

COMPILED BY BRUCE MATTHEWS, P.ENG.

This matter came on for hearing before a panel of the Discipline Committee on February 22, 2005, at the offices of the Association of Professional Engineers of Ontario at Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. Tony E. Kahil, P.Eng., was represented by Jasmine Ghons.

### The Allegations

The allegations against Tony E. Kahil, P.Eng. (“Kahil” or “the member”), as stated in the Fresh Notice of Hearing dated February 21, 2005, were as follows:

It is alleged that Tony E. Kahil, P.Eng., is guilty of professional misconduct, the particulars of which are as follows:

1. Kahil was at all material times a member of the Association of Professional Engineers of Ontario.
2. Kahil was employed by Terrafix Geosynthetics Inc. (“Terrafix”) as a sales engineer during the period September 15, 1997 to August 5, 2003. The business of Terrafix included, among other things, the supply, installation and certification of engineered retaining walls, slope retention systems, and structures and geosynthetic products, including the sale of the products and systems of Tensar Technologies Inc. (“Tensar”) in Ontario.
3. Kahil was primarily responsible for promoting and selling Terrafix products, focusing on Tensar products and systems, project tracking, followup and customer service. Kahil’s business card designated him as “project engineer” at Terrafix.
4. Terrafix relied on the expertise, knowledge, skills and professional standing of their sales engineers, including Kahil, for the purpose of promoting their engineered products and for project development and followup.

## Decision and Reasons

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

**Tony E. Kahil, P.Eng.**

a member of the Association of Professional Engineers of Ontario.

5. In his capacity as sales engineer, Kahil owed a professional and ethical duty to Terrafix 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 his professional judgment in performing his obligations to Terrafix.
6. At all material times, the business of Terrafix included the supply, installation and certification of engineered retaining walls, slope retention systems, and structures and geosynthetic products.
7. On or about February 12, 2001, Kahil caused the engineering seal of another engineer, Gerry Kehler, P.Eng. (“Kehler”), project manager for Tensar Earth Technologies Inc. (“Tensar Inc.”), to be electronically affixed (using AutoCAD) to detail preliminary drawings referred to as “Proposed Retaining Wall—788 Marlee Avenue” (“Detail Drawings”), without Kehler’s prior knowledge, authorization, or consent.
8. By facsimile transmission dated February 26, 2001 re: Misuse of Kehler Engineering Seal, Kehler notified Dennis Hewitt (“Hewitt”), president of Terrafix, that he had concerns about the misuse of his seal by Terrafix and requested a response.
9. By letter dated March 1, 2001, Hewitt responded to Kehler on the issue of the misuse of his engineering seal stating that he had “discussed the issue with Tony Kahil and expressed to Tony the seriousness of his action and we have taken steps to ensure that this will not happen again.”
10. By memorandum dated March 1, 2001 from Hewitt to all Terrafix engineers, reference was made to section 9.2 of the 1988 Professional Practice Guidelines regarding Use of the Seal, and was distributed with a caution. In addition, Terrafix instructed all of its engineers to remove any and all electronic engineering seals from their computer systems, and a new procedure on the use of engineering seals was put in place for Terrafix engineers. The said drawing had not been distributed to members of the public.
11. In the fall of 2001, the Greater Toronto Airports Authority (“GTAA”) tendered a project for Dufferin job number 9960, Satellite Maintenance Depot, Phase 1 (“Satellite Maintenance Depot”). Kahil entered into negotiations on behalf of Terrafix for the supply and installation of a retaining wall.
12. On December 7, 2001, Mr. and Mrs. Kahil incorporated Ontario Corporation No. 1503713 in the Province of Ontario under the corporate name Alexa Construction Inc. (“Alexa”).

Kahil did not notify management of Terrafix of the incorporation of Alexa, nor his relationship with it. At all material times, Kahil was a director and officer of Alexa.

13. On December 13, 2001, Alexa entered into a subcontract with Dufferin Construction Company (“Dufferin”) to install a RECO retaining wall for the Satellite Maintenance Depot. RECO products have never been sold or installed by Terrafix.
14. Kahil did not provide voluntary and complete disclosure to Terrafix regarding the contract between Alexa and Dufferin for the Satellite Maintenance Depot project.
15. In the winter of 2002, Kahil entered into negotiations on behalf of Terrafix for the supply and installation of retaining walls for Dufferin job number 9091, M.T.O. #2001-3011, Highway 8 & Kitchener-Waterloo Expressway (“Kitchener-Waterloo Project”).
16. On May 13, 2002, Alexa entered into a subcontract with Dufferin to install RECO retaining walls required for the Kitchener-Waterloo Project. The products used were supplied directly by RECO. Kahil did not provide voluntary and complete disclosure to Terrafix of this subcontract between Alexa and Dufferin.
17. On or before August 9, 2002, Kahil introduced his brother, Charles Kahil, to the management of Terrafix and assisted his brother in obtaining employment with Terrafix in the position of a site technical assistant for the period of August 9, 2002 to July 30, 2003. During this period of employment, Kahil had the responsibility of reviewing and approving time sheets and travel expenses submitted by Charles Kahil.
18. Shortly after May 30, 2003, Kahil reviewed and approved a site technical

assistant invoice submitted by Charles Kahil for Project #: 2002-2005 at Highway 400 & Major Mackenzie for the period of May 26 to May 30, 2003. The subcontractor at the site was Trinity Contracting & Landscaping Ltd. (“Trinity”).

19. Kahil reviewed and approved payment to Charles Kahil of \$731.00 for the “hours” and \$110.25 for “kilometers” traveled submitted by Charles Kahil for the period of May 26 through May 30, 2003. In a memorandum dated October 15, 2003, Trinity notified Hewitt that the last day of work on site at the Highway 400 & Major Mackenzie project for Terrafix was May 22, 2003.
20. In June 2003, Kahil ordered supplies and rented equipment on Terrafix accounts for the purpose of building a driveway at his rental property located at 4880 Yorkshire Avenue, Mississauga, Ontario. On or about June 6, 2003, Kahil ordered supplies from Halton Crushed Stone Ltd. (“Halton”) and requested that they be delivered to 4880 Yorkshire Avenue.
21. In or about June 2003, Kahil instructed Newtonbrook Block & Supply Co. Ltd. (“Newtonbrook”) to supply 15 skids of paving stone materials to the Kahil rental property. Kahil instructed Newtonbrook to invoice the materials to a Terrafix project for CP Rail located at Thickson Road & 401 in Whitby, Ontario.

Kahil instructed Halton to invoice the materials to a Terrafix job located at Highway 400 & Major Mackenzie. Pursuant to Kahil’s instructions, invoices were delivered to Terrafix from Halton totaling the sum of \$1,233.17 and dated June 7 and 14, 2003 for the materials supplied to the Kahil property.

Pursuant to Kahil’s instructions, Newtonbrook invoiced Terrafix in

the sum of \$4,326.00 for the delivered materials on or about June 4 and June 18, 2003 and issued a credit note in the sum of \$256.00 to Terrafix on June 30, 2003 after picking up the empty skids from the Kahil property.

22. Kahil did not disclose the above transactions to Terrafix. Kahil did not reimburse Terrafix for the other invoices from Newtonbrook and Halton until the civil lawsuit between Kahil and Terrafix was settled in February 2004.
23. By reason of the facts 1 through 22 aforesaid, it is alleged that Tony E. Kahil, P.Eng.:
  - (a) failed to make prompt, voluntary and/or complete disclosure of his interests in Alexa that might be construed as prejudicial to his professional judgment relative to his employment with Terrafix;
  - (b) approved work hour and travel expense reports that had been submitted for payment to Terrafix by his brother, Charles Kahil, that were false;
  - (c) used the engineering seal of Gerry Kehler, P.Eng., on Detail Drawings without his prior knowledge, authorization or consent;
  - (d) caused invoices for materials delivered to Kahil at his residence to be directed to Terrafix for payment without the knowledge or authorization of Terrafix; and
  - (e) acted in an unprofessional manner.
24. By reason of the facts aforesaid, it is alleged that Tony E. Kahil, P.Eng., is guilty of professional misconduct as defined in Section 28(2)(b) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P.28 as follows:
  - (b) the member or holder has been guilty in the opinion of the Discipline Com-

mittee of professional misconduct as defined in the regulations. R.S.O. 1990, c. P. 28, s. 28(2); 2001, c. 9, Sched. B, s. 11(36).

25. The sections of Regulation 941 made under the Act and relevant to the alleged professional misconduct are:
- (a) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable standards and rules in connection with work being undertaken by or under the responsibility of the practitioner;
  - (b) *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
  - (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 unprofessional.

### Plea by Member

The member admitted the allegations set out in paragraphs numbered 1 through 25 in the Fresh Notice of Hearing.

The panel conducted a plea inquiry and was satisfied that the member's admission was voluntary, informed and unequivocal.

### Agreed Statement of Facts

Counsel for the association advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts ("ASF") that provided as follows:

#### Background

26. Kahil was at all material times a member of the Association of Professional Engineers of Ontario.
27. For a six-year period between September 15, 1997 and August 5, 2003, Kahil was employed by Terrafix Geosynthetics Inc. ("Terrafix") as a sales engineer. Among other things, Terrafix was in the business of selling the products and systems of Tensar Technologies Inc.

("Tensar"), including the sale of retaining wall systems in Ontario.

28. Kahil was primarily responsible for promoting and selling Terrafix products, focusing on Tensar products and systems, project tracking, follow up and customer service. A copy of Kahil's Terrafix contracts of employment and business card (which designated him as "project engineer") was included.
29. The complainant in this matter is Kahil's former employer, Dennis Hewitt (owner of Terrafix). Hewitt is not a professional engineer and has never been a member of PEO. At all material times Terrafix did not hold a certificate of authorization and, as such, did not offer or provide professional engineering services to the public. Terrafix did, however, rely upon the expertise, knowledge, skills and professional standing of their sales engineers for the purpose of promoting their engineered products and for project development and followup.
30. In his capacity as sales engineer, Kahil owed a professional and ethical duty to Terrafix 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 his professional judgment in performing his obligations to Terrafix.
31. At all material times, the business of Terrafix included the supply, installation and certification of engineered retaining walls, slope retention systems, and structures and geosynthetic products. Terrafix was never in the business of supplying or installing the patented products of a competitor company called Reinforced Earth Company Ltd. (RECO).

#### Facts Relevant to Allegation re: Misuse of Engineering Seal

32. On or about February 12, 2001, Kahil's assistant at Terrafix caused the engineering seal of another engineer, Gerry Kehler, P.Eng. ("Kehler"), project manager for Tensar Earth Technologies Inc. ("Tensar Inc."), to

be electronically affixed (using AutoCAD) to detail preliminary drawings referred to as "Proposed Retaining Wall-788 Marlee Avenue" ("Detail Drawings"), under the assumption that both Kehler and Tensar Inc. had authorized and consented to this practice when, in fact, that was not the case. It is agreed that no one caused a signature to be placed atop the seal. Copies of the Detail Drawings with Kehler's seal were provided.

33. By facsimile transmission dated February 26, 2001 re: Misuse of Kehler Engineering Seal, Kehler notified Hewitt, president of Terrafix, that he had concerns about the misuse of his seal by Terrafix and requested a response. At this period of time, Kehler was a new engineer at Tensar, and had taken over management of the engineering department there.
34. By letter dated March 1, 2001, Hewitt responded to Kehler on the issue of the misuse of his engineering seal stating that he had "discussed the issue with Tony Kahil and expressed to Tony the seriousness of his action and we have taken steps to ensure that this will not happen again."
35. By memorandum dated March 1, 2001 from Hewitt to all Terrafix engineers, reference was made to section 9.2 of the 1988 Professional Practice Guidelines regarding Use of the Seal, and was distributed with a caution. In addition, Terrafix instructed all of its engineers to remove any and all electronic engineering seals from their computer systems, and a new procedure on the use of engineering seals was put in place for Terrafix engineers.
36. It is agreed that the drawing was not distributed to members of the public.

#### Facts Relevant to Allegation re: Conflict of Interest

37. In the fall of 2001, the Greater Toronto Airports Authority ("GTAA") tendered a project for Dufferin job number 9960, Satellite Maintenance

Depot, Phase 1 (“Satellite Maintenance Depot”). Kahil entered into negotiations on behalf of Terrafix for the supply and installation of a retaining wall. The GTAA offered Terrafix the project. Hewitt declined to do the project.

38. On December 7, 2001, Mr. and Mrs. Kahil incorporated Ontario Corporation No. 1503713 in the Province of Ontario under the corporate name Alexa Construction Inc. (“Alexa”). Kahil did not notify management of Terrafix of the incorporation of Alexa or his relationship with it. At all material times, Kahil was a director and officer of Alexa.
39. On December 13, 2001, Alexa entered into a subcontract with Dufferin Construction Company (“Dufferin”) to install a RECO retaining wall for the Satellite Maintenance Depot. RECO products have never been sold or installed by Terrafix.
40. Kahil did not provide voluntary and complete disclosure to Terrafix regarding the contract between Alexa and Dufferin for the Satellite Maintenance Depot project.
41. In the winter of 2002, Kahil entered into negotiations on behalf of Terrafix for the supply and installation of retaining walls for Dufferin job number 9091, M.T.O. #2001-3011, Highway 8 & Kitchener-Waterloo Expressway (“Kitchener-Waterloo Project”). Terrafix products did not meet the Ministry’s specifications for this project, as reflected in the Ministry’s documents.
42. On May 13, 2002, Alexa entered into a subcontract with Dufferin to install RECO retaining walls required for the Kitchener-Waterloo Project. The products used were supplied directly by RECO. Kahil did not provide voluntary and complete dis-

closure to Terrafix of this subcontract between Alexa and Dufferin.

#### **Facts Relevant to Allegation of Misleading Invoice**

43. On or before August 9, 2002, Kahil introduced his brother, Charles Kahil, to the management of Terrafix and assisted his brother in obtaining employment with Terrafix in the position of a site technical assistant for the period August 9, 2002 to July 30, 2003. During this period of employment, Kahil had the responsibility of reviewing and approving time sheets and travel expenses submitted by Charles Kahil.
44. Shortly after May 30, 2003, Kahil reviewed and approved a site technical assistant invoice submitted by Charles Kahil for Project #: 2002-2005 at Highway 400 & Major Mackenzie for the period May 26 to May 30, 2003. The subcontractor at the site was Trinity Contracting & Landscaping Ltd. (“Trinity”). A copy of the site technical assistant invoice, containing information relevant to Charles Kahil’s hours and attendance at the site, was provided.
45. Kahil reviewed and approved payment to Charles Kahil of \$731.00 for the “hours” and \$110.25 for “kilometers” traveled submitted by Charles Kahil for the period May 26 through May 30, 2003. In a memorandum dated October 15, 2003, Trinity notified Hewitt that the last day of work on site at the Highway 400 & Major Mackenzie project for Terrafix was May 22, 2003.

#### **Facts Relevant to Allegations of Personal Use of Supplies by Kahil to Build a Driveway**

46. In June 2003, Kahil ordered supplies and rented equipment on Terrafix accounts for the purpose of building a driveway at his rental property located at 4880 Yorkshire Avenue, Mississauga, Ontario. On or about

June 6, 2003, Mr. Kahil ordered supplies from Halton Crushed Stone Ltd. (“Halton”) and requested that they be delivered to 4880 Yorkshire Avenue. Mr. Kahil instructed Halton to invoice the materials to a Terrafix job located at Highway 400 & Major Mackenzie. Copies of the invoices delivered to Terrafix from Halton totaling the sum of \$1,233.17 and dated June 7 and 14, 2003 for the materials supplied to the Kahil property, were provided.

47. In or about June 2003, Kahil instructed Newtonbrook to supply 15 skids of paving stone materials to the Kahil rental property. Kahil instructed Newtonbrook to invoice the materials to a Terrafix project for CP Rail located at Thickson Road & 401 in Whitby, Ontario. Newtonbrook invoiced Terrafix in the sum of \$4,326.00 for the delivered materials on or about June 4 and June 18, 2003 and issued a credit note in the sum of \$256.00 to Terrafix on June 30, 2003 after picking up the empty skids from the Kahil property. The invoices relevant to this matter were provided.
48. In or about June 2003, Kahil also rented equipment from Battlefield Equipment Rental (“Battlefield”) on the Terrafix account. Battlefield invoiced Terrafix for this equipment rental.
49. Kahil paid the full amount of the Battlefield invoice using his personal VISA card within a day or so before his employment was terminated at Terrafix.
50. Kahil did not disclose the above transactions to Terrafix. Kahil did not reimburse Terrafix for the other invoices from Newtonbrook and Halton until the civil lawsuit between Kahil and Terrafix was settled in February 2004, as Kahil was of the view that Terrafix owed him approximately \$10,000 in unpaid commission.

### Termination of Kahil

51. On August 1, 2003, Kahil was notified that his employment with Terrafix had been terminated for cause. A copy of a letter dated August 5, 2003 from Hewitt to Kahil confirming his termination was provided to the panel.

### No Intention to Misappropriate Terrafix Funds

52. The parties agree that the above referenced invoices submitted by Kahil to Terrafix, while reckless and unprofessional, were not submitted with the intention to misappropriate Terrafix funds.

### Decision

The panel considered the Agreed Statement of Facts and the member's plea and found that the facts support a finding of professional misconduct and, in particular, found that the member committed an act of professional misconduct as alleged in paragraphs 23 to 24 of the Fresh Notice of Hearing in that by reason of the facts aforesaid, the member:

- (a) failed to make prompt, voluntary and/or complete disclosure of his interests in Alexa that might be construed as prejudicial to his professional judgment relative to his employment with Terrafix;
- (b) approved work hour and travel expense reports that had been submitted for payment to Terrafix by his brother, Charles Kahil, which were false;
- (c) used the engineering seal of Gerry Kehler, P.Eng., on Detail Drawings without Kehler's prior knowledge, authorization, or consent;
- (d) caused invoices for materials delivered to Kahil at his residence to be directed to Terrafix for payment without the knowledge or authorization of Terrafix; and
- (e) acted in an unprofessional manner.

### Penalty

Counsel for the association advised the panel that a Joint Submission as to Penalty ("JSP") had been agreed upon. In speaking to the JSP, Counsel indicated that the panel should be cognizant of three main factors, namely, "use of the seal," "voluntary disclosure," and

"good business practices," as well as the mitigating circumstances that cooperation and remorse had been demonstrated by Kahil through the Agreed Statement of Facts.

Counsel for the association, supported by Counsel for the member, outlined the following points as to why the Discipline panel should accept the JSP:

The penalty should reflect:

1. protection of the public;
2. maintenance of the reputation of the profession;
3. the provision of general deterrence;
4. the provision of specific deterrence;
5. rehabilitation.

In addition, it was noted by Counsel that the member had no previous record of discipline and that the member had pleaded guilty to the charges, thereby minimizing the associated expenses, time and requirement for witnesses to appear, which would have been the case otherwise.

### Penalty Decision

The panel deliberated and accepted the JSP and accordingly ordered:

1. that the member be reprimanded and that the reprimand be recorded on the register for a minimum of 12 months, with the reprimand to remain on the register until such time as the member writes and successfully completes the Professional Practice Examinations ("PPE");
2. that the decision and reasons of the panel shall be published with the name of the member in Gazette;
3. that the member shall write and successfully complete the PPE

**within 12 months from the date of the hearing, failing which the member's licence shall be suspended until he writes and successfully completes the PPE;**

4. that in the event that the member fails to write and successfully complete the PPE within 24 months from the date of the hearing, his licence to engage in the practice of professional engineering shall be revoked; and
5. that the member shall pay the costs of the disciplinary proceeding fixed in the sum of \$5,000 and payable forthwith.

### Reasons for Penalty

The panel concluded that the proposed penalty was reasonable and in the public interest. The member had cooperated with the association and, by agreeing to the facts and a proposed penalty, had accepted responsibility for his actions and had avoided unnecessary expense to the association.

Having waived his right to appeal by submission of a signed written waiver, an oral reprimand was administered to the member immediately following adjournment of the formal hearing.

The panel also noted that the *Guideline on the Use of the Professional Engineer's Seal* had recently been revised, and recommended that the importance of strict adherence to these requirements be brought to the attention of all members of the association.

The written Decision and Reasons in this matter were dated November 16, 2005, and were signed by the Chair of the panel, Anne Poschmann, P.Eng., on behalf of the other members of the panel: Edward Aziz, P.Eng., James Dunsmuir, P.Eng., David Robinson, P.Eng., and Richard Weldon, P.Eng.

### Note from the Regulatory Compliance department

Kahil did not write and pass the PPE within 12 months of the date of the discipline hearing. His licence was therefore suspended effective February 23, 2006 and the reprimand remains on the register of the association. The \$5,000 cost award has been paid.

This matter came on for hearing before a panel of the Discipline Committee on June 7, 2005, at the offices of the Association of Professional Engineers of Ontario in Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. Nicholas M. Upton, P.Eng., was represented by Kris Hutton of Stieber, Berlach, Gibbs LLP.

### The Allegations

The allegations against Nicholas Martin Upton, P.Eng. (“Upton” or “the member”), in the Fresh Notice of Hearing dated June 3, 2005 (Exhibit 1) (“Fresh Notice of Hearing”), were as follows:

It is alleged that Nicholas Martin Upton, P.Eng., is guilty of professional misconduct, the particulars of which are as follows:

1. Upton was at all material times a member of the Association of Professional Engineers of Ontario.
2. Upton and his company, Upton Design Building Inc., were at no time the holders of a certificate of authorization to offer and provide to the public services within the practice of professional engineering.
3. By letter dated November 25, 1999, from the City of Owen Sound (“city”), \*\*\*\* \* (\*\*\*\*), the owner of a two-storey, single-family residential rental property at \*\*\*\* \* in Owen Sound (“House”), was notified of numerous property standards violations, including the deterioration of foundation walls to a structurally unsafe condition. Consequently, the city requested a report by a professional engineer regarding the condition of the foundation wall.
4. \*\*\*\* provided the city with a reporting letter by Upton of Upton Design Building Inc., dated August 16, 2000, stating, among other things, that he had inspected the foundation of the House and that the “foundation walls appear to be stable and adequate to support the

## Decision and Reasons

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

**Nicholas M. Upton, P.Eng.**

a member of the Association of Professional Engineers of Ontario.

structure for many years. There should be no concern that this foundation is unstable” (“Upton Letter”). Upton signed and affixed his seal to the Upton Letter.

5. By letter to Upton dated October 24, 2000, the city noted deterioration of the foundation and significant water infiltration. The letter contained illustrative photographs of the city’s observations and requested a reassessment of the foundations by Upton and that he inform them of his progress within 14 days. Upton failed or refused to respond to the city’s request.
6. On June 6, 2001, the city issued a letter to \*\*\*\* requesting that she address the numerous property standards violations and that Upton respond with a reassessment of the condition of the foundation wall.
7. Upton responded to the city by letter dated June 15, 2001, stating that during his initial visit to the House he did not have access to the interior areas of the foundation walls and was not aware of any deterioration. Upton concluded that it was apparent from the photographs of the interior foundation walls provided by the City that

the foundation was structurally unstable. No further comments were provided by Upton.

8. It is alleged that Upton:
  - (a) breached section 12(2) of the *Professional Engineers Act* by engaging in the business of providing to the public services within the practice of professional engineering without a certificate of authorization;
  - (b) failed to make reasonable provision for the safeguarding of life or property of a person who may be affected by the work for which the practitioner is responsible;
  - (c) failed to make responsible provision for complying with applicable statutes, standards, codes and by-laws in connection with work being undertaken by the practitioner;
  - (d) breached the Act or regulation other than an action that was solely a breach of the code of ethics; and
  - (e) acted in an unprofessional manner.
9. “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.”
10. The sections of Regulation 941 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)(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 a 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; and
- (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 unprofessional.

Neil Perrier, counsel for the association, advised the panel that the association had agreed to withdraw the allegation of incompetence as stated in the Fresh Notice of Hearing.

Perrier noted that the member took the position that he does not contest any of the facts set out in the Fresh Notice of Hearing, as revised.

## Plea by Member

The member admitted the allegations of professional misconduct set out in the Fresh Notice of Hearing, as revised. The panel conducted a plea inquiry and was satisfied that the member’s admission was voluntary, informed and unequivocal.

## Agreed Facts

Counsel for the association and counsel for the member advised the panel that agreement had been reached on the facts and that the factual allegations as set out in paragraphs 1 through 7 of the Fresh Notice of Hearing were accepted as accurate by the member.

## Decision

**The panel considered the Agreed Facts and found that the facts support a finding of professional misconduct and, in particular, found the member guilty of breaching s. 12(2) of the Act and sections 72(2)(a), 72(2)(b), 72(2)(d), 72(2)(g) and 72(2)(j) of Regulation 941 of the Act.**

## Reasons for Decision

The panel accepted the Agreed Facts and the member’s admission, which substantiated the findings of professional misconduct on the basis that there was no difference of opinion between counsel for the association and counsel for the member.

With respect to breach of s. 12(2) of the Act, the panel found the member did engage in providing service to the public within the practice of professional engineering, as described by facts set out in paragraphs 3 and 4, without the requisite certification, as set out in paragraph 2 of the Fresh Notice of Hearing, as revised. As such, the panel found the actions of the member to be other than solely a breach of the code of ethics as under s. 72(2)(g) of Regulation 941 of the Act.

The panel found that the member was negligent, under s. 72(2)(a) of Regulation 941 of the Act, in not completing a reasonably thorough inspection of the property, as evident in the facts set out in paragraph 7, and thereby failing to observe the deterioration evident in the facts set out in paragraphs 3 and 5, prior to providing the sealed letter denying the deterioration, as set out in the facts of paragraph 4 of the Fresh Notice of Hearing, as revised.

By not completing a reasonably thorough inspection of the property, the member failed to make reasonable provisions under s. 72(2)(b) and 72(2)(d) of Regulation 941 of the Act. The panel found the member’s conduct to be unprofessional under s. 72(2)(j) of Regulation 941 of the Act in failing or refusing to respond to a request to reassess, based on facts set out in paragraph 5.

## Penalty

Counsel for the association advised the panel that a Joint Submission as to Penalty

had been agreed upon. The Joint Submission as to Penalty provided as follows:

The parties to this proceeding, the Association of Professional Engineers of Ontario (“PEO”) and Nicholas Martin Upton, P.Eng. (“Upton”), jointly submit the following terms of order based on the plea of professional misconduct by Upton:

That the Discipline Committee orders:

1. that Upton appear for a reprimand and that the fact of the reprimand be recorded on the register of PEO for a period of one year;
2. that the results of the hearing be published in Gazette with names;
3. that the licence of Upton to engage in the practice of professional engineering be suspended for a fixed period of three months on the proviso that Upton writes and successfully completes the Professional Practice Examinations, Parts A and B (“Examination”), within 12 months of the date of the order of the Discipline Committee;
4. that in the event Upton fails to write and successfully complete the Examination within a 12-month period commencing on the date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering again be suspended until such time as Upton writes and successfully completes the Examination;
5. that in the event Upton fails to write and successfully complete the Examination within 24 months from the commencement date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering be revoked; and
6. that Upton forthwith pay the costs of the disciplinary proceeding fixed in the sum of \$3,000.

Counsel for the association advised that the association was satisfied that the Joint Submission was fair and reasonable. Perrier stated that the penalty was in line with similar PEO cases.

Counsel for the member admitted that all matters are agreed.

### Penalty Decision

After deliberation, the panel accepted the Joint Submission as to Penalty as received on June 7, 2005 and therefore ordered:

1. that Upton appear for a reprimand and that the fact of the reprimand be recorded on the register of the PEO for a period of one year;
2. that the results of the hearing be published in Gazette with names;
3. that the licence of Upton to engage in the practice of professional engineering be suspended for a fixed period of three months on the proviso that Upton writes and successfully completes the Professional Practice Examinations, Parts

A and B ("Examination"), within 12 months of the date of the order of the Discipline Committee;

4. that in the event Upton fails to write and successfully complete the Examination within a 12-month period commencing on the date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering again be suspended until such time as Upton writes and successfully completes the Examination;
5. that in the event Upton fails to write and successfully complete the Examination within 24 months from the commencement date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering be revoked; and

6. that Upton forthwith pay the costs of the disciplinary proceeding fixed in the sum of \$3,000.

### Waiver of Appeal

Counsel for the member advised the panel that the member would not be appealing the decision of the panel and filed with the panel a waiver of appeal, following which the panel administered an oral reprimand.

### Publication

The decision of the panel and reasons shall be published in the official publication of the association together with the name of the member pursuant to s. 28(5) of the Act.

The written Decision and Reasons in this matter were dated August 9, 2005, and were signed by the Chair of the panel, Ed Rohacek, P.Eng., on behalf of the other members of the panel: Ken Lopez, P.Eng., Richard Emode, P.Eng., John Vieth, P.Eng., and Derek Wilson, P.Eng.

This matter came on for hearing before a panel of the Discipline Committee on July 4, 2005, at the offices of the Association of Professional Engineers of Ontario in Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. John Yat-Man Kwan, P.Eng., and K.O. & Partners Limited were represented by David Waterhouse of Forbes Chochla LLP.

### The Allegations

The allegations against John Yat-Man Kwan, P.Eng. ("Kwan"), and K.O. Partners Ltd., ("K.O.") in the Fresh Notice of Hearing dated September 30, 2004, were as follows:

It is alleged that John Yat-Man Kwan, P.Eng., and K.O. Partners Ltd. are guilty of professional misconduct as defined in the *Professional Engineers Act*, R.S.O. 1990, Chapter P. 28 as follows:

1. Kwan was at all material times a member of the Association of Professional Engineers of Ontario.
2. K.O. was at all material times the holder of a certificate of authorization to offer and provide to the public serv-

## Decision and Reasons

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

**John Yat-Man Kwan, P.Eng.**

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

**K.O. & Partners Limited**

a holder of a Certificate of Authorization.

ices within the practice of professional engineering and was responsible for supervising the conduct of its employ-

- ees and taking all reasonable steps to ensure that its employees, including Kwan, carried on the practice of professional engineering in a proper and lawful manner. Kwan was one of the professional engineers responsible for the services provided by K.O.
3. On or about August 5, 2002, Gabriel Gomori (“Gomori”), purchaser of a home being constructed by Greenville Development Group Inc. (“Greenville”) on Lot 22 Old Hardwood Village, municipally known as 17 Sheldon Drive, Ajax, Ontario (“Home”), was able to observe construction details from a vantage point off site of the building lot. Gomori noted items that appeared to be non-compliant with his understanding of the requirements of the construction of the Home.
  4. Previously, Kwan had sealed the structural drawings and details A-1 to A-4 for the Home that were approved by the Town of Ajax on March 26, 2002.
  5. By facsimile transmission dated August 29, 2002, to Paul Tse, vice president of Greenville, Gomori addressed concerns he had regarding the construction of the Home and explained how he had tried to contact staff members of Greenville to obtain permission to attend the site for closer inspection. After several unsuccessful attempts, and believing that Greenville was in violation of the terms of the purchase agreement, Gomori attended the building site on August 28, 2002. During his attendance, he noted several errors and deficiencies in the construction, including an out-of-plumb condition in part of the foundation wall and a large gap between the uneven top of the foundation wall and the sill plate. Gomori requested that the noted items be corrected.
  6. On October 21, 2002, Gomori sent a fax to Sheila Daubeny (“Daubeny”), senior building inspector for the Town of Ajax, outlining a list of what Gomori believed to be violations of the *Ontario Building Code* and CSA standards in the construction of the Home.
  7. On October 23, 2002, a site meeting was held at the Home. The meeting was attended by, among others, Amedeo Picano (“Picano”) for Greenville, Daubeny and Vito Catalano for the Town of Ajax, and Kwan for K.O. Kwan had been selected by Greenville at the behest of the City of Ajax as the consulting engineer who would report on the alleged construction deficiencies.
  8. On November 5, 2002 in a three-page fax from Kwan to Picano, copied to Lance Cumberbatch, chief building inspector for the Town of Ajax, Kwan listed four deficient items and their respective remedies and/or illustrations in accompanying sketches. In particular, Kwan noted that a gap between the top of the foundation wall and the sill plate needed to be filled either with non-shrink grout or steel shim plate. Kwan made no mention of the condition of the anchor bolts used to fix the sill plate to the top of the foundation wall.
  9. Also in November 2002, Kwan affixed his seal to a foundation “Wall Section” Drawing No. SK-1, detailing remediation of the misalignment between the foundation wall and the 2 x 6 wood stud wall.
  10. On December 20, 2002 in a sealed and dated fax from Kwan to Cumberbatch, Kwan detailed that the Home had been inspected and that all of the remedial work stipulated in Kwan’s November 5, 2002 report and drawings had been completed “in satisfactory workmanship and in accordance with our details and recommendations.”
  11. Subsequently, the complainant, Gomori, observed that the grouting and/or steel shims had not been previously installed as suggested by Kwan’s direction to Picano in his November 5, 2002 report and Kwan’s inspection report of December 20, 2002.
  12. On or about April 8, 2003, George Snowden (“Snowden”), P.Eng., of Construction Control Inc., was engaged by Gomori for the purpose of inspecting the home. Snowden was directed to check the work requested by, and allegedly inspected by, Kwan as detailed in Kwan’s November 5, 2002 and December 20, 2002 faxes. Snowden was also asked to comment on other apparent deficiencies that Gomori had observed.
  13. In the Construction Control Inc. report 6874, dated June 3, 2003, Snowden noted that the gap between the sill plate and the top of the west foundation wall still existed. He noted that wood shims had been installed between the top of the foundation wall and the underside of the sill plate at approximately 12-inch centres. Also, Snowden noted that the sill plates were attached to the top of the foundation wall using 1/2-inch diameter expansion bolts that had been inadequately installed in the concrete. One of the bolts was observed to have broken free of the foundation wall. This condition, in addition to said bolts being of insufficient length, resulted in an inadequate attachment of the sill plate to the foundation wall.
  14. Snowden went on to identify specific sections of the *Ontario Building Code* and *C.S.A./Can-A438 Concrete Construction for Housing and Small Buildings* related to his observations (9.23.7 Sill Plates, 9.23.6 Anchorage, 9.20.6.4 Masonry Veneer Walls, 9.23.17, and CSA Part 5—Clause 5.2—Sentence 5.2.3) and concluded that the as-built condition of the foundation wall and sill plate contained a number of deficiencies and violations of the *Ontario Building Code*. Snowden’s observations that were in contradiction to, or not noted in, Kwan’s inspection reports of November 5, 2002 and December 20, 2002, are as follows:
    - (a) Observed wood shims installed between the top of the west concrete foundation wall and the underside of the sill plate at approximately 12-inch centres;
    - (b) Trubolt Wedge Anchors had not been installed according to manufacturer specs and could not

- adequately secure the sill plate to the foundation;
- (c) At some locations, the wood sill of the back-up wall where it was observed to be overhanging the inside face of the concrete foundation wall by as much as 2.75 inches, indicating that only 50 per cent of the width of the back-up wall was supported by the foundation wall, was not properly corrected in all areas;
- (d) Portions of the constructions were non-compliant with the applicable CSA standard and the *Ontario Building Code*.
15. By reason of the facts aforesaid, it is alleged that John Yat-Man Kwan, P.Eng., and K.O. & Partners Limited:
- (a) were negligent;
- (b) failed to report construction deficiencies that they knew, or ought to have known, were violations of the *Ontario Building Code*;
- (c) provided information in an inspection report that they knew or ought to have known was incorrect with respect to completion of remedies stipulated in an earlier report; and
- (d) acted in an unprofessional manner.
16. By reason of the facts aforesaid, it is alleged that John Yat-Man Kwan, P.Eng., and K.O. & Partners Limited are guilty of professional misconduct as defined in section 28(2) of the *Professional Engineers Act* R.S.O. 1990, Chapter P.28 as follows:
- 28(2)(b) "The member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations."
17. The sections of O. Reg. 941 relevant to the alleged professional misconduct are:
- 72(1) In this section, "negligence" means an act or 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.

R.R.O. 1990, Reg. 941, s. 72(1); O. Reg. 657/00, s. 1(1).

(2) For the purposes of the Act and this Regulation, "professional misconduct" means,

- (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)(c)*: failure to act to correct or report a situation that the practitioner believes may endanger the safety or the welfare of the public;
- (d) *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;
- (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. R.R.O. 1990, Reg. 941, s. 72(2); O. Reg. 657/00, s. 1(2); O. Reg. 13/03, s. 19.

### Plea by Member and Holder of Certificate of Authorization

Kwan and K.O. admitted the allegations contained in paragraphs 15(a), (b), (c) and (d) of the Fresh Notice of Hearing dated September 30, 2004. The panel conducted a plea inquiry and was satisfied that Kwan's and K.O.'s pleas were voluntary, informed and unequivocal.

### Decision

**After deliberation, the panel unanimously accepted the plea by Kwan and K.O., and accordingly found Kwan and K.O. guilty of professional misconduct as defined by sections 72(2)(a), 72(2)(b), 72(2)(c), 72(2)(d), and 72(2)(j), under Regulation 941 as set out in the Fresh Notice of Hearing dated September 30, 2004.**

### Reasons for Decision

The panel accepted Kwan's and K.O.'s plea, which substantiated the findings of professional misconduct.

### Penalty

Counsel for the association advised the panel that a Joint Submission on Penalty had been agreed upon. The Joint Submission as to Penalty provided as follows:

The parties, the Association of Professional Engineers of Ontario, John Yat-Man Kwan, P.Eng. ("Kwan"), and K.O. & Partners Limited ("K.O.") made the following joint submission on penalty:

1. Kwan and K.O. are to be reprimanded orally and that the fact of the oral reprimand recorded on the Register until such time as Kwan writes and successfully completes the Professional Practice Examinations;
2. the decision and reasons of the Discipline Committee, including names, shall be published in Gazette;
3. Kwan shall write and successfully complete the Professional Practice Examinations, Part A and Part B ("Examinations"), within 12 months of the date of the order of the Discipline Committee;
4. that in the event that Kwan fails to write and successfully complete the Examinations within a 12-month period commencing on the date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering shall be suspended until such time as he writes and successfully completes the Examinations;
5. that in the event that Kwan fails to write and successfully complete the Examinations within 24 months from the commencement date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering shall be revoked; and

6. that Kwan shall pay costs of the disciplinary proceeding fixed in the sum of \$3,000.

### Penalty Decision

After deliberation, the panel unanimously accepted the Joint Submission on Penalty and therefore the panel ordered:

1. that Kwan and K.O. be reprimanded orally and that the fact of the oral reprimand be recorded on the register until such time as Kwan writes and successfully completes the Professional Practice Examinations;
2. that the decision and reasons of the Discipline Committee, including names, be published in Gazette;
3. that Kwan write and successfully complete the Professional Practice Examinations, Part A and Part B (“Examinations”), within 12

**months of the date of the order of the Discipline Committee;**

4. that in the event that Kwan fails to write and successfully complete the Examinations within a 12-month period commencing on the date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering be suspended until such time as he writes and successfully completes the Examinations;
5. that in the event that Kwan fails to write and successfully complete the Examinations within 24 months from the commencement date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering be revoked; and
6. that Kwan pay costs of the disciplinary proceeding fixed in the sum of \$3,000.

### Reason for Penalty

The panel concluded that the proposed penalty is reasonable and in the public interest. The member had cooperated with the association and, by agreeing to the facts and a proposed penalty, had accepted responsibility for his actions.

### Waiver of Right to Appeal

Counsel for the member advised the panel that the member would not be appealing the decision of the panel and an executed waiver of appeal was filed with the panel, following which the panel delivered the oral reprimand.

The written Decision and Reasons in this matter were dated October 3, 2005, and were signed by the Chair of the panel, Seimer Tsang, P.Eng., on behalf of the other members of the panel: Derek L. Wilson, P. Eng., Virendra Sahni, P.Eng., Bill Walker, P.Eng., and Nick Monsour, P.Eng.

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## Regulation 941/90 amended effective March 23, 2006

At its meeting on December 1-2, 2005, PEO Council approved amendments to Regulation 941/90 made under the *Professional Engineers Act*. Following approval by Cabinet in February, the Regulation amendments became effective when filed with the Registrar of Regulations as O.Reg. 81/06 on March 23, 2006.

The amended sections are shown below, listed under subject headings. 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).

### Housekeeping amendments

**These amendments correct out-of-date or incorrect references in the regulation.**

#### Section 47

The requirement and qualifications for the issuance of a certificate of authorization are:

1. The applicant must designate, as the person or persons who will assume responsibility for and supervise the

services to be provided by the applicant within the practice of professional engineering, one or more Members or holders of temporary licences each of whom has at least five years of professional engineering experience following the conferral of a degree described in subparagraph 1i of subsection 33(1) or the completion of an equivalent engineering education. R.R.O. 1990, Reg. 941, s. 47; O.Reg. 81/06, s. 1

#### Section 52

(1.1) If a Member's seal was issued before February 28, 2003, clause (1)(c) does not apply. O. Reg. 13/03, s. 15(2); O. Reg. 81/06, s. 2

#### Section 78

The following are prescribed as performance standards with respect to the general review of the construction, enlargement or alteration of a building by a professional engineer as provided for in the building code made under the *Building Code Act, 1992*: ...

4. In paragraph 1, “plans and specifications” means a plan or other document which formed the basis for the issuance of a building permit and includes all changes thereto that were authorized by the chief building official as defined in the *Building Code Act, 1992*. R.R.O. 1990, Reg. 941, s. 78; O. Reg. 81/06, s. 3

#### Section 88

Revoked. O. Reg. 81/06, s. 12

### Fee-related amendments

#### Section 80

- (1) The application fee for registration as a holder of a licence is \$230. O. Reg. 631/92, s. 1; O. Reg. 81/06, s. 4(1)
- (2) The registration fee for applicants or applicants for reinstatement whose application is accepted is \$230. O. Reg. 631/92, s. 1; O. Reg. 81/06, s. 4(2)

**Section 81**

The fee for an engineer-in-training to be recorded in the register is \$70 for each year or part thereof while so recorded. R.R.O. 1990, Reg. 941, s. 81; O. Reg. 81/06, s. 5

**Section 82**

- (1) The application fee for registration as a holder of a temporary licence is \$590 for an applicant applying under paragraph 1 of section 43. O. Reg. 631/92, s. 2; O. Reg. 81/06, s. 6(1)
- (2) The application fee for registration as a holder of a temporary licence is \$590 for an applicant applying under paragraph 2 or 3 of section 43. O. Reg. 631/92, s. 2; O. Reg. 81/06, s. 6(2)

**Section 82.1**

The registration fee for an applicant for registration as a holder of a provisional licence is \$230. O. Reg. 13/03, s. 22; O. Reg. 81/06, s. 7

**Section 83**

- (1) The application fee for registration as a holder of a limited licence is \$230. O. Reg. 631/92, s. 3; O. Reg. 81/06, s. 8(1)
- (2) The registration fee for an applicant for registration as a holder of a limited licence whose application is accepted is \$230. O. Reg. 631/92, s. 3; O. Reg. 81/06, s. 8(2)
- (3) The annual fee for a limited licence is \$160. O. Reg. 631/92, s. 3; O. Reg. 81/06, s. 8(3)

**Section 84**

- (1) The application fee for registration as a holder of a certificate of authorization is \$330. O. Reg. 631/92, s. 3; O. Reg. 81/06, s. 9(1)
- (2) The annual fee for a certificate of authorization is \$330. O. Reg. 631/92, s. 3; O. Reg. 81/06, s. 9(2)
- (3) The fee for each replacement certificate of authorization issued is \$50. O. Reg. 631/92, s. 3; O. Reg. 81/06, s. 9(3)

**Section 85**

- (1) The fees for writing examinations required in respect of each application are as follows:
  1. The examination fee for the first examination written by an applicant, other than the Professional Practice Examination, is \$520. O. Reg. 631/92, s. 4; O. Reg. 81/06, s. 10(1)
  2. The examination fee for each subsequent examination and the rewriting of an examination previously failed is \$150. O. Reg. 631/92, s. 4; O. Reg. 81/06, s. 10(2)
  3. The fee to be paid upon submission of a thesis is \$300. O. Reg. 631/92, s. 4; O. Reg. 81/06, s. 10(3)
  4. The fee for writing or rewriting the Professional Practice Examination is \$130. O. Reg. 631/92, s. 4; O. Reg. 81/06, s. 10(4)

**Section 86**

- (1) The application fee for designation as a consulting engineer is \$200. O. Reg. 631/92, s. 5; O. Reg. 81/06, s. 11(1)
- (2) The fee for designation as a consulting engineer is \$200 for the period of designation. O. Reg. 631/92, s. 5; O. Reg. 81/06, s. 11(2)
- (3) The application fee for redesignation as a consulting engineer is \$200. O. Reg. 631/92, s. 5; O. Reg. 81/06, s. 11(3)
- (4) The fee for each examination required in support of an application for designation as a consulting engineer is \$130. O. Reg. 631/92, s. 5; O. Reg. 81/06, s. 11(4)
- (5) The application fee for permission to use the term "consulting engineer" is \$40. O. Reg. 631/92, s. 5; O. Reg. 81/06, s. 11(5)

**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 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 member or certificate of authorization holder should be made based on the allegations listed herein.

**June 9-12, 2006**

John S. Ivanyi, P.Eng., and Conengr Inc.

It is alleged that Ivanyi is guilty of incompetence as defined in Section 28(3)(b) of the *Professional Engineers Act*. It is alleged that Ivanyi and Conengr are guilty of professional misconduct as defined in Section 28(2)(b) of the *Professional Engineers Act*.

**June 19-23, 2006**

Guy A. Cormier, P.Eng., and J.L. Richards & Associates Limited (JLRA)

It is alleged that Cormier is guilty of incompetence as defined in Section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Cormier and JLRA are guilty of professional misconduct as defined in Section 28(2)(b) of the *Professional Engineers Act*.

**July 10-14, 2006**

Sotiros (Sam) Katsoulakos, P.Eng., and Micro City Engineering Services Inc. (MCES)

It is alleged that Katsoulakos is guilty of incompetence as defined in Section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Katsoulakos and MCES are guilty of professional misconduct as defined in Section 28(2)(b) of the *Professional Engineers Act*.

**September 25-29, 2006**

Rene G. Caskanette, P.Eng., and Caskanette & Associates (C&A)

It is alleged that Caskanette is guilty of incompetence as defined in Section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Caskanette and C&A are guilty of professional misconduct as defined in Section 28(2)(b) of the *Professional Engineers Act*.

**September 25-29, 2006**

Jeffrey D. Udall, P.Eng.

It is alleged that Udall is guilty of incompetence as defined in Section 28(3)(a) of the *Professional Engineers Act*. It is alleged that Udall is guilty of professional misconduct as defined in Section 28(2)(b) of the *Professional Engineers Act*.