

Decision and Reasons

COMPILED BY BRUCE MATTHEWS, P.ENG.

This matter came on for hearing, with consent of the parties, before a three-person panel of the Discipline Committee on November 19, 2007 at the Association of Professional Engineers of Ontario (the association) in Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. Mladen Pazin, P.Eng., and The Environment Management Group Ltd. were represented by Gary W. Gibbs of Gibbs & Associates. Christopher Wirth of Stockwoods LLP served as independent legal counsel to the discipline panel.

The allegations

The allegations, as stated in the Notice of Hearing dated February 22, 2007, are summarized as follows:

1. It is alleged that Mladen Pazin, P.Eng., (the member) is guilty of incompetence as defined in section 28(3), and that the member and The Environment Management Group Ltd. (the holder) are guilty of professional misconduct as defined in section 28(2) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P28.
2. "Incompetence" is defined in section 28(3)(a) as:
"The member or holder has displayed in his or her professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public of a nature or to an extent that demonstrates the member or holder is unfit to carry out the responsibilities of a professional engineer."
3. "Professional misconduct" is defined in section 28(2)(b) as:
"The member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations."

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

Mladen Pazin, P.Eng.

a member of the Association of Professional Engineers of Ontario, and

The Environment Management Group Ltd.

a holder of a Certificate of Authorization.

4. The sections of Regulation 941/90 made under the said Act and relevant to this misconduct are:
 - (a) *Section 72(2)(a)*: negligence as defined at section 72(1): In this section "negligence" means an act or an omission in the carrying out of the work of a practitioner that constitutes a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances;
 - (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, and in particular, without limiting the generality of the foregoing, carrying out any of the following acts without making such a prior disclosure:
 1. Accepting compensation in any form for a particular service from more than one party.
 2. Submitting a tender or acting as a contractor in respect of work upon which the practitioner may be performing as a professional engineer.
 3. Participating in the supply of material or equipment to be used by the employer or client of the practitioner.
 4. Contracting in the practitioner's own right to perform professional engineering services for other than the practitioner's employer.
 5. Expressing opinions or making statements concerning matters within the practice of professional engineering of public interest where the opinions or statements are inspired or paid for by other interests;
 - (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 regulations.

Counsel for the association advised that it was withdrawing the allegation of incompetence against the member, and would not be calling any evidence with respect to professional misconduct allegations relating to sections 72(2)(a), (b), (i) and (m) of Regulation 941.

Agreed Statement of Facts

Counsel for the association and counsel for the member and the holder advised the panel that agreement had been reached on the facts and that the factual allegations, as set out in the Agreed Statement of Facts, were accepted as accurate by the member and the holder.

Counsel for the association then introduced the Agreed Statement of Facts, which read as follows:

1. Mladen Pazin, P.Eng., was, at all material times, a member of the Association of Professional Engineers of Ontario (PEO).
2. The Environment Management Group Ltd. (EMG) was, at all material times, the holder of a Certificate of Authorization to offer and provide to the public services within the practice of professional engineering and was responsible for supervising the conduct of its employees and taking all reasonable steps to ensure that its employees carried on the practice of professional engineering in a proper and lawful manner. At all material times, Pazin was the professional engineer responsible for the engineering services provided by EMG.
3. In or about July 2004, EMG was retained by G&L Group Ltd. of Concord, Ontario, which is the apparent property owner of 207 New Toronto Street, Etobicoke, Ontario. EMG pro-

duced a document (EMG document) in the style of a project estimate. The EMG document included a review of six environmental reports from various engineering consultants, including Proctor & Redfern Ltd. and Terraprobe Limited, regarding the property. The EMG document contained an element of engineering review in that it critiqued the six other reports, but it was signed and apparently authorized by the director of planning at EMG, who is not a professional engineer. The latter part of the EMG document contained a quotation to provide site remedial services, including material removal, soil drilling, excavation, site engineers, lab testing and environmental report (phase two).

4. The EMG document was not signed or sealed by a professional engineer and contained the following items/information:
 - i. general report reviews;
 - ii. additional historical research;
 - iii. brief historical use;
 - iv. brief history of site physical development; and
 - v. overview of the environmental reports, which included, among other things, engineering comment and critique of the other engineering environmental reports.
5. Also, in 2004, the EMG director of planning, Aaron Levine, issued business cards for non-engineering EMG staff, upon which was captioned "Member of Professional Engineers Ontario." After subsequent consultation with PEO, EMG issued new cards that were in compliance with PEO standards and regulations.
6. By reason of the aforesaid, it is agreed that Mladen Pazin, P.Eng., and EMG:
 - (a) breached section 53 of Regulation 941 under the *Professional Engineers Act* by failing to sign and seal the report;

- (b) submitted a quotation to act as a contractor in respect of work upon which the practitioner may be performing as a professional engineer; and
- (c) acted in an unprofessional manner.

7. By reason of the facts aforesaid, it is alleged that Mladen Pazin, P.Eng., and EMG are guilty of professional misconduct as defined in section 28(2) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P.28.

8. "Professional misconduct" is defined in section 28(2)(b) as:
"The member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations."

9. The sections of Regulation 941/90 made under the said Act and relevant to this misconduct are:

- (a) *Section 72(2)(g)*: breach of the Act or regulations, other than an action that is solely a breach of the code of ethics; and
- (b) *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.

Plea by member and holder

The member and the holder admitted the allegations set out in paragraphs 1 to 9 in the Agreed Statement of Facts. The panel then conducted a plea inquiry and was satisfied that both the member's admission and that of the holder were voluntary, informed and unequivocal.

Decision

The panel accepted the member's and holder's pleas and then considered the Agreed Statement of Facts in detail.

The panel deliberated and found that the agreed facts clearly support a finding of professional misconduct and, in particular, found that the member and the holder committed an act of professional

misconduct as defined in section 28(2)(b) of the Act and as supported by the agreed facts (voluntarily admitted by the member and the holder) in paragraphs 1 to 9 of the Agreed Statement of Facts.

Reasons for decision

The panel found that the facts set out in paragraph 3, i.e. a failure to seal and sign; paragraph 4, i.e. reports containing elements related to the practice of professional engineering not signed or sealed by a professional engineer; and, similarly, paragraph 6 of the agreed facts, all support the finding with respect to section 72(2)(g) of the Act. The panel found that the totality of facts set out in paragraphs 3 to 6 supported the finding with respect to section 72(2)(j) of the Act; reflecting conduct that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as unprofessional.

The above findings thereby support the finding of professional misconduct against both the member and the holder. With respect to the panel's finding of professional misconduct against the holder, the panel also found that the fact set out in paragraph 5, relating to issuing misleading business cards, was further evidence of a significant unprofessional act.

Penalty

Counsel for the association advised the panel that the parties to this proceeding had arrived at an agreement and written recommendations on the terms of a Joint Submission as to Penalty. The Joint Submission as to Penalty provided as follows:

1. The member and the holder shall be reprimanded and the fact of the reprimand shall be recorded on the register for a period of 12 months;
2. The holder shall forthwith pay a portion of the costs of this proceeding fixed in the sum of \$2,500; and
3. A summary of the Decision and Reasons of the Discipline Committee shall be published with names in Gazette.

Counsel for the association advised that it was satisfied that the Joint Submission as to Penalty was fair and reasonable,

and appropriate to the facts and plea in the case.

The panel also heard from both the counsel for the association and from independent legal counsel as to the guiding principles in determining penalty, namely:

- (a) protection of the public interest;
- (b) maintenance of the reputation of the profession and its ability to regulate itself and in the eye of the public;
- (c) general deterrence;
- (d) specific deterrence; and
- (e) rehabilitation of member/holder.

Counsel for the member and holder concurred with counsel for the association that the penalty proposed in the joint submission was within the correct range, in view of the agreed facts. He also indicated, specifically, that the rehabilitative aspect was already assured for the member and the holder in that they accepted responsibility, and proper procedural steps were since instituted in the workplace environment by his clients so as to avoid any risk of reoccurrence.

Penalty decision

The panel, while deliberating on their decision as to penalty, took special note of advice from their independent legal counsel to the effect that, based on court precedents, the panel should accept the Joint Submission as to Penalty, unless there was good cause to reject it.

While the panel viewed the allegations and the conduct of the member and holder very seriously, the panel took into account the fact that both the member and the holder had cooperated with the association and, by agreeing to the pertinent facts and proposed penalty, had accepted responsibility for their respective actions and avoided unnecessary further expense to the association.

The panel, having deliberated, concluded that the proposed penalty is both reasonable and in the public interest, and that it also meets the target of general as well as specific deterrence.

The panel, therefore, accepted the Joint Submission as to Penalty and accordingly ordered that:

1. **The member and the holder shall be reprimanded and the fact of the reprimand shall be recorded on the register for a period of 12 months;**
2. **The holder shall forthwith pay a portion of the costs of this proceeding fixed in the sum of \$2,500; and**
3. **A summary of the Decision and Reasons of the Discipline Committee shall be published with names in Gazette.**

Following the hearing, the member and the holder signed a waiver of appeal, which was filed, following which the member and the holder were orally reprimanded by the panel.

The written Decision and Reasons were dated January 21, 2008, and were signed by Kenneth Serdula, P.Eng., as the chair on behalf of the other members of the discipline panel: Jim Lucey, P.Eng., and Derek Wilson, P.Eng.

Gazette email address

Comments and feedback on items appearing in Gazette can be forwarded by email to: gazette@peo.on.ca. Publication of items received will be at the discretion of the editor and would appear in the Letters section of *Engineering Dimensions*. Comments and feedback will also be forwarded to the appropriate PEO committee for information.

Discipline hearing schedule

This schedule is subject to change without public notice. For further information, contact PEO at 416-224-1100; toll free 800-339-3716.

Any person wishing to attend a hearing should contact the tribunal office at extension 1083.

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.

March 31-April 1, 2008

Mohamad Farooq, P.Eng.

It is alleged that Farooq 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)(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
- (b) *Section 72(2)(n)*: harassment.

April 14-17, 2008

George W. Meyer, P.Eng., and Quartz Holdings Limited

It is alleged that Meyer is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Meyer and Quartz Holdings Limited are guilty of professional mis-

conduct 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.

April 28-30, 2008

Timothy E. Leier, P.Eng., and A.D. Williams Engineering Inc.

It is alleged that Leier is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Leier and A.D. Williams Engineering Inc. 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)(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
- (c) *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.

May 14-15, 2008

Ervin Weisz, P.Eng., and Nexus Engineering Inc.

It is alleged that Weisz is guilty of incompetence as defined in section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Weisz and Nexus Engineering Inc. 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)(h)*: undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience; 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.

Notice re: Robert De Berardis, P.Eng., and De Berardis Associates Incorporated

In the matter of Robert De Berardis, P.Eng., and De Berardis Associates Incorporated (DBA), which was first reported in Gazette in July/August 2004, De Berardis and DBA initiated an appeal to the Divisional Court. As part of that appeal, a consent order was issued by the court on September 20, 2007, to remit the matter back to the Discipline Committee to consider, as fresh evidence, an August 2007 practice inspection regarding De Berardis and DBA.

At a discipline hearing on December 11, 2007, a three-person panel of the Discipline Committee considered the August 2007 practice inspection report. After hearing submissions from the legal counsel for De Berardis and the legal counsel for PEO, the panel ordered that the additional penalty terms ordered at the June 2004 discipline hearing against De Berardis and DBA be rescinded. The panel further ordered that the consulting engineer designation for De Berardis and permission for DBA to use the "consulting engineers" title be reinstated effective immediately.

BY BRUCE MATTHEWS, P.ENG.

Prior to February 28, 2003, the *Professional Engineers Act* required that discipline hearings at PEO be closed to the public. Only under specific circumstances could the Discipline Committee order that the hearing be opened to the public. A change to the Act effective February 28, 2003 made all discipline hearings presumptively open to the public. Section 30(4.1) of the current Act describes the limited conditions under which all or part of a discipline hearing can be closed to the public. Since February 28, 2003, no discipline hearings or portions of hearings have been closed to the public.

The change from closed hearings to open hearings at PEO was recommended in the September 1999 report of the Task Force on Admissions, Complaints, Discipline and Enforcement, which recommendation Council approved in December 1999. The recommendation arose from a desire to make PEO's processes more open and transparent. In addition, the majority of the other professional regulatory bodies in Ontario had already moved from closed hearings to open hearings. PEO worked with the provincial government to craft the appropriate changes to the Act to make PEO discipline hearings presumptively open to the public.

In making this change, PEO also recognized that there would be no value in having open hearings if the public could not readily determine when hearings were being held and what the subject matter of those hearings would be. Therefore, concurrent with the change to open hearings, PEO began to publish a schedule of upcoming hearings. This schedule appears in *Gazette* in every issue of *Engineering Dimensions* and is also available on PEO's website. The information published by PEO regarding scheduled discipline hearings is consistent with, though in some cases less detailed than, that published by other professional regulatory bodies. A discipline hearing does not get placed on the published schedule until the Discipline Committee sets a date for the hearing.

While it is not common for members of the public to attend a discipline hearing at PEO, several hearings since February

Public information from the discipline process

Decisions and Reasons of the Discipline Committee are published in *Gazette* pursuant to orders by the Discipline Committee under sections 28(4)(i) or 28(5) of the *Professional Engineers Act*. There are, however, other means for the public to obtain information about the outcome of a discipline hearing at PEO.

2003 have attracted public attendance. A three-day hearing in May 2004 attracted a regular audience of seven to 10 people.

However, the Act changes that took place in February 2003 did not alter the powers of the Discipline Committee with respect to publishing its findings and penalty orders in *Gazette*. In cases where a licence suspension or revocation has not been ordered, the Discipline Committee still has discretion on whether to publish the information, and whether to include the name of the licence or Certificate of Authorization holder in that publication. This is the case regardless of the fact the hearing was open to the public and regardless of whether anyone from the public actually attended the hearing.

This situation begs the question: Short of attending the hearing, can a member of the public obtain information about the outcome of a discipline hearing that was open to the public, but for which the Discipline Committee did not order publication of the findings and order, or where the findings and order were published without names? The short answer is yes.

If the sanctions ordered by the Discipline Committee included a reprimand that was to be recorded on the register of the association, a member of the public contacting PEO's document management centre and inquiring about the licence holder in question would be able to learn about the fact of the reprimand. The details of the reprimand would not be provided, but the register would reflect that the licence holder had been reprimanded by the Discipline Committee on a particular date.

More importantly, a member of the public who was aware that a discipline hearing had taken place, but was unable to attend, would be able to contact PEO's regulatory compliance department and learn about the outcome of the hearing. A decision by the Discipline Committee not to publish its findings and penalty order in *Gazette* (or to publish the findings and order without reference to names) does not bar PEO staff from discussing that information with a member of the public. This could potentially include summary information about the circumstances that gave rise to the discipline hearing (e.g. information and allegations from the Notice of Hearing), and the findings and sanctions ordered (if any) by the Discipline Committee.

Similarly, a member of the public who contacts PEO's regulatory compliance department to make a general inquiry about the discipline history of a licence holder would be able to learn of any discipline hearings held after February 2003 that involved that licence holder. If the licence holder had been involved in a discipline hearing prior to February 2003 and the Discipline Committee had ordered publication of the findings and penalty order including reference to names, information about that hearing would also be provided to the person inquiring.

In this era of open discipline hearings and enhanced scrutiny of professional regulators, it is important that PEO not establish artificial barriers to access information that is in the public domain.

Clients seeking engineering services will often contact PEO to determine the licence status and discipline history of those they are considering

The Code of Ethics is meant to guide engineering practitioners in their professional practice and dealings with clients, employers, employees, associates and the public. Pursuant to the provisions of section 72(2)(g) of Regulation 941, an act that is solely a breach of the Code of Ethics does not constitute professional misconduct and hence cannot result in disciplinary action against a practitioner.

The following is PEO's Code of Ethics, which is section 77 of Regulation 941 made under the *Professional Engineers Act*.

1. It is the duty of a practitioner to the public, to the practitioner's employer, to the practitioner's clients, to other members of the practitioner's profession, and to the practitioner to act at all times with,
 - i. fairness and loyalty to the practitioner's associates, employers, clients, subordinates and employees,
 - ii. fidelity to public needs,
 - iii. devotion to high ideals of personal honour and professional integrity,
 - iv. knowledge of developments in the area of professional engineering relevant to any services that are undertaken, and
 - v. competence in the performance of any professional engineering services that are undertaken.
2. A practitioner shall,
 - i. regard the practitioner's duty to public welfare as paramount,
 - ii. endeavour at all times to enhance the public regard for the practitioner's profession by extending the public knowledge thereof and discouraging untrue, unfair or exaggerated statements with respect to professional engineering,
 - iii. not express publicly, or while the practitioner is serving as a witness before a court, commission or other tribunal, opinions on professional engineering matters that are not founded on adequate knowledge and honest conviction, and

retaining. Anyone interested in information about the outcome of a discipline hearing or the discipline history of a licence holder should contact

PEO's complaints and discipline manager at 416-840-1076; toll free at 800-339-3716, ext. 1076; or by email at complaints@peo.on.ca.

PEO's Code of Ethics

The stated duties and obligations of PEO's Code of Ethics are an ideal to which all professional engineers should aspire.

3. A practitioner shall act in professional engineering matters for each employer as a faithful agent or trustee and shall regard as confidential information obtained by the practitioner as to the business affairs, technical methods or processes of an employer and avoid or disclose a conflict of interest that might influence the practitioner's actions or judgment.
4. A practitioner must disclose immediately to the practitioner's client any interest, direct or indirect, that might be construed as prejudicial in any way to the professional judgment of the practitioner in rendering service to the client.
5. A practitioner who is an employee-engineer and is contracting in the practitioner's own name to perform professional engineering work for other than the practitioner's employer, must provide the practitioner's client with a written statement of the nature of the practitioner's status as an employee and the attendant limitations on the practitioner's services to the client, must satisfy the practitioner that the work will not conflict with the practitioner's duty to the practitioner's employer, and must inform the practitioner's employer of the work.
6. A practitioner must cooperate in working with other professionals engaged on a project.
7. A practitioner shall,
 - i. act towards other practitioners with courtesy and good faith,
 - ii. not accept an engagement to review the work of another practitioner for the same employer except with the knowledge of the other practitioner or except where the connection of the other practitioner with the work has been terminated,
 - iii. not maliciously injure the reputation or business of another practitioner,
 - iv. not attempt to gain an advantage over other practitioners by paying or accepting a commission in securing professional engineering work, and
 - v. give proper credit for engineering work, uphold the principle of adequate compensation for engineering work, provide opportunity for professional development and advancement of the practitioner's associates and subordinates, and extend the effectiveness of the profession through the interchange of engineering information and experience.
8. A practitioner shall maintain the honour and integrity of the practitioner's profession and without fear or favour expose before the proper tribunals unprofessional, dishonest or unethical conduct by any other practitioner. *R.R.O. 1990, Reg. 941, s. 77; O. Reg. 48/92, s. 1; O. Reg. 13/03, s. 21.*

BY STEVEN HADDOCK

Q. I am a structural engineer retained to prepare permit documents and oversee construction on a pre-fabricated structure manufactured in Pennsylvania. The erection drawings came to me with a Pennsylvania engineer's seal. Has the Pennsylvania engineer or the pre-fab manufacturer broken any provisions of the *Professional Engineers Act*? May I work on this project or would I be aiding and abetting the unlicensed practice of the profession if I did? Can I trust the Pennsylvania engineer's work?

A. There is nothing amiss here and you may continue to work on the project. However, this sort of situation is becoming increasingly frequent as pre-fabricated and pre-engineered structures become more common, and as we continue to deal with manufacturers and engineers across borders.

First and foremost, the pre-fab manufacturer has done nothing wrong. PEO is concerned with offering engineering services, and a pre-fab building, although different in many ways from an automobile, is still a mass-produced product. If this building were designed and manufactured in Ontario, an Ontario engineer would clearly have to be involved; however, a manufacturer in Pennsylvania must follow Pennsylvania law. This is a case of selling a product to Ontario and not offering a service, so a Certificate of Authorization (C of A) is not required. However, a C of A to prepare permit documentation is, and some pre-fab manufacturers are so authorized.

In addition, the Pennsylvania engineer has done everything right, assuming that all he or she did was seal the drawings to show the design loads, certify the structure is strong enough to withstand those loads, and note loads that are relevant when building a structure on site (such as the load on supporting columns on a foundation). A foreign engineer would not be acting properly if he or she signed off on the suitability of a structure to withstand local design loads—again, only an Ontario P.Eng. could do that as this would make this “mass-produced structure” a custom work of engineering.

As such, the duty of local engineers in such a situation is limited. They are not

Enforcement explained

This Q & A column aims to educate members about some of the issues PEO faces in protecting the public against unlicensed individuals who engage in the practice of professional engineering, and in enforcing the title protection provisions of the *Professional Engineers Act*.

January/February 2008 enforcement statistics	Total inquiries	86
	Major enforcement files opened	6
	Job advertisers contacted	3
	Existing business names reviewed	49
	New corporate names reviewed	7
	Enforcement matters reported	8
	From professional engineers	6
	From other	2
Self-employed engineers contacted	13	

expected to redesign a pre-fabricated structure. However, they should approach the structure as they would a custom-designed building for the same site. For example:

- determining whether a geotechnical engineer is required;
- designing a proper foundation for the building;
- reviewing the structure to see if it was designed to withstand unusually severe local conditions. In Ontario, that generally means wind and snow loads. If the structure is deficient, the client should be advised of remedial measures;
- performing a cursory review of the existing design (including reviewing calculations, if necessary) to ensure there are no obvious errors; and
- during construction, reviewing the contractor's work to ensure it meets the intention of the original designer.

None of these activities would traditionally be performed by a pre-fab

building manufacturer, and they certainly are not expected to be aware of these site-specific concerns.

Of course, it is not just pre-fabricated buildings where this concern arises. It also arises with respect to large industrial machinery (which requires an engineer to do a pre-start health and safety review, and may require one to build a structure to support the machinery), heavy equipment (such as mobile cranes, which must be inspected regularly by an engineer), or even temporary structures (such as Bailey bridges). In all these cases, it is unlikely that an Ontario engineer would have done the design, but just as often, these come to engineers with most of the design work already performed. For the most part in such cases, Ontario engineers can trust foreign engineers' work, as long as Ontario engineers are diligent enough to check for obvious errors.

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

