

RICHMOND HILL MP APOLOGIZES FOR USE OF RESTRICTED ENGINEERING TITLES

Majid Jowhari, MP (Richmond Hill), was charged by Professional Engineers Ontario (PEO) under sections 40(2)(a.1) and 40(2)(a) of the *Professional Engineers Act* for using the titles “engineer” and “professional engineer” when describing his credentials at a public candidates debate during the 2015 federal election. These sections of the act forbid the use of such terms by unlicensed persons. Jowhari was not licensed as a professional engineer in Ontario at that time.

A pre-hearing conference was held on October 18, 2016, at which Jowhari agreed to provide a public letter of apology and a donation to the Ontario Professional Engineers Foundation for Education. As a result, the charges were withdrawn. The full transcript of the letter is provided below.

*Letter of Apology from Majid Jowhari, MP
October 24th, 2016*

On October 19, 2015, I was elected as an MP representing the riding of Richmond Hill in the House of Commons, and currently sit on the Standing Committee on Industry, Science and Technology. I am not an engineer. In the course of my campaign, questions arose concerning the use of the titles “engineer” and “professional engineer”.

I earned a Bachelor of Technology degree in industrial engineering from Ryerson University, as well as an MBA from York University. I was licensed as a professional engineer by the PEO between 1995 and 1999, after which my licence was cancelled for non-payment. When I gave up my licence as a professional engineer, I also gave up the privilege of calling myself an “engineer” and a “professional engineer”.

On October 4, 2015, I attended a debate between six candidates from the ridings of Richmond Hill and Willowdale at the ‘Federal Candidates Forum’ organized by the Iranian Canadian Congress. When reviewing my credentials and work experience at the outset of the debate, I presented myself as an “engineer” and a “professional engineer” to those in attendance. These words were unscripted, were incorrect, and on reflection were potentially misleading. I did not intend to mislead anyone. I regret these statements and sincerely apologize for my actions.

Professional Engineers Ontario (PEO), the regulatory body for the profession in this province, initially contacted me in February

2015 to address certain materials that had been made public in the course of my campaign. I have since spoken at length with PEO concerning the use of restricted professional titles in my campaign. I am fortunate to have been provided with this opportunity to address my actions in an open letter.

In the Province of Ontario, professional engineers practice and use their titles while subject to a commitment to serve the public and to uphold a strict code of professional conduct. The Professional Engineers Act restricts the titles “engineer” and “professional engineer” to those persons who are licensed by PEO. This allows the public to identify who is licensed to practise engineering and to know that they are governed accordingly. As a non-member, it is a violation of the Professional Engineers Act to use either the specific or general title.

This experience has taught me a valuable lesson about the need for precision at all times when addressing my engineering education and credentials. In the future, I will refrain at all times from using restricted titles without clarifying that I was a member of PEO, and am no longer licensed as a professional engineer.

I sincerely hope that the public and the engineering profession will accept my apology for misstating my credentials.

As a show of respect and support for engineering in Ontario and Canada, I have donated \$5,000 to the Ontario Professional Engineers Foundation for Education.

Yours sincerely,

Majid Jowhari, MP

● NOTICE OF LICENCE SUSPENSION—NIDHAL NAAMI

On December 19, 2016, Nidhal Naami’s professional engineering licence was suspended pursuant to a June 16, 2015 order of the Discipline Committee. The order was issued following a finding of professional misconduct against Naami at a discipline hearing held on that date. Naami’s licence was suspended because he failed to write and pass the professional practice examination within the 18-month timeframe prescribed by the Discipline Committee.

ENFORCEMENT HOTLINE Please report any person or company you suspect is practising engineering illegally or illegally using engineering titles. Call the PEO enforcement hotline at 416-840-1444 or 800-339-3716, ext. 1444. Or email enforcement@peo.on.ca. Through the *Professional Engineers Act*, Professional Engineers Ontario governs licence and certificate holders and regulates professional engineering in Ontario to serve and protect the public.

FORMER ENGINEERING FIRM AND PRINCIPAL FINED \$10,000 FOR WEBSITE AND SOCIAL MEDIA CONTENT

Emmanuel de Guzman and Falcon Group International Inc. have been convicted of four counts of breaching the *Professional Engineers Act* and fined \$10,000. Falcon Group was found guilty of two counts for offering professional engineering services through its website and using restricted terms, titles and descriptions in a LinkedIn profile without a Certificate of Authorization from Professional Engineers Ontario (PEO). De Guzman, as a director and officer of the corporation, was found guilty of two counts for authorizing, permitting or consenting to the offences. De Guzman has never been licensed as a professional engineer in Ontario. The verdict was made on October 28 by His Worship Justice of the Peace Sunny Ng. The website and LinkedIn profile at issue have since been removed.

A PEO Certificate of Authorization (C of A) allows individuals or firms in Ontario to offer or provide engineering services directly to the public. Falcon Group was licensed as a C of A holder in 2011. After the certificate was revoked by PEO in December 2014, however, the company continued to represent itself as a professional engineering firm through its website and LinkedIn profile.

In January 2016, the Superior Court of Justice ordered Falcon Group to refrain from using the words “engineer,” “engineering,” or any other term, title or description that will lead to the belief that it may provide professional engineering services to the public. De Guzman was similarly ordered to refrain from using the titles “professional engineer,” “P.Eng.” and “engineer.” In June 2016, as Falcon Group and de Guzman had still failed to comply with the *Professional Engineers Act*, PEO laid charges under the *Provincial Offences Act*.

Nick Hambleton, associate counsel, regulatory compliance, represented PEO in this matter.

PEO thanks the professional engineers, architects and organizations that co-operated with its investigation and provided evidence for use in the court proceedings.

WHAT'S IN A NAME? PEO'S RESTRICTIONS ON USING ENGINEERING TERMS IN BUSINESS AND CORPORATE NAMES

By Ashley Gismondi and Steven Haddock

It is perfectly acceptable as a licence holder or applicant to aspire to open your own engineering company. It is also likely that you may wish to use the terms “engineer” or “engineering” in your name when you register or incorporate to highlight your area of expertise and to give the appearance that your business is authorized. Generally, depending on where you register or incorporate, government staff at the provincial or federal level have the discretion to reject a proposed business name with these terms on the grounds that it requires explicit consent to use them. PEO is the gate keeper to granting consent to use these terms, upon satisfying certain conditions. Below are a series of questions to educate members about using engineering terms in their business and corporate names.

Does PEO grant consent to everyone who asks?

PEO will grant permission to use these terms to licence holders who hold, or are eligible to obtain, a Certificate of Authorization (C of A). A C of A is issued by PEO to allow individuals and business entities to offer and provide professional engineering services to the public, and is different from a licence issued to individuals to practise professional engineering, as set out in section 47 of Ontario Regulation 941/90. If an engineering intern (EIT) or applicant requests a C of A, it will be declined. It is also important to be a member in good standing with the association so as to not raise any issues or delay the consent process. PEO will also grant consent to a non-profit corporation where the aims of the organization are consistent with the objectives of PEO.

What if I am a limited engineering licensee (LEL) or licensed engineering technologist (LET)?

PEO will also grant consent for businesses operating under a C of A that is issued to an LEL or an LET; however, the name may not contain the terms “engineer” or “engineering consultant” but instead must contain a term that clearly describes the type of engineering within the limited licence holder’s scope of practice. The word “engineering” is acceptable as long as it is modified by a word that is rationally connected to the LEL or LET’s scope of practice. For example, “ABC Engineering” would get declined but “ABC Automation Engineering” would be acceptable to PEO.

What is the procedure for requesting consent?

Those wishing to obtain consent must provide the following information in a letter, fax or email:

1. The full name and licence number of the professional engineer who will be one of the individuals taking responsibility for the engineering services provided under the C of A;
2. The proposed name of the business;
3. A short description of the business activities to be carried out by the business;
4. An undertaking to obtain and maintain a C of A, if applicable:
 - a. If the business name contains a variation of “consulting engineers,” a further undertaking to obtain permission to use from PEO council. This option is only available to consulting engineers or persons clearly eligible to become consulting engineers; and
5. Whether it will be an unincorporated business, Ontario corporation, or federal corporation.

Is there a fee for the consent letter?

Although there is no charge for obtaining a consent letter, those requesting permission will also have to promise to apply for and maintain a C of A. This is the case even if the chosen name does not include “engineer” or “engineering.” If you are planning to offer professional engineering services to the public, obtaining a C of A is mandatory. The associated fees for such are currently listed on PEO’s website (www.peo.on.ca).

What does the law say?

There are several interlocking and overlapping provisions under Ontario and Canadian law regarding the use of engineering terms in business names. However, for practical purposes, the overarching rule is that only PEO’s C of A holders are allowed to use these terms without restriction.

Below are a few excerpts from legislation that express the restrictions on “engineer,” “engineering” and other variations:

- *Professional Engineers Act*, R.S.O. 1990, c. P.28 40(3)(a) Every person who is not acting under and in accordance with a Certificate of Authorization and who uses a term, title or description that will lead to the belief that the person may provide to the public services that are within the practice of professional engineering.

Beginning with our act, the backbone of operations at PEO, this section highlights that it is an offence to use “engineer” or “engineering” in a name and offer the services of a professional engineer unless authorized to do so.

- Canada Business Corporations Regulations, 2001 SOR/2001-512 26.(c) is sponsored or controlled by or is connected with a university or an association of accountants, architects, engineers, lawyers, physicians or surgeons or another professional association recognized by the laws of Canada or a province, unless the appropriate university or professional association consents in writing to the use of the name.

Since PEO is the professional association for engineers in Ontario, we can provide a suitable consent letter upon request.

- *Business Corporations Act*, R.R.O. 1990, Regulation 62 15.10 “Engineer,” “ingénieur,” “engineering,” “genie,” “ingénierie” or any variation thereof, where such word suggests the practice of the profession, except with the written consent of the Association of Professional Engineers of Ontario.

The act specifically lays out all the protected terms and the procedure by which to obtain consent in Ontario.

- *Business Names Act*, Regulation 122/91 9. A name shown in a registration must not include a word, expression or abbreviation the use of which is restricted under a federal act or an Ontario act unless the registrant satisfies the restriction.

For PEO’s purposes, this includes sole proprietorships, partnerships and corporations where the word suggests the practice of the profession.

This is not an exhaustive list. Depending on the type of registration you’ve chosen, some—but not all—of these laws will apply. You may wish to consult legal counsel or an accounting professional with assistance in explaining to you the advantages of registering as a business or a corporation.

How does PEO review business names?

In addition to responding to complaints about business names, PEO reviews business names from public sources such as NUANS® (Newly Upgraded Automated Name Search) and corporate announcements. NUANS® is an advanced search system that searches corporate and business registries across Canada. New Ontario corporation names are published every week and PEO reviews them about once every two weeks. Business names, revised Ontario corporation names and federal corporation names are reviewed from a print-out from the federal NUANS® system, which contains several thousand names and is systematically reviewed in a cycle that lasts about three years. As such, if you incorporate a new Ontario corporation, PEO will know about it within a couple of weeks, but if you register a business

name or federal corporation, or change the name of an Ontario corporation, it may take three years or more for us to reach you.

We begin our review by comparing business names to our current directory of C of A holders. When we find an unauthorized Ontario business using one of the restricted terms, we send a series of letters requesting more details on their business activities. This allows us to assess whether or not the continued use of the business name may mislead someone into believing it is an authorized professional engineering firm.

Industry Canada, the department responsible for federal registrations, changed procedures in 2011, making it virtually impossible to incorporate a Canadian corporation with a restricted word in its name. Although the Ontario Ministry of Government Services—the ministry responsible for Ontario businesses—does reject names “at the counter” in absence of PEO’s consent, they are not consistent in this process.

In most cases, if you are using a restricted term without being authorized, PEO is willing to negotiate an agreement (an undertaking) to allow you to continue to use the name as long as no evidence of the contrary comes to our attention. However, if we receive no response, or the name is obviously misleading, PEO will file a challenge against the name.

What is the challenge process like?

There are two different procedures depending on whether the name is a corporate name or a business name (even a business name registered by a corporation). In both cases, the challenge starts with PEO filing a challenge with the Ministry of Government Services.

For a corporation name, you will be sent a Notice of Opportunity to be Heard, which provides you a chance to present evidence and an argument in support of your case. Once you receive this notice, you can ask the ministry to schedule a hearing to determine whether the name is properly registered. The ministry will then schedule a “hearing in writing,” which provides each side the opportunity to submit documents and written legal arguments to the hearing officer. The hearing officer then makes a decision, which may be appealed to the divisional court. If you do not request a hearing, the hearing officer will rule summarily without giving either side an opportunity to make written submissions.

For a business name, the business names registrar (or their delegate) will make an administrative decision and send you notice that the name will be cancelled in 21 days if you do not appeal the decision to the divisional court.

Be prepared for a wait. The duration between when PEO initiates its challenge and the date of the decision can vary widely. It has been as short as six weeks and as long as six years. On average, you can expect to wait six months for a business name decision, and about four years for a corporate name decision. Up

until the date of the decision, PEO will continue to be willing to negotiate an agreement, but if a decision is made in PEO’s favour, it will not negotiate further unless you file an appeal.

What happens if I don’t want to obey the decision?

If you continue to use a corporate or business name that has been struck, or use an unregistered business name, PEO will send one warning letter and then refer the matter to legal counsel. We consider the ministry’s decision on the name to settle the issue on whether the name will lead to the belief you may engage in the practice of professional engineering under the provisions of s. 40(3)(a) of the *Professional Engineers Act*. Our most likely course is to obtain an order to prevent the continued use of the name. Failure to abide by the terms of such an order may lead to fines or jail time.

What if I don’t wish to use restricted terms in my name?

Other than “engineer” or “engineering,” PEO will not object to terms in a business name, even if the business is related to professional engineering. As such, the use of the names of engineering practice areas (e.g. structural, mechanical, electrical) together with other terms related to engineering practice (e.g. technology, design, laboratory, consultant) is completely acceptable.

FINAL REFLECTIONS

Looking into business names takes up a lot of time and resources. “Business names account for about 20 per cent of the time we spend on all enforcement files,” says enforcement team member Steven Haddock. “In addition, the cost of doing record look-ups is one of the biggest discretionary parts of our budget.”

The enforcement team strives to open eight files during its biweekly review of business names for a total of just over 200 files opened per year, and that’s not including all the other files it has on the go (title, seal, etc.).

The bottom line is, if you manage to evade the consent process and register it, the name registration may be changed or cancelled at a later time and your only recourse may be a costly court proceeding. Obtaining a consent letter is easy. You don’t want to get caught on the wrong side of compliance with PEO.

ANY QUESTIONS?

Thinking of using engineer or engineering in your business name? We’d like to hear from you. Please contact a member of the enforcement team by phone 800-339-3716, ext. 1444 or by email at enforcement@peo.on.ca.

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