

Gazette

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1999 Complaints, Discipline and Enforcement Accountability Report

by Eric Newton, Manager, Legal Affairs

The following report on PEO's 1999 activities related to complaints, discipline and enforcement was presented for Council's information at its February meeting.

ENFORCEMENT ACTIVITIES

Below are details on 1999 enforcement cases and programs.

Microsoft

PEO has corresponded with Microsoft over its use of the term "Engineer" in its certification program "Microsoft Certified Systems Engineer" and "Microsoft Certified Professional Systems Engineer." The association has not been successful in persuading Microsoft to change its designations to remove reference to the term "Engineer."

PEO staff have recently met with and retained legal counsel in order to discuss future strategies to be used against Microsoft and other entities that may be offering similar courses.

Mohammed A. Hafeez

In February 1999, Mohammed A. Hafeez was arrested for contempt of a previous Order obtained by the association, pursuant to Section 39 of the Professional Engineers Act that Hafeez not describe himself or his company as being "engineers." He was incarcerated for two days and, at a subsequent hearing, was ordered to pay \$3,500 costs to PEO, as well as restitution to a former client in the sum of \$8,000.

Hafeez completed payment of the above amounts by June 1999.

Gary Rodman

After a two day trial in London, Ontario, Gary Rodman was found guilty of two offences under the Professional Engineers Act that he misled a member of the public into believing that he was licensed as a professional engineer. After hearing submissions from legal counsel and the defendant, with respect to sentencing, the Justice of the Peace fined Rodman \$1,000 on each count. Rodman has since appealed the matter. It is anticipated that the appeal will be heard during 2000.

Internet investigations

This new activity includes searches on the Internet for engineering companies advertising in Ontario. It resulted in 84,179 hits, which included names of companies, organizations, general engineering information, committees, universities, individuals, employment and career opportunities, etc.

The names of companies advertising "engineering services" were checked against PEO records to determine if they were Certificate of Authorization (C of A) holders, with specific attention focused on any company with the term "Engineering" in its name. Most companies listed were licensed to practise in Ontario. With respect to those companies not holding a current C of A, it turned out that many companies were not based in Canada, did not list any offices in

Ontario, or that the services offered did not clearly fall within the definition of the practice of professional engineering.

PEO recently wrote to four companies that have the term "Engineering" in their names and advertise engineering services, requiring that they either obtain a Certificate of Authorization or take steps to have the term "Engineering" removed from their names, revise their websites and provide evidence that this has been done. These files are pending, and are in the final stages of resolution.

Inquiries

A total of 302 inquiries were received from members and the public concerning the use of "Engineering titles," by way of letter, telephone and emails to PEO's website. In addition, 107 general inquiries were received from members and the public concerning enforcement matters, such as: diploma courses for "Computer System Engineer" or "Microsoft Certified Systems Engineer"; the use of P.Eng. designation outside Ontario; use of other designations such as "C.Eng." in Ontario; the titles "Shift Engineer," "Operating Engineer" and "Stationary Engineer" under the Operating Engineers Act; and, consent to use the term "Engineering" in company names.

Yellow Pages

A total of 4294 listings were checked against our C of A register, with the result that 218 companies were identified as not being holders of a current C of A. Their names were provided to the Tele-Direct publisher, who advises the companies that they cannot be listed under the "engineering categories" in future directories.

There were 70 repeat offenders, whose listings appeared in the 1998 directory. All files were resolved, with nine companies obtaining a C of A.

Classified advertisers
Beginning in early 1999, PEO

began a new initiative in which 89 letters were sent to municipalities, regional authorities, companies, provincial ministries and a university, with respect to their specifying in their classified advertisements that licensure with PEO was a requirement for the engineering positions. These letters thanked the organization for supporting PEO's efforts to protect the integrity of the title "engineer."

PEO wrote to 205 companies that placed classified advertisements in Toronto dailies, in which advertisements included titles such as "Systems Engineer," "Electrical Engineer" and "Software Engineer," but did not list the requirement that the position be filled by a professional engineer.

Members of other engineering associations

PEO continued to participate in a program sponsored by the

Canadian Council of Professional Engineers, in which other member associations provide PEO with a list of their current members who show an Ontario residential address. PEO then contacts non-PEO members to clarify whether they are practising professional engineering or offering engineering services in Ontario and, if so, provides information with respect to requirements to be licensed in Ontario and also to hold a C of A.

COMPLAINTS ACTIVITIES

The Complaints Committee's 1999 activities are summarized in Table 1. Highlights included:

- ◆ Resulting from a Motion of Council, the Complaints Committee completed its review of two complaints referred to the Discipline Committee, and provided

its report to Council at the January Council meeting.

- ◆ Complaints Committee members attended a special Council workshop in November at which the recommendations of the Task Force on Admissions, Complaints, Discipline and Enforcement (ACDE) were discussed and voted on by straw vote to achieve consensus. In December, Council approved 66 of the task force's recommendations for implementation.
- ◆ The Complaints Committee, consistent with an ACDE recommendation, commenced review of ongoing investigation files.
- ◆ Complaints Committee members attended a legal training seminar.

The Complaints Committee conducted four interviews of members about whom the association had received complaints.

Table 1. 1996-99 Complaints Activities

Year of activity	1996	1997	1998	1999
Investigation inquiries	97	99	117	208
Investigation files	57	99	59	89 ¹
Investigation files reviewed by the Complaints Committee	0	0	0	22 ²
Formal complaints to the Complaints Committee	35	30	36	24 ³
Complaints referred to discipline	9	3	6	9 ⁴
Complaints referred to discipline by way of Stipulated Order	2	8	6	4
Complaints to the Complaints Review Councillor	4	2	4	6 ⁵

Notes

¹ More than one member and/or C of A firm complained against, which resulted in file splitting.

² New activity stemming from the ACDE Task Force report.

³ Numbers include files referred to the Complaints Committee by Council.

⁴ Numbers include files referred to the Complaints Committee by Council.

⁵ Numbers include one file carried over from 1998 activities.

One interview resulted from two complaints considered by the Complaints Committee in 1998. As a result of these interviews, letters of advice from the Complaints Committee were sent to the members.

The Complaints Committee sent out four additional letters of advice to members about whom the association had received complaints, in cases where the matter was not referred to the Discipline Committee, but the Complaints Committee had some concerns with the actions and conduct of the members involved.

In 1999, there were five new requests that PEO's Complaints Review Councillor (CRC) review the processing of complaints, and one carry-over request from 1998. In three cases, the CRC advised that, procedurally, the complaints were dealt with properly, in accordance with the Professional Engineers Act. In one case, the CRC advised that the CRC had no jurisdiction to review the matter, as it had been referred to the Discipline Committee. There are two reports still to be received.

DISCIPLINE ACTIVITIES

The Discipline Committee's 1999 activities are summarized in Table 2. Highlights included:

- ◆ Two meetings of the whole Discipline Committee, chaired by Peter DeVita, P.Eng., President-elect, were held to review the current structure, role and responsibilities.
- ◆ Discipline Committee members attended a legal training seminar.
- ◆ Some Discipline Committee members attended the November Council workshop dealing with recommendations of the ACDE Task Force.

The three discipline hearings related to the following matters: the plagiarizing of an engineering report and the subsequent submission of the report with-

out any reference or credit to the originating author; the appropriateness of advertisements for engineering services; and breaches of trust, in which a PEO member received monies, but failed to complete his contractual obligations. The latter resulted from a Stipulated Order, which was not accepted by the member against whom the complaint was made.

The three Stipulated Orders related to the following: the unauthorized removal of proprietary and confidential engineering documents and elec-

tronic files by a member; an engineering design that contained errors, deficiencies and omissions; and breaches of trust, in which a PEO member received monies but failed to complete his contractual obligations.

Two Registration Committee hearings were held, resulting in the Registration Committee confirming the Registrar's decision to refuse to issue a Certificate of Authorization.

One Reinstatement Hearing was held, in which a former member requested that his

licence be reinstated, notwithstanding his noncompliance with the penalties from a previous discipline hearing. The discipline panel reaffirmed the penalties imposed at the earlier discipline hearing, and the former member's licence was not reinstated at this time. As part of the penalties, the former member attended and passed the Professional Practice Examination. The former member is also required to submit a payment plan, acceptable to the Registrar, for payment of the imposed costs.

Table 2. 1996-99 Discipline Activities

Year of activity	1996	1997	1998	1999
Hearings	7	5	5	6 ¹
Stipulated Orders	0	1	4	3
Total hearing/Stipulated Order days	24	11	11	14
Hearings appealed	2	2	4	2
Number of members/C of A firms involved	7	5	3	8

Note: ¹ Numbers include two Registration Hearings and one Reinstatement Hearing.

Microsoft certification programs

The association has become aware of Microsoft and its proliferation of the terms "Microsoft Systems Engineer" and "Microsoft Certified Systems Professional Engineer."

The association's concerns are two-fold:

- ◆ by certifying "Systems Engineers" and "Systems Professional Engineers," Microsoft could be seen to be usurping the association's licensing role; and
- ◆ the use of the terms "Certified Systems Engineer" and "Certified Systems Professional Engineer" by

anyone who is not licensed as a professional engineer may be misleading and possibly violate the enforcement sections of the Professional Engineers Act.

The association has, along with other engineering licensing bodies in Canada, written to Microsoft, outlining our concerns with the above titles.

To date, we have not resolved this matter. As part of the association's statutory mandate to protect the public interest, we would ask any member who considers that

they were or could have been misled by the use of either of the above titles by a non-licensed person, or who is aware of any other person who was or may have been misled, to contact us in order that we may investigate the matter further.

Contact: Eric Newton
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PEO

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Toronto, ON M2N 6S9
Tel: (416) 224-1100 or (800) 339-3716
Fax: (416) 224-8168 or (800) 268-0496

Council approves designation and redesignation of Consulting Engineers

At the 390th meeting of Council held February 17-18, 2000, the following members were designated or redesignated as consulting engineers pursuant to Ontario Regulation 941 of the Professional Engineers Act. Also listed are firms to which Council has granted permission to use the title "Consulting Engineers."

Designation of a consulting engineer is for a period of five years; at the end of that time, the member must be redesignated. Anyone wishing information on the consulting engineers program may contact Angela Gallant, Department of Professional Affairs, at (416) 224-1100 or (800) 339-3716.

Newly Designated Consulting Engineers

David Bonsall, P.Eng.
MTE Consultants Inc.
Kitchener, ON

Stephen Ball, P.Eng.
Cushman-Ball Environmental Ltd.
Tecumseh, ON

Gregory Cook, P.Eng.
Cosburn Patterson Mather Limited
Markham, ON

David Cushman, P.Eng.
Cushman-Ball Environmental Ltd.
Tecumseh, ON

Richard Evans, P.Eng.
Roscoe Postle Associates Inc.
Toronto, ON

Kam Elguindi, P.Eng.
Imasar Engineering Inc.
Concord, ON

Christopher Giffin, P.Eng.
Walters Forensic Engineering
Toronto, ON

Redesignated Consulting Engineers

Kenneth Addeman, P.Eng.

George Aldworth, P.Eng.

Vincent Aleo, P.Eng.

Grant Bacchus, P.Eng.

Orazio Baggio, P.Eng.

David Bannister, P.Eng.

Douglas Barker, P.Eng.

Gary Benner, P.Eng.

Aldo Boscaroli, P.Eng.

Robert Brown, P.Eng.

Gordon Brumwell, P.Eng.

Miles Buckrell, P.Eng.

Ronald Butler, P.Eng.

George Carscadden, P.Eng.

James Chambers, P.Eng.

Peter Chan, P.Eng.

Robert Clipsham, P.Eng.

Thomas Coates, P.Eng.

John Conlin, P.Eng.

Surendra Dattani, P.Eng.

Ralph Davidson, P.Eng.

Peter Davies, P.Eng.

Andre Desjardins, P.Eng.

John De La Vergne, P.Eng.

Pran Nath Dev, P.Eng.

Branko Dzeletovic, P.Eng.

Kevin Feeney, P.Eng.

Geoffrey Francis, P.Eng.

Larry Galajda, P.Eng.

Gerald Garshon, P.Eng.

Domenico Giusti, P.Eng.

Carl Glos, P.Eng.

Helmut Graumann, P.Eng.

Clifford Greenan, P.Eng.

Keld Greflund, P.Eng.

Peter Hanley, P.Eng.

Glenn Hawley, P.Eng.

Barrie Hall, P.Eng.

Kenneth Hatch, P.Eng.

Kenneth Hodges, P.Eng.

George Horning, P.Eng.

Robert Hurter, P.Eng.

Alfons Kalns, P.Eng.

Andrew Kaminker, P.Eng.

David Kaminker, P.Eng.

Heinz Keller, P.Eng.

Colin Kent, P.Eng.

Antanas Ketvirtis, P.Eng.

Henry Krzywicki, P.Eng.

Sinclair Laforet, P.Eng.

Keith Lathem, P.Eng.

Jacques Lecompte, P.Eng.

Nathan Leipziger, P.Eng.

Donald Lishman, P.Eng.

Ahmed Maarek, P.Eng.

James Malpass, P.Eng.

Ralph Manning, P.Eng.

Ewen Marserrison, P.Eng.

Jamil Mardukhi, P.Eng.

Michael Marshman, P.Eng.

Gordon Maunder, P.Eng.

David McGeorge, P.Eng.

Reginald Meadley, P.Eng.

Jayantilal Mehta, P.Eng.

Joseph Merber, P.Eng.

Gerald Mitchell, P.Eng.

James Morris, P.Eng.

Rene Morin, P.Eng.

James Nisbet, P.Eng.

George Nishkawa, P.Eng.

John Nixon, P.Eng.

Ronald Nolan, P.Eng.

Julian Olsen, P.Eng.

Manubhai Patel, P.Eng.

Nilkanthkumar Patel, P.Eng.

H. Richard Patterson, P.Eng.

John Payne, P.Eng.

Earl Pearce, P.Eng.

Nick Peralta, P.Eng.

Robert Pow, P.Eng.

Gangavarapu Prasad, P.Eng.

Mohammed Qureshi, P.Eng.

Eli Robinsky, P.Eng.

Andrew Robinson, P.Eng.

Steven Roessler, P.Eng.

Richard Rush, P.Eng.

Daniel Schebesch, P.Eng.

Ronald Shugg, P.Eng.

Robert Shute, P.Eng.

Paul Siemens, P.Eng.

Elias Smith, P.Eng.

James Smylie, P.Eng.

Russell Sneddon, P.Eng.

Christopher Solecki, P.Eng.

Sigmund Soudack, P.Eng.

Enio Sullo, P.Eng.

Bela Szabo, P.Eng.

Robert J. Thorburn, P.Eng.

Adrian VanShouwen, P.Eng.

Granville Vickerman, P.Eng.

Bruce Walker, P.Eng.

Alan Wallis, P.Eng.

Herman Walter, P.Eng.

Bert Wasmund, P.Eng.

Gerald Webb, P.Eng.

Robert Webb, P.Eng.

Harold Webster, P.Eng.

Charles Welsh, P.Eng.

Barry West, P.Eng.

J. Bryon Wiebe, P.Eng.

Andrew Williams, P.Eng.

Alan Zeegan, P.Eng.

Consultants granted permission to use the title "Consulting Engineers"

B.R.I.C. Enterprises Inc.
Bowmanville, ON

Joma Engineering Inc.
Pickering, ON

HMO Limited
Newmarket, ON

Sandwell Consulting Engineers Ltd.
Burlington, ON