

## Decision and Reasons

COMPILED BY BRUCE MATTHEWS, P.ENG.

This matter came on for hearing before a panel of the Discipline Committee on Monday, December 4, 2006 at the Association of Professional Engineers of Ontario (the “association”) in Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. James B. Molnar, P.Eng., was not present and was not represented.

### The allegations

The allegations against James B. Molnar, P.Eng. (“Molnar” or “the member”), in the Notice of Hearing dated September 18, 2006, were as follows:

It is alleged that James B. Molnar, P.Eng., is guilty of professional misconduct, the particulars of which are as follows:

1. On March 8, 2006 at the Ontario Court of Justice in Bradford, Ontario, Molnar pleaded guilty and was convicted of the following offences under the *Criminal Code of Canada*:
  - (a) On or about August 16, 2005 in the town of Innisfil, Molnar intentionally or recklessly caused damage by fire to a house and property of Michael and Sherry Reece located at 1030 Corner Avenue, contrary to section 434 of the *Criminal Code of Canada*;
  - (b) On or about August 26, 2005 in the town of Innisfil, Molnar intentionally or recklessly caused damage by fire to the garage and property of Michael and Sherry Reece located at 1030 Corner Avenue, contrary to section 434 of the *Criminal Code of Canada*;
  - (c) On or about September 1, 2005 in the town of Innisfil, Molnar possessed an incendiary device, namely three homemade wax and sawdust incendiary devices contained in plastic containers, for the purpose of committing the offence of arson, contrary to section 436.1 of the *Criminal Code of Canada*;

In the matter of a discipline hearing under the *Professional Engineers Act* and in the matter of a complaint regarding the conduct of:

**James B. Molnar, P.Eng.**

a member of the Association of Professional Engineers of Ontario.

- (d) On or about September 1, 2005 in the town of Innisfil, Molnar possessed a prohibited weapon, namely a spring-loaded switchblade knife, without being the holder of a licence under which he may possess it, contrary to section 91(2) of the *Criminal Code of Canada*;
  - (e) On or about September 2, 2005 in the city of Toronto and elsewhere, Molnar possessed incendiary material, namely wax, sawdust and lighter fluid, for the purpose of committing the offence of arson, contrary to section 436.1 of the *Criminal Code of Canada*;
  - (f) Between July 1 and September 2, 2005 in the town of Innisfil, Molnar engaged in threatening conduct towards Michael and Sherry Reece, causing them reasonably in the circumstances to fear for their safety, contrary to section 264(2) of the *Criminal Code of Canada*;
  - (g) Between July 1 and September 2, 2005 in the town of Maple, Molnar engaged in threatening conduct towards Angelo Caravaggio, causing him reasonably in the circumstances to fear for his safety, contrary to section 264(2) of the *Criminal Code of Canada*; and
  - (h) Between July 1 and September 2, 2005 in the city of Barrie, Molnar engaged in threatening conduct towards David Waddle and Donna Trakalo, causing them reasonably in the circumstances to fear for their safety, contrary to section 264(2) of the *Criminal Code of Canada*.
2. A synopsis of the facts relevant to these charges, agreed between the Crown counsel and Molnar (through his legal counsel), revealed that Molnar planned and executed a campaign of harassment and arson against the individuals and their property named above, plus others named on a “hit list” found in Molnar’s home.
  3. By reason of the facts aforesaid, it is alleged that James B. Molnar, P.Eng., has been convicted of eight criminal offences, which are relevant to his suitability to practise professional engineering.
  4. By reason of the facts aforesaid, it is alleged that James B. Molnar, P.Eng., is guilty of professional misconduct as defined in section 28(2)(a) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P.28.
  5. “Professional misconduct” is defined in section 28(2)(a) as: “the member or holder has been found guilty of an offence relevant to suitability to practise, upon proof of such conviction.”
- Counsel for the association, Neil Perrier (“Perrier”), advised that as the

member was not present, the association wished to file the Affidavit of Service. Perrier then filed the Affidavit of Service (Exhibit 2) of Wayne Byron, dated September 25, 2006, stating that on September 22, 2006 at 1:55 p.m., he served the member with the Notice of Hearing and the disclosure of this matter by leaving a copy with him at Millhaven Institution in Bath, Ontario.

### Plea by member

The member was not present or represented by counsel. The panel Chair entered a plea of not guilty on behalf of the member.

### The evidence

Perrier called one witness, Bruce Matthews, P.Eng. (“Matthews”), manager, complaints and discipline, on behalf of the association.

Matthews told the panel that the association became aware of the matter through a media release issued by the South Simcoe Police Service, which related to the arrest of the member on suspicion of being involved in arson and with respect to possession of an incendiary device. Matthews said that on March 8, 2006, he attended the court appearance of the member in Bradford, where the member pleaded guilty to a total of eight different criminal charges.

Perrier then filed a Certificate of Conviction (Exhibit 3).

Matthews told the panel that the member had been sentenced to a total of seven years and three months and ordered to pay restitution of \$108,472. He said he had obtained a certified copy of the 40-page Ontario Court of Justice transcript of the member’s criminal proceedings, held before the Honourable Justice G.E. Krelove on March 8, 2006 in Bradford, Ontario. Perrier entered the transcript into evidence as Exhibit 4.

Prior to making his comments on the transcript, Perrier asked Matthews some further questions.

Matthews said Molnar was a member of the association, having obtained his

licence on April 3, 1997. He told the panel that the association had received a letter of resignation from the member on August 30, 2006, which was after the date the Complaints Committee had decided to refer the matter to Discipline.

In answer to questions from the panel, Matthews said that the member did not have a Certificate of Authorization, was a civil engineer and at the time worked in a quasi engineering capacity for the Department of National Defence. Matthews explained that the only information the association had on record related to the member’s original application for licensure, which was received by the association on February 12, 1996. At that time, the information included on the member’s background indicated that he was a graduate in civil engineering from the Royal Military College in Kingston and was employed with the Department of National Defence.

Perrier, in reviewing the pertinent points in the transcript of the Ontario Court of Justice dated March 8, 2006 (Exhibit 4), referred the panel to page 7, where the member had pleaded guilty with respect to counts 1, 2, 3, 4, 5, 6, 7, 11 and 13. He noted that from page 8 to page 30 of the transcript there is a review of each act the member engaged in, which resulted in a guilty plea.

Perrier pointed out that in the transcript the member takes a different position than what the evidence would suggest, but the Crown very fairly pointed that out.

Perrier told the panel that unless there is annotation by the Crown that the member takes a different position, the panel can accept that those are the facts upon which the guilty plea was accepted and the conviction was entered.

The panel inquired if the member was a sick man. Perrier pointed out that the Ontario Court of Justice, on page 3 of the transcript, had raised this matter and received the reply that the member had been fit to stand trial. J. Charles Syme, legal counsel for the member at the trial,

said the member was in a position to accept criminal responsibility for his actions.

Perrier told the panel that it would have been open to the association to refer an allegation that the member was incompetent by virtue of a mental disorder. However, the Ontario Court of Justice evidence supports the fact that the member knew what he was doing. What the panel needed to decide, based on what the member has done and accepting that he understood the consequences of his actions, was whether those actions constitute professional misconduct.

Perrier pointed out that the onus is on the association to prove that Molnar has been convicted of an offence. He also added that the facts that were accepted by both parties at the criminal proceedings may have some relevance with respect to whether the offence the member has been convicted of is relevant to his suitability to practise. Perrier suggested that in any case where an arson has been deliberately committed by a member, that in itself is enough proof to meet the test of relevance to suitability to practise.

The panel’s independent legal counsel, Christopher Wirth (“Wirth”), advised that the evidence before the panel, along with the certified copy of the Certificate of Conviction (Exhibit 3) of the member, and the certified copy of the transcript of the proceedings before the Ontario Court of Justice under the *Canada Evidence Act* may be relied upon by the panel.

Perrier was in agreement with the advice to the panel given by Wirth.

### Decision

**Upon reviewing the alleged facts as set out in the Notice of Hearing paragraphs 1, 2 and 3, and the Certificate of Conviction (Exhibit 3), together with the pertinent facts from the Ontario Court of Justice transcript set out by Perrier, the panel accepts that the allegations contained in the Notice of Hearing have been proven and finds the member guilty of professional misconduct as defined in section 28(2)(a) of the *Professional Engineers Act*.**

# Discipline Hearing Schedule

This schedule is subject to change without public notice. For further information contact PEO at 416-840-1072; toll free 800-339-3716, extension 1072.

Any person wishing to attend a hearing should contact the complaints and discipline coordinator at extension 1072.

All hearings commence at 9:30 a.m.

NOTE: These are allegations only. It is PEO's burden to prove these allegations during the discipline hearing. No adverse inference regarding the status, qualifications or character of the licence or Certificate of Authorization holder should be made based on the allegations listed herein.

## September 24-28, 2007

**William L. Haas, P.Eng., and William Haas Consultants Inc. (WHCI)**

It is alleged that Haas is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Haas and WHCI are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*. The sections of Regulation 941 made under the Act relevant to the alleged professional misconduct are:

- (a) *Section 72(2)(a)*: negligence;
- (b) *Section 72(2)(b)*: failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;
- (d) *Section 72(2)(e)*: signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner;
- (e) *Section 72(2)(g)*: breach of the Act or regulations, other than an action that is solely a breach of the code of ethics;
- (f) *Section 72(2)(h)*: undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience; and
- (g) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional.

## Reasons for the penalty decision

The panel felt that the nature of the criminal acts for which the member was convicted as set out in the Notice of Hearing paragraphs 1 to 3 justified revocation of his licence to practise.

In reaching its decision, the panel considered the advice from Wirth, who asked the panel to bear in mind that the penalty decision is not to punish the member and exact retribution but rather to protect the public, to maintain high professional standards, and to preserve public confidence in the profession.

In reaching the penalty decision, the panel had before them the Certificate of Conviction listing the criminal charges laid against the member and a letter from the member to Perrier, dated November 6, 2006, in which he had agreed to the revocation of his licence, stated that he had no funds to pay the penalty and that publication with names would add further burden to his liabilities.

The panel felt the licence of the member should be revoked as the evidence presented clearly showed that the criminal charges laid out by the province justified revocation and that the member was in agreement.

The reason for publication is set out in section 28(5) of the *Professional Engineers Act*, which states that publication with names is required in the event of revocation of a member's licence.

Although the member had stressed his lack of funds and the panel felt that recovery of funds would probably never occur, the panel took into account the comments by Perrier, who stated that a message must be made to all current members of the association that it cannot bear all costs for a hearing in every instance and that the association's Council has directed the prosecution to seek costs in cases where there has been a finding made against the member.

The written Decision and Reasons were dated January 29, 2007, and were signed by Nick Monsour, P.Eng., as the Chair of the panel on behalf of the other panel members Kam El Guindi, P.Eng., Daniela Iliescu, P.Eng., Rakesh Shree-wastav, P.Eng., and Derek Wilson, P.Eng.

The panel accepted the facts as set out in the Notice of Hearing paragraphs 1, 2 and 3 on the basis of the evidence in the Certificate of Conviction (Exhibit 3) that stated the criminal charges for which the member had been found guilty by the Ontario Court of Justice, which clearly indicate that the member had contravened section 28(2)(a) of the *Professional Engineers Act*. Section 28(2)(1) defines professional misconduct as: "the member or holder has been found guilty of an offence relevant to suitability to practise, upon proof of such conviction."

## Penalty

Counsel for the association submitted a penalty which provides as follows:

1. The licence of the member be revoked.
2. The member shall forthwith pay costs of the discipline proceedings to the association in the sum of \$2,500.
3. The Decision and Reasons shall be published with names in Gazette with reference to the member.

Perrier advised that the association was satisfied that the penalty submitted by the association was reasonable and that due to the seriousness of the matter the association felt that nothing short of revocation of the licence would be acceptable.

## Penalty decision

**Following deliberation, the panel made the following order:**

1. **The licence of the member be revoked.**
2. **The member shall forthwith pay costs of the discipline proceedings to the association in the sum of \$2,500.**
3. **The Decision and Reasons shall be published with names in Gazette with reference to the member.**

**October 9-12, 2007**

Wojciech S. Remisz, P.Eng., and Remisz Consulting Engineers Ltd. (RCE)

It is alleged that Remisz is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Remisz and RCE are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*. The sections of Regulation 941 made under the Act relevant to the alleged professional misconduct are:

- (a) *Section 72(2)(a)*: negligence;
- (b) *Section 72(2)(b)*: failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;
- (d) *Section 72(2)(g)*: breach of the Act or regulations, other than an action that is solely a breach of the code of ethics;
- (e) *Section 72(2)(h)*: undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience; and
- (f) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional.

**October 22-26, 2007**

Cristian R. Constantinescu, P.Eng., and Remisz Consulting Engineers Ltd. (RCE)

It is alleged that Constantinescu is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Constantinescu and RCE are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*. The sections of Regulation 941 made under the Act relevant to the alleged professional misconduct are:

- (a) *Section 72(2)(a)*: negligence;
- (b) *Section 72(2)(b)*: failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-

laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;

- (d) *Section 72(2)(g)*: breach of the Act or regulations, other than an action that is solely a breach of the code of ethics;
- (e) *Section 72(2)(h)*: undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience; and
- (f) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional.

**November 5-9, 2007**

Daniel T. Orrett, P.Eng.

It is alleged that Orrett is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Orrett is guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*. The sections of Regulation 941 made under the Act relevant to the alleged professional misconduct are:

- (a) *Section 72(2)(a)*: negligence;
- (b) *Section 72(2)(b)*: failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner; and
- (d) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional.

**November 19-23, 2007**

Mladin Pazin, P.Eng., and The Environment Management Group Ltd. (EMG)

It is alleged that Pazin is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Pazin and EMG are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*. The sections of Regulation 941 made under the Act relevant to the alleged professional misconduct are:

- (a) *Section 72(2)(a)*: negligence;
- (b) *Section 72(2)(b)*: failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
- (c) *Section 72(2)(g)*: breach of the Act or regulations, other than an action that is solely a breach of the code of ethics;
- (d) *Section 72(2)(i)*: failure to make prompt, voluntary and complete disclosure of an interest, direct or indirect, that might in any way be, or be construed as, prejudicial to the professional judgment of the practitioner in rendering service to the public, to an employer or to a client;
- (e) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional; and
- (f) *Section 72(2)(m)*: permitting, counselling or assisting a person who is not a practitioner to engage in the practice of professional engineering except as provided for in the Act or the regulations.

**December 10-14, 2007**

Paul S.C. Lim, P.Eng., and P. Lim & Associates Limited (PLAL)

It is alleged that Lim is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Lim and PLAL are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*. The sections of Regulation 941 made under the Act relevant to the alleged professional misconduct are:

- (a) *Section 72(2)(a)*: negligence;
- (b) *Section 72(2)(b)*: failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;
- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;
- (d) *Section 72(2)(e)*: signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner; and
- (e) *Section 72(2)(h)*: undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience.

# Enforcement explained

By STEVEN HADDOCK

This is a new column appearing regularly in Gazette to educate members about some of the issues PEO faces in its attempt to protect the public against unlicensed individuals who engage in the practice of professional engineering, and to enforce the title protection provisions of the *Professional Engineers Act*.

## Q. When can a company use the words “engineer” or “engineering” in its name?

A. Corporations, partnerships and sole proprietorships that hold a Certificate of Authorization (C of A) issued by PEO have an unrestricted right to use these words, as well as their variations and French equivalents, in their names. Merely having a professional engineer in the management of a company does not give the company the right to use these words. In certain circumstances, corporations that do not employ any professional engineers may use the terms. PEO does not challenge every non-conforming use of these words, reserving its challenges for businesses that use the name for publicity purposes and are closely related to the practice of the profession, or that may be offering and providing professional engineering services to the public.

Section 40(3) of the *Professional Engineers Act* (PEA) prohibits the use of any term, title or description that will lead to the belief that an unauthorized person or company is permitted to provide professional engineering services to the public. However, proceedings under this section are generally reserved for those cases where there is evidence that a member of the public has actually been misled by a business name.

PEO uses the provisions of the *Business Corporations Act* (BCA), the *Corporations Act* (OCA) and the *Business Names Act* (BNA) to challenge company name registrations where the name contains a restricted word. All three of these acts require anyone wishing to register with the

Ministry of Government Services (MGS) a name containing any restricted word related to engineering to obtain the consent of PEO before registration. It should be noted that the BCA and BNA contain an exception for business names that do not suggest the practice of the profession.

PEO will consent to the use of these words in a for-profit business name when the applicant applies in writing to PEO for consent and undertakes to obtain and maintain in force a C of A, identifies the professional engineer who will be the responsible engineer on the C of A, confirms that the business will engage in the business of offering or providing to the public services that are within the practice of professional engineering, and provides the proposed business name to ensure it is not objectionable on other grounds. However, if a business obtains its C of A

after registering a name for which it did not receive prior consent from PEO, the name will not be challenged simply on the basis of non-compliance with the consent requirement. Consents for non-profit organizations are dealt with on a case-by-case basis.

PEO constantly reviews new and existing business names for compliance with the consent requirements. These names are obtained from various sources. When a non-compliant name is found, the registrant is contacted and informed of the prohibitions in the PEA and the relevant business name regulations. If PEO determines that the registration poses little or no risk of confusion, it will usually issue a warning that legal proceedings will be brought in the future if evidence comes to PEO's attention that anyone has been misled by the use of the name. In about 20 cases a year, the registrant voluntarily agrees to change the business name. In a few others, the registrant obtains a C of A.

In about 10 cases a year, where the continued use of the name poses a high risk of confusion, PEO files a challenge against the name with MGS. In recent years, MGS has cancelled the name registration of every corporation and business PEO has challenged.

Steven Haddock is PEO's enforcement representative. If you have questions or concerns about a possible enforcement matter, contact PEO's Enforcement Hotline, 416-224-9528 or 800-339-3716, ext. 1444.

### May/June 2007 enforcement statistics

Total inquiries	283
Major enforcement files opened	4 (8 respondents)
Job advertisers contacted	13
Existing business names reviewed	52
New corporate names reviewed	12
Enforcement matters reported	12
From staff	2
From professional engineers	5
From others	5
Daily Commercial News inquiries	2
Out of province engineers contacted	
Non-responsive (all provinces)	4
Quebec	57
Self-employed engineers contacted	9
Yellow Pages advertisers contacted	117
Other	1

# Regulation 941/90 amended effective May 1, 2007

At its meeting on January 19, 2007, PEO Council approved amendments to Regulation 941/90 made under the *Professional Engineers Act*. Following approval by Cabinet, the Regulation amendments were filed with the Registrar of Regulations as O.Reg. 157/07 on April 20, 2007, and came into force on May 1, 2007.

The amended sections are shown below. To access the complete Regulation 941/90, please visit [www.e-laws.gov.on.ca/DBLaws/Regs/English/900941\\_e.htm](http://www.e-laws.gov.on.ca/DBLaws/Regs/English/900941_e.htm).

## Section 7

7. Revoked: O. Reg. 157/07, s. 1.

## Section 11

11. The Council shall determine in each year whether the voting for the election of members to the Council for that year shall be by ballot cast by mail, by electronic means or by either mail or electronic means. O. Reg. 157/07, s. 2.

11.1 The Council shall appoint in each year a Chief Elections Officer, who shall for that year,

- oversee the nomination of Members for election to the Council and the election of and voting for members to the Council; and
- ensure that nomination, election and voting are conducted in accordance with the procedures established under the Act. O. Reg. 157/07, s. 2.

## Section 12

12.(1) The Council shall appoint a Central Election and Search Committee each year composed of,

- the penultimate past-president;
- the immediate past-president;
- the president; and
- two other Members. R.R.O.

1990, Reg. 941, s. 12(1);  
O. Reg. 157/07, s. 3(1).

- The penultimate past-president shall act as chair, unless he or she is unable or unwilling to act, in which event another member of the Central Election and Search Committee designated by the Council shall act as chair. R.R.O. 1990, Reg. 941, s. 12(2); O. Reg. 157/07, s. 3(2).
- The Central Election and Search Committee shall,
  - encourage Members to seek nomination for election to the Council as president-elect, vice-president or a councillor-at-large;
  - assist the Chief Elections Officer as may be required by him or her; and
  - receive and respond to complaints regarding the procedures for nominating, electing and voting for members to the Council in accordance with this Regulation. O. Reg. 157/07, s. 3(3).

(4) Meetings of the Central Election and Search Committee shall be convened by the chair from time to time or as directed by Council. O. Reg. 157/07, s. 3(3).

## Section 13

13.(1) The Council shall in each year appoint a Regional Election and Search Committee for each Region composed of the chair of each Chapter in the region. R.R.O. 1990, Reg. 941, s. 13(1); O. Reg. 157/07, s. 4(1).

(2) The Junior Regional Councillor in each Region shall act as chair of the Regional Election and Search Committee for that

Region and shall not be entitled to vote. R.R.O. 1990, Reg. 941, s. 13(2); O. Reg. 157/07, s. 4(1).

- If the Junior Regional Councillor is unable to act, the Regional Election and Search Committee shall select a chair from among its members and the chair shall only be entitled to vote to break a tie. R.R.O. 1990, Reg. 941, s. 13(3); O. Reg. 157/07, s. 4(1).
- The Regional Election and Search Committee for a Region shall encourage Members residing in the Region to seek nomination for election to the Council as a regional councillor. O. Reg. 157/07, s. 4(2).
- Meetings of a Regional Election and Search Committee shall be convened by the chair from time to time or as directed by Council. O. Reg. 157/07, s. 4(2).
- A Chapter chair who is unable to attend a meeting of the Regional Election and Search Committee may appoint a delegate, who must be a member of the Chapter executive, to attend the meeting and act in his or her place, and the delegate must deliver the written authorization of the Chapter chair to the chair of the meeting. R.R.O. 1990, Reg. 941, s. 13(5); O. Reg. 157/07, s. 4(3).
- A majority of Regional Election and Search Committee members constitutes a quorum at any meeting of the committee. R.R.O. 1990, Reg. 941, s. 13(6); O. Reg. 157/07, s. 4(3).
- , (8) Revoked: O. Reg. 157/07, s. 4(4).

## Section 14

- 14.(1) A Member may be nominated for election to the Council as president-elect, vice-president or a councillor-at-large by no fewer than fifteen other Members, including Member residents from each Region. O. Reg. 157/07, s. 5.
- (2) A Member may be nominated for election to the Council as a regional councillor for a Region by no fewer than fifteen other Members who reside in the Region. O. Reg. 157/07, s. 5.
- (3) A nomination under subsection (1) or (2) is not valid unless it is,
- signed by all the nominators;
  - forwarded to the Registrar together with the written consent of the Member nominated; and
  - received by the Registrar no later than the date and time set by the Council for the receipt of nominations in respect of the election. O. Reg. 157/07, s. 5.

## Section 15.1

- 15.(1) Where no Member is nominated for election as president-elect, vice-president or councillor-at-large or for election as a regional councillor in any Region, the office of president-elect, vice-president, councillor-at-large or regional councillor, as the case may be, shall be filled by a Member appointed by a majority of the Council. O. Reg. 157/07, s. 6.
- (2) A Member is not eligible to be appointed under subsection (1) to the office of regional councillor for a Region unless he or she resides in the Region at the time of the appointment. O. Reg. 157/07, s. 6.
- (3) Despite section 6, a Member appointed to an office under

subsection (1) shall be deemed to have been nominated for and elected to the office in accordance with this Regulation. O. Reg. 157/07, s. 6.

## Sections 17, 18, 19

- 17.(1) The Registrar, or in his or her absence the general secretary, shall prepare ballots for an election to Council setting out the names of the candidates for each office. O. Reg. 157/07, s. 7.
- (2) Subsection (1) does not apply in the case of an office to which a Member is appointed by a majority of the Council or elected by acclamation. O. Reg. 157/07.
18. The Registrar, or in his or her absence the general secretary, shall send to each Member entitled to vote in respect of an election a ballot and a list of Members, if any, appointed to office by a majority of the Council or elected to office by acclamation. O. Reg. 157/07, s. 7.
- 19.(1) A Member who receives a ballot for an election to Council may cast his or her vote by returning, in the manner determined by the Council under section 11, a completed ballot to the Registrar, the general secretary, the Chief Elections Officer or an agent designated by the Council for the purpose no later than the date and time set by the Council. O. Reg. 157/07, s. 7.
- (2) The date referred to in subsection (1) shall not be less than twenty-eight days following the date on which the ballots are sent to the Members. O. Reg. 157/07, s. 7.

## Section 20

20. On or before the date set by the Council for the receipt of ballots, the president shall appoint three returning officers who may, but need not be, Members.

R.R.O. 1990, Reg. 941, s. 20; O. Reg. 157/07, s. 8.

## Section 21

21. The returning officers shall,
- observe the processing of ballots to ensure that only duly marked ballots returned before the date and time set by the Council under subsection 19(1) are counted;
  - review rejected ballots;
  - re-process rejected ballots found to be valid;
  - approve the final count of ballots;
  - make such other investigation and inquiry as they consider necessary or desirable for the purpose of supervising the counting of the vote; and
  - report the results of the vote to the Registrar not later than three weeks following the date set by the Council for the receipt of ballots. R.R.O. 1990, Reg. 941, s. 21; O. Reg. 13/03, s. 8; O. Reg. 157/07, s. 9.

## Section 23

- 23.(1) The Registrar shall give written notice of the election results, including appointment of a majority of the Council or election by acclamation,
- to all members of the Council; and
  - to all persons nominated for the election,
- and shall forward the results, including the number of votes cast for each candidate, to all Members prior to the date of the annual meeting of the Members next following the date of the election or the results shall be announced at the annual meeting and forwarded to all Members as soon as practicable thereafter. R.R.O. 1990, Reg. 941, s. 23(1); O. Reg. 13/03, s. 9; O. Reg. 157/07, s. 10.

- (2) The Council may direct the destruction of ballots at any time after receipt by the Council of the notice mentioned in clause (1)(a). R.R.O. 1990, Reg. 941, s. 23(2).

### Section 24

- 24.(1) The Council may close the register of Members for a period of time not exceeding twenty-one days, exclusive of Sundays and holidays, immediately preceding,
- (a) a meeting of Members; or
  - (b) the date upon which ballots for an election are sent to Members. R.R.O. 1990, Reg. 941, s. 24(1); O. Reg. 157/07, s. 11(1, 2).
- (2) Prior notice of each closing of the register of Members shall

be given to all Members. R.R.O. 1990, Reg. 941, s. 24(2).

- (3) During the period of time in which the register is closed, there shall not be recorded,
- (a) any new Member; or
  - (b) any change in a Member's contact information, including his or her mailing address, email address or fax number. O. Reg. 157/07, s. 11(3).

### Section 25

25. For the purposes of eligibility for nomination, election and voting, a Member shall be deemed to reside at the address of the Member recorded in the register of Members on the day immediately preceding the date

on which ballots in respect of the election are sent to Members. R.R.O. 1990, Reg. 941, s. 25; O. Reg. 157/07, s. 12.

### Section 79

79. In the event of an interruption in postal service or electronic communication, the Council may take such steps as it considers appropriate including, without limitation,
- (a) the extension, for such periods as it considers reasonable in the circumstances, of any time periods set forth in this Regulation; and
  - (b) the use of such alternate means of communication as it considers appropriate in the circumstances. R.R.O. 1990, Reg. 941, s. 79; O. Reg. 157/07, s. 13.

## Gazette editorial objectives and policy

Gazette was first published in March/April 1982 as a means of highlighting the activities of the then Department of Legal and Professional Affairs. While that first issue included a brief note from the director of legal and professional affairs outlining the purpose and possible content for Gazette, there had never been a formal editorial policy or set of objectives for the publication.

In April 2004, the CEO/Registrar approved the following as the Gazette editorial objectives and policy:

- Gazette is a regular feature of *Engineering Dimensions*, which is the official journal of Professional Engineers Ontario (PEO). The manager, complaints and discipline, at PEO serves as the editor of Gazette.
- Gazette is intended to highlight the activities of the Regulatory Compliance department in its administration of the relevant portions of the *Professional Engineers Act*, including complaints and discipline processes, enforcement

against unlicensed practitioners, and Registration Committee processes.

- Pursuant to sections 28(4)(i), 28(5) and 28(6) of the Act, Gazette is the vehicle for the publication of findings and orders of the Discipline Committee, in detail or summary form, and with or without reference to names as ordered by the Discipline Committee. If the Discipline Committee does not specify summary or detail form in an order, the form of publication is at the discretion of the editor.
- Each issue of Gazette will include a schedule of Discipline Committee hearings, indicating the name of the licence holder and/or Certificate of Authorization holder facing disciplinary action and a summary of the allegations against them. At such time when Registration Committee hearings become open to the public, each issue of Gazette will also include a schedule of such hearings, including the name of the applicant and a summary of the cir-

cumstances resulting in the need for a hearing.

- Gazette will report the results, in summary form, of any hearings of the Registration Committee that were open to the public.
- Gazette will also include summaries of enforcement activities including the reporting of the results of any charges laid against individuals or corporations pursuant to sections 39, 40 and 41 of the Act.
- Gazette may report the results of any examination of PEO's procedures for the treatment of complaints that has been carried out by the Complaints Review Councillor pursuant to section 26(1) of the Act.
- Gazette may also include articles and information relating to regulatory matters that are considered relevant to professional engineers and the practice of professional engineering, including information and issues relating to compliance with demand-side legislation (e.g. *Ontario Building Code*, *Occupational Health and Safety Act*).