

DECISION AND REASONS

In the matter of a hearing under the *Professional Engineers Act*, RSO 1990, c. P.28; and in the matter of a complaint regarding the conduct of GREGORY J. SAUNDERS, P.ENG., a member of the Association of Professional Engineers of Ontario, and M.R. WRIGHT AND ASSOCIATES CO. LTD., a holder of a Certificate of Authorization.

This matter relates to the structural investigation of the Algo Centre Mall (the mall) in Elliot Lake, Ontario, and the subsequent partial collapse of the rooftop parking structure of the mall on June 23, 2012, which killed two people.

The Complaints Committee of the Association of Professional Engineers of Ontario (the association) referred this matter to the Discipline Committee on April 1, 2015, under section 24(2)(a) of the *Professional Engineers Act* (the act).

PRELIMINARY MATTER—SERVICE OF NOTICE OF HEARING ON M.R. WRIGHT AND ASSOCIATES CO. LTD.

The association entered into evidence a copy of the Notice of Hearing issued September 16, 2015, and advised the panel that, although the holder of the Certificate of Authorization, M.R. Wright and Associates Co. Ltd. (MRW), was neither present nor represented, it would, nonetheless, be asking the panel to make certain findings of guilt against MRW. The association explained that it would be asking this based on findings of fact agreed to between it and Gregory J. Saunders (the member), who was the contact professional for MRW, in accordance with section 47 of Regulation 941 (1) of the act, at the time of the mall collapse. The association clarified that the member was not currently an officer and director of MRW. It further explained that it had cancelled MRW's Certificate of Authorization for non-payment on October 11, 2012.

The panel asked the association whether MRW had been notified of the hearing and the association advised that the Notice of Hearing for MRW had

been sent to the member's lawyer in accordance with its understanding that the lawyer was counsel of record for MRW.

The panel expressed concern about whether the Notice of Hearing had been properly served on MRW and asked for the parties' submissions.

The association advised that its files indicated that counsel for the member was counsel of record for MRW at the time that the Notice of Hearing was issued. The association stated that it relied on the Statement of Readiness submitted by counsel for the member, which it understood to have been filed on the belief that MRW was a defunct company. The association submitted that evidence provided at the Elliot Lake Inquiry (2) indicated that MRW had been shut down and was no longer in operation. The association included, as Schedule E to the Agreed Statement of Facts (ASF) entered into evidence as Exhibit 5, an excerpt from Chapter 12 of Part One of the *Report of the Elliot Lake Inquiry*, which confirmed that MRW was dissolved after the collapse of the mall (3). The association stated that this information, along with the fact that MRW does not currently hold a Certificate of Authorization, should be considered by the panel. The association stated that it had maintained contact with the member, who was the contact professional for MRW at the time of the collapse and continued to be an officer and director of MRW until November 11, 2015, according to the corporation profile report tendered as evidence. The association added that its practice is to deal with the contact professional and that it followed its usual practice, noting that the member was still technically an officer and director of MRW when the Notice of Hearing was issued.

The association conceded that if, in fact, Johnson was not counsel for MRW, service on MRW may not have been properly made. Nonetheless, the association submitted that, because the ASF and the Joint Submission on Penalty (JSP) between Saunders and the association were to be introduced at the hearing, the hearing should proceed in MRW's absence. The association asked the panel to proceed with the hearing based on the ASF and to make findings subject to providing an opportunity for MRW to come forward and make submissions

after being served with the Notice of Hearing again. It argued that this approach would allow the hearing to proceed so that the evidentiary portion could be dealt with, while still providing an opportunity for MRW to provide submissions should it wish to do so.

Counsel for the member advised the panel that he was not counsel for MRW and that his firm did not represent MRW. In support of his position, Johnson referred to the Statement of Readiness that he sent to the association on June 29, 2015, which stated that he was responding on behalf of Saunders “and to the extent necessary where the interests of Saunders require the within response applies to [MRW].” Johnson submitted that Saunders resigned as an officer and director of MRW in August 2012, but that MRW had not updated its corporate records to reflect the resignation. He stated that his firm updated the corporate records recently to reflect the fact that Saunders was no longer involved with MRW. Johnson concluded by stating that he has no legal authority to take a position on MRW or to proceed with the hearing as it relates to MRW’s interests. However, he advised that he agreed to proceed with the hearing in accordance with the association’s request.

Independent legal counsel (ILC) advised the panel that the Notice of Hearing was not served on MRW in accordance with section 43 of the act, which requires notice to be served personally or by mail in order to be sufficiently given. ILC advised that in the circumstances—the hearing related primarily to the member and MRW was likely defunct and no longer holds a Certificate of Authorization—there were no natural justice or procedural concerns to prevent the panel from hearing the evidence.

However, ILC advised that it would be necessary to provide MRW with a Notice of Hearing and an opportunity to make submissions and/or call evidence if it contested the ASF or the association’s submissions on penalty.

The panel considered the submissions of the parties and the advice provided by ILC, and decided to proceed with the hearing against the member and to hear the evidence against MRW. The panel directed ILC to notify MRW at the conclusion of the hearing and give it the opportunity to call evidence and/or make submissions with respect to the allegations and/or penalty against it. The panel asked ILC to send the notice to MRW’s last known address at 17 Black Road, Suite 8, Sault Ste. Marie, Ontario, providing a copy to the panel and the association of both the notice and MRW’s response, if any.

In accordance with the panel’s direction, ILC notified MRW of the hearing by letter dated December 2, 2015, and invited its submissions on the allegations against it and the order and fine requested by the association with respect to MRW during the hearing of November 16, 2015. MRW did not provide submissions or respond to the letter. The panel, therefore, issues its Decision and Reasons regarding MRW after having given MRW an opportunity to address the issues herein.

THE ALLEGATIONS

The Statement of Allegations referred by the Complaints Committee to the Discipline Committee on February 12, 2015, was filed with the panel for the purpose of establishing its jurisdiction. With respect to

MRW, the association submitted that section 22(1) of the act, which addresses the cancellation of a Certificate of Authorization for default of fees, gives it continuing jurisdiction to deal with the conduct of a certificate holder. After reviewing the Statement of Allegations for this purpose, the panel was satisfied that it had jurisdiction under sections 5(1) and 22(1) of the act to hear and determine the matter with respect to the member and MRW, respectively.

The Statement of Allegations alleged that the member and MRW are guilty of professional misconduct as follows:

1. signing an engineering opinion dated April 30, 2012, without having prepared or checked the work supporting the opinion, amounting to professional misconduct pursuant to sections 72(2) (a), (b), (e) and (j) of Regulation 941 of the act.
2. signing a final engineering opinion dated April 30, 2012, without applying a seal contrary to section 53 of Regulation 941 of the act, amounting to professional misconduct pursuant to sections 72(2)(g) and (j) of Regulation 941 of the act.
3. signing an engineering opinion dated April 30, 2012, confirming the structural integrity of a building without making reasonable provision to ensure the validity of the opinion, amounting to professional misconduct pursuant to sections 72(2)(a), (b), (d) and (j) of Regulation 941 of the act.
4. signing an engineering opinion dated May 3, 2012, without having prepared or checked the work underlying the opinion, amounting to professional misconduct pursuant to sections 72(2) (a), (b), (e) and (j) of Regulation 941 of the act.
5. signing a final engineering opinion dated May 3, 2012, without applying a seal contrary to section 53 of Regulation 941 of the act, amounting to professional misconduct pursuant to sections 72(2)(g) and (j) of Regulation 941 of the act.
6. signing an engineering opinion dated May 3, 2012, confirming the structural integrity of a building without making reasonable provision to ensure the validity of the opinion, amounting to professional misconduct pursuant to sections 72(2)(a), (b), (d) and (j) of Regulation 941 of the act.
7. permitting or assisting a non-practitioner to engage in the practice of professional engineering in or about April and/or May 2012, amounting to professional misconduct pursuant to sections 72(2)(m) and (j) of Regulation 941 of the act.

AGREED STATEMENT OF FACTS AND MEMBER'S PLEA

The association provided a copy of the ASF signed by the member. The member admitted all of the facts in the ASF and pled guilty to the allegations of professional misconduct as follows (the schedules referred to in the ASF below are omitted):

1. Saunders was, at all material times, a professional engineer licensed pursuant to the *Professional Engineers Act* (the act). The respondent, M.R. Wright and Associates Co. Ltd. (MRW), was, at all material times, the holder of a Certificate of Authorization under the act.
2. Robert G. Wood (Wood) was, at all material times, the president of MRW. Until on or about October 28, 2011, Wood was the member of the association designated by MRW under section 47 of Regulation 941 under the act as assuming responsibility for the professional engineering services provided by MRW (the contact professional). At all material times thereafter, Saunders was the contact professional for MRW.
3. Wood, Saunders and MRW were convicted by a panel of the Discipline Committee of professional misconduct on the basis of a consent plea and joint submission as to penalty in connection with work done on a bridge rehabilitation design in 2005 (the previous work). Attached, as Schedule A, is a copy of the decision of the panel dated November 15, 2010, as published in the March/April 2011 edition of *Engineering Dimensions*.
4. Although Saunders signed and sealed the drawings at issue in connection with the previous work, he was not directly involved in the project, and did not actually attend at the site. Rather, he relied upon the drawings, information and representations provided to him by Wood, who had attended at the site and who had performed the site inspections referred to in the panel's decision (Schedule A).
5. As part of the penalty arising out of the previous work, the panel imposed a requirement on each of Saunders and Wood that they write and pass the association's professional practice examination (PPE) by November 15, 2011. In addition, Wood was required to write and pass certain technical examinations by November 15, 2011. In both instances, failure to write and pass the specified examinations by the deadline would result in licence suspension for 12 months, and failure to write and pass the examinations within 12 months thereafter would result in licence revocation. Saunders wrote and passed the PPE within the time allowed, but Wood did not write any of the examinations he had agreed to write. Saunders knew that Wood, within the time allowed, did not write any of the required examinations.
6. As a result of Wood's failure to write any of the specified examinations, his licence was suspended effective November 16, 2011. As the contact professional for MRW, Saunders was notified of the suspension by a letter from Linda Latham, P.Eng., deputy registrar, regulatory compliance, dated November 24, 2011. Attached, at Schedule B, is a copy of this letter.
7. On or about April 12, 2012, Wood attended at the Algo Centre Mall in Elliot Lake, Ontario (the mall), to conduct a "structural condition inspection" at the request of the mall's management. On or about April 30, 2012, Saunders co-signed, with Wood, a letter to the mall's management, a copy of which is attached as Schedule C, stating in part: "We have no structural concerns over the additional loading of caulking or waterproofing."
8. Saunders had, in fact, not attended the mall on April 12, 2012, and had no involvement in the "on-site review." In fact, Saunders had never been to the mall. The letter was not sealed, contrary to the requirements of section 53 of Regulation 941 under the act.
9. On or about May 3, 2012, Saunders co-signed, with Wood, a report entitled "Structural Condition Inspection" based on Wood's April 12, 2012 on-site review. Attached, as Schedule D, is a copy of the May 3, 2012 report (the May 3rd report) co-signed by Saunders.
10. The May 3rd report stated that "we" had been requested to "inspect the above-noted mall complex." The May 3rd report was not sealed, contrary to the requirements of section 53 of Regulation 941 under the act. The May 3rd report did not identify any structural concerns with the mall, and stated that the beams inspected were "structurally sound" and that "no visual signs of structural distress were observed."
11. Prior to co-signing the May 3rd report, Saunders met with Wood at the MRW office, during which meeting Saunders reviewed the said report with Wood. During that meeting, Wood told Saunders that the report was requisitioned by mall representatives for the purposes of financing and that Wood, during his on-site inspection, had been taken by a mall employee to the worst areas of leakage in the mall. Wood informed Saunders that he looked at the steel above the ceiling tiles in these areas and found no loss of section on any of the beams inspected. Wood reviewed with Saunders all of the pictures Wood took of the mall structure during his on-site inspection. Based upon Wood's representations, Saunders co-signed the May 3rd report. Those representations of Wood turned out to be false.
12. The April 12 on-site review, the April 30th letter (Schedule C) and the May 3rd report were all deficient because Wood:
 - (a) failed to consider previous reports that were available to him;
 - (b) failed to look at important parts of the mall that he knew, or should have known, ought to be inspected;
 - (c) failed to adequately inspect or examine those parts of the mall that he did look at;
 - (d) failed to notice, or failed to appreciate, the effects of continued leakage on the structural integrity of the mall;

- (e) drew conclusions about the structural integrity of the mall without an adequate basis for doing so;
- (f) failed to notice or to identify the effects of corrosion on structural elements of the mall;
- (g) failed to identify deficiencies that compromised the structural integrity of the mall; and
- (h) implicitly affirmed the structural integrity of the mall without having an adequate basis for doing so.

Attached, as Schedule E hereto, is a copy of that portion of the *Report of the Elliot Lake Commission of Inquiry* that discusses Wood's and Saunders' conduct in connection with the May 3rd report.

13. Although Saunders co-signed the April 30th letter and the May 3rd report, he had not visited the mall. Rather, he again relied upon the information and representations provided by Wood. He did not insist on seeing any drawings or field notes, nor did he examine MRW's own records to ascertain whether there had been any prior reports relating to the mall. He did not inquire, and therefore did not know, that there was a long history of leakage at the mall. He did not closely question Wood as to the limited scope of his inspection and whether it was sufficiently comprehensive in the circumstances. Saunders did not ask, and therefore did not know, that Wood had failed to take any measurements of the beams that were referred to in the May 3rd report as being "structurally sound," nor had Wood inspected the condition of the welds at connections in the areas experiencing leakage.
14. Saunders should have known, as a result of the previous conviction, that Wood was not always as thorough as he should be. Further, Saunders knew that Wood was planning to "retire" and that he had made no effort to write any of the examinations he had agreed to write. In all the circumstances, Saunders should have taken steps to double-check Wood's work. He should have been much more careful. Saunders did not conduct a proper or adequate review of the April 30th letter or the May 3rd report or the work leading to them, and fell below the expected standard of practice in his supervision of Wood's work in connection with the April 30th letter and the May 3rd report.
15. Saunders admits that the work carried out by him in connection with the April 30th letter and the May 3rd report was deficient, as set out

above, and fell below the expected standard of practice for engineering work of this type.

16. On June 23, 2012, about two months after the April 12th inspection, a portion of the mall's rooftop parking structure collapsed causing two deaths, several non-fatal injuries, and substantial damage to a number of areas of the mall. After the mall collapse, Saunders co-operated with the association and the Ontario Provincial Police in their investigations.
17. The cause of the collapse was failure of a heavily corroded steel connection located below the parking deck. The expert report commissioned by the Ontario Provincial Police following the collapse concluded that the general condition of the structure of the mall was poor. The experts found that the welds and other components of the connections in more than 40 per cent of the locations they inspected had severe to very severe corrosion. The expert report concluded that corrosion was a widespread issue that affected significantly more than the connection that ultimately failed.
18. By reason of the aforesaid, the parties agree that Saunders is guilty of professional misconduct as follows:
 - (a) on or about April 30, 2012 and May 3, 2012, signing a final engineering opinion without applying a seal contrary to section 53 of Regulation 941 of the act, amounting to professional misconduct pursuant to section 72(2)(g) of Regulation 941 of the act;
 - (b) on or about April 30, 2012 and May 3, 2012, signing an engineering opinion confirming the structural integrity of a building without making reasonable provision to ensure the validity of the opinion, amounting to professional misconduct pursuant to sections 72(2)(a) and (d) of Regulation 941 of the act; and
 - (c) by reason of the foregoing, engaged in conduct or performed 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, amounting to professional misconduct under section 72(2)(j) of the act.

DECISION REGARDING THE MEMBER

The panel conducted a plea inquiry and was satisfied that the member's admission and plea were voluntary, informed and unequivocal. Having considered the ASF and the submissions and agreement of the parties, the panel found that the facts, as agreed, supported a finding of professional misconduct against the member. The panel found that Gregory J. Saunders, P.Eng., committed the acts of professional misconduct set out in paragraphs 18(a), (b) and (c) of the ASF set out above, and was guilty of professional misconduct under sections 72(2)(a), (d), (g) and (j) of Regulation 941.

PENALTY DECISION REGARDING THE MEMBER

The association advised the panel that it and the member had agreed to the Joint Submission on Penalty (JSP), which they submitted to the panel for its consideration. Counsel for the parties then provided submissions on the appropriateness and adequacy of the penalty agreed to.

The association submitted that the purposes of penalty are served in this matter in the following ways: the long suspension, fine, reprimand

and discipline publication will specifically deter the member and generally deter other engineers who may be inclined to breach the law, while protecting the public interest. The penalty also demonstrates the seriousness with which the association takes the member's professional misconduct, and maintains the association's reputation in appropriately and effectively regulating the practice of engineering. The association added that there is no evidence the member is incompetent and, therefore, no remediation is required. As well, the association submitted that the penalty accounts for the member's discipline history and the mitigating steps he took in the present matter, including his co-operation with the association and with the authorities after the mall collapse, and his serious admission of the allegations of professional misconduct, which made a difficult, contested hearing unnecessary. It added that these mitigating factors also demonstrate that the member has learned his lesson and is unlikely to reoffend. The association referred the panel to three decisions of the Discipline Committee that supported its submission that the penalty was reasonable: the 2009 decision regarding Suli Braunshtein, P.Eng. (4); the 2002 decision regarding Man-Woon Lai, P.Eng. (5); and the 2005 decision regarding Kwang-Ray Hsu, P.Eng. (6).

Counsel for the member acknowledged the submissions of the association on the mitigating factors in this matter. He added that the member has been practising for 24 years in good standing. Regarding the member's previous discipline matter, Johnson noted that the member complied with the remediation requirement of his penalty and the fine ordered was paid. Counsel for the member submitted that the member co-operated with the association throughout the complaint and discipline processes, and spared the association the cost of a lengthy hearing by making his consent plea at the earliest stage of this discipline matter. He added that the member has accepted responsibility and a suitable penalty that satisfies the principles of penalty.

The panel concluded that the proposed penalty is reasonable and clearly within the appropriate range. The member co-operated with the association, accepted responsibility for his actions, pled guilty, and spared the association the costs of a contested hearing by agreeing to the facts and to an appropriate penalty. The panel accepted the JSP set out below and, accordingly, ordered:

- (a) Pursuant to section 28(4)(f) of the act, the member shall be reprimanded, and the fact of the reprimand shall be recorded on the register for a period of one (1) year;
- (b) Pursuant to section 28(4)(b) of the act, the member's licence shall be suspended for a period of seven (7) months, commencing 14 days after the day the penalty decision is pronounced by the Discipline Committee;
- (c) Pursuant to section 28(4)(h) of the act, the member shall pay a fine in the amount of \$2,000 (two thousand dollars) within 30 days of the date the penalty decision is pronounced by the Discipline Committee;
- (d) The findings and order of the Discipline Committee shall be published in full under sections 28(4)(i) and 28(5) of the act, with reference to the member's name; and
- (e) There shall be no order as to costs.

The panel then asked the member if he wished to waive his right to appeal and have the penalty and reprimand administered without delay.

The member confirmed that he waived his right to appeal. As a result, the panel administered the reprimand to the member at the conclusion of the hearing.

ALLEGATIONS AND SUBMISSIONS REGARDING MRW AND PLEA ENTERED

As noted above, MRW was neither present at the hearing, nor represented; nor did MRW make submissions after the hearing when it was invited to do so by ILC. A plea of not guilty was, thus, entered on MRW's behalf at the hearing.

The association stated that it was withdrawing allegations 1, 4 and 7 against MRW and was only pursuing allegations 2, 3, 5 and 6 of the Statement of Allegations, which are set out in the allegations section above.

In accordance with allegations 2, 3, 5 and 6, the association asked the panel to make findings of professional misconduct against MRW under sections 72(2)(a), (b), (d), (g) and (j) of Regulation 941. It submitted that, despite the fact that MRW is not a signatory to the ASF, the member, who has agreed to the ASF, was the contact professional responsible for MRW at the relevant time, and the evidence before the panel in the form of the member's admissions is sufficient to ground a finding of guilt in respect of MRW. The association also argued that MRW, as the holder of the Certificate of Authorization and as the employer of Wood, was responsible for Wood's conduct. The association referred the panel to Wood's conduct as set out in the ASF, and as set out in the excerpt from Chapter 12 of the *Report of the Elliot Lake Commission of Inquiry* attached as Schedule E to the ASF. The association asked the panel to make findings of professional misconduct based on the evidence before it that was adduced during the hearing. The association submitted that allegations 2, 3, 5 and 6 are made out against MRW based on the evidence and that the panel can make findings against MRW on the basis of this evidence. In support of its submission, the association referred the panel to the Discipline Committee's decision in Jiri Krupka, P.Eng., and CAElliott Inc. issued on May 12, 2014 (7). In that matter, the Discipline Committee made a finding of guilt with respect to the certificate holder based on a finding of guilt for the member.

With respect to penalty, the association asked the panel to impose a fine of \$5,000. It noted that, because MRW no longer holds a Certificate of Authorization to provide engineering services, the fine would be payable if and when MRW sought a new or renewed Certificate of Authorization in the

future. The association noted the principles of penalty and emphasized that a fine of \$5,000, which is the maximum permitted under the act, would signal the seriousness with which the association takes MRW's professional misconduct, thus upholding the association's reputation in protecting the public interest.

REASONS FOR DECISION AND PENALTY REGARDING MRW

The panel considered all of the evidence before it, including the ASF and the schedules to it. The panel accepted the ASF between the member and the association as evidence of MRW's professional misconduct in allowing Wood, who did not hold a licence as a professional engineer at the time, to attend the mall and perform an inadequate engineering inspection. The panel found MRW guilty of professional misconduct contrary to sections 72(2)(a), (b), (d), (g) and (j) of Regulation 941.

The panel also accepted the penalty sought by the association as appropriate in the circumstances. The panel was satisfied that MRW does not currently pose a risk to the public since it no longer holds a Certificate of Authorization. The panel was also

satisfied that the imposition of a \$5,000 fine and the publication of this penalty would demonstrate to the public that the association is capably protecting the public interest. Accordingly, the panel ordered MRW to pay a fine in the amount of \$5,000 to the Minister of Finance for payment into the Consolidated Revenue Fund, pursuant to section 28(4)(h) of the act, if and when MRW seeks reinstatement as a holder of the Certificate of Authorization to provide engineering services in Ontario. The panel also directed that its findings and order with respect to MRW be published in *Engineering Dimensions* in full with reference to MRW by name, pursuant to section 28(4)(i) of the act.

Glenn Richardson, P.Eng., signed this Decision and Reasons for the decision as chair of this discipline panel and on behalf of the members of the discipline panel: Stella Ball, LLB, Ishwar Bhatia, P.Eng., and Anne Poschmann, P.Eng.

END NOTES

1. RRO 1990, Reg 941 (Regulation 941).
2. The Elliot Lake Commission of Inquiry was established on July 19, 2012, by the Government of Ontario to inquire into and report on events surrounding the mall collapse. The results of the inquiry were released in a report published October 15, 2014, at: www.attorneygeneral.jus.gov.on.ca/inquiries/elliottlake/report/index.html.
3. See part one, chapter 12 of the report, at paragraph 2, page 573 and footnote 138 citing the testimony of Wood on June 7, 2013 (at pages 13467-9) and Saunders on June 6, 2013 (at page 13089).
4. Published in the September/October 2010 issue of *Engineering Dimensions*.
5. Published in the January/February 2002 issue of *Engineering Dimensions*.
6. Published in the July/August 2005 issue of *Engineering Dimensions*.
7. Published in the March/April 2015 issue of *Engineering Dimensions*.

SUMMARY OF DECISION AND REASONS

In the matter of a hearing under the *Professional Engineers Act, R.S.O. 1990, c. P.28*, of a complaint regarding the conduct of GEORGE MIKHAEL, P.ENG., a member of the Association of Professional Engineers of Ontario.

The panel of the Discipline Committee met to hear this matter on January 12, 2016 at the Association of Professional Engineers of Ontario in Toronto.

THE ALLEGATIONS

This case arose from a complaint filed by Albert Bastien concerning a solar panel system installed on the roof of his house. The Statement of Allegations dated April 24, 2015 against George Mikhael, P.Eng. (the member), alleged that he was guilty of professional misconduct.

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 summarized as follows:

In 2011, the complainant, Albert Bastien, retained Powerserve/Neighbourhood Electric Company (Neighbourhood Electric) to install a solar panel system on the roof of his residence located in Amherstburg, Ontario. Neighbourhood Electric applied for a building permit from the Town of Amherstburg on April 1, 2011 for the project.

Bastien and/or Neighbourhood Electric retained the member to analyze the impact of the solar panel system on the structural integrity of the roof. There was no written contract between the member in respect to the scope of his retainer.