, sums of money whatsoever or wheresoever, whether at law or in equity and whether known or unknown, suspected or unsuspected, which ABCFP has or hereafter

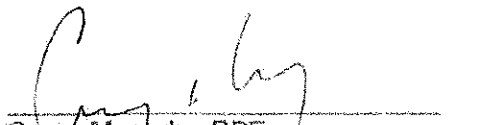
may have by reason of or arising out of or in any way connected with any matters raised, or which are the subject of, or which might have been raised in any process or proceeding arising from the Complaint.


7. Without limiting the generality of the foregoing, the ABCFP agrees not to prosecute, promote, or proceed with any disciplinary proceedings or make any claims for costs against Von Der Gonna with respect to the Complaint or any matters connected or related to the Complaint;
8. The ABCFP and Von Der Gonna each acknowledge that they have read this document and fully understood the terms of this settlement and voluntarily enter into this agreement for the purposes of making a full and final compromise and settlement of all claims and proceedings arising out of or related to the Complaint;
9. The ABCFP and Von Der Gonna understand that they each have the right to seek independent legal advice and have been encouraged to seek same before signing this agreement.
10. This contains the entire agreement between the parties hereto and the terms of this agreement are contractual and not a mere recital.

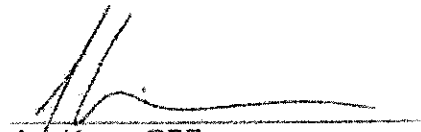
This Consent Order is approved and accepted by Mr. von der Gonna and the members of the Discipline Committee panel on this 21 day of FEB., 2017.

  
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Marc von der Gonna

  
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Bob Craven RPF  
Chair, Discipline Committee

  
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Casey Macaulay RPF  
Registrar and Director of Act Compliance

  
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John Dunford RPF  
Member, Discipline Committee

  
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Joe Kenny RPF  
Member, Discipline Committee

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