

Decision and Reasons

COMPILED BY BRUCE MATTHEWS, P.ENG.

This matter came on for hearing before a panel of the Discipline Committee on June 2, 2003 at the Association of Professional Engineers of Ontario in Toronto. The association was represented by John Abdo of Cassels Brock & Blackwell LLP. George Papadopoulos, P.Eng., was not represented by legal counsel.

The Allegations

The allegations against George Papadopoulos, P.Eng., (the “member”) in the Notice of Hearing dated February 20, 2003, included allegations of professional misconduct and incompetence. The allegation of incompetence was withdrawn by the association at the outset of the hearing.

Plea by Member

The member admitted to the allegations of professional misconduct as set out in the Agreed Statement of Facts set out below. 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 and the

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

George Papadopoulos, P.Eng.

a member of the Association of Professional Engineers of Ontario.

member advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which provided as follows:

1. George Papadopoulos, P.Eng., (“Papadopoulos”) was first licensed as a professional engineer in the province of Ontario on October 25, 1973.
2. Papadopoulos is not and has never been the holder of a Certificate of Authorization issued pursuant to the Professional Engineers Act,

R.S.O. 1990, c. P.28 (the “Act”).

3. Gregory Ioannidis (“Ioannidis”) was, at all material times, the owner of a property located on Oxford County Road 29 in the Township of Blandford-Blenheim (the “township”). Ioannidis retained Papadopoulos in or about December 2001 to provide site plan drawings and structural drawings for a truck stop/restaurant project known as “Truckers Haven” to be built on the property.
4. Shortly thereafter, Ioannidis retained Christos Spathis (“Spathis”) to provide mechanical engineering services for the project and Zak Ghanim to provide architectural services. Ioannidis retained Spathis on the recommendation of Papadopoulos.
5. By letter to the township dated December 31, 2001, Ioannidis appointed Papadopoulos as his agent for the purposes of applying for the building permit for the project (Exhibit “A”).
6. On December 31, 2001, Papadopoulos signed and submitted a building permit application to the Township of Blandford-Blenheim (the “township”) building department, which included 10 drawings as follows:

Note from the Editor

Welcome to Gazette, a new department in *Engineering Dimensions*. For reasons relating to new Canada Post rules governing the mailing of publications, the content of the former, stand-alone newsletter called *Gazette* is being directly incorporated into *Engineering Dimensions* as a regular department. While the separate masthead is gone, the familiar blue tinting of the pages remains, as does its location at the centre of the magazine.

These changes will result in cost reductions of approximately \$25,000 per issue compared to the previous format. The editorial objectives/policy for the new department, however, will remain the same as they were for the *Gazette* newsletter (see May/June 2004 issue). Just think of it as the Regulatory Compliance news section of the magazine.

Bruce Matthews, P.Eng.

- (a) Dwg. S-1, Foundation Plan, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (b) Dwg. S-2, Rebar Take Off, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (c) Dwg. S-3, Rebar And Access Hatch Details, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (d) Dwg. S-4, Window Lintel Plan, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (e) Dwg. S-5, Roof Framing Plan, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (f) Dwg. S-6, Notes, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (g) Dwg. F-1, Floor Plan—Fire Alarm—Emergency Lighting—Exit Signs, dated December 15, 2001, and bearing the seal and signature of Papadopoulos dated December 15, 2001;
- (h) Dwg. M-1, Floor Plan Plumbing, dated December 2001, and bearing the seal and signature of Spathis dated December 2001;
- (i) Dwg. M-2, Floor Plan H.V.A.C., dated December 2001, and bearing the seal and signature of Spathis dated December 2001; and
- (j) Dwg. M-3, Kitchen Exhaust System, dated December 2001, and bearing the seal and signature of Spathis dated December 2001 (collectively Exhibit “B”).
7. Ioannidis provided the township with a “Confirmation of Commitment by Owner,” dated February 3, 2002, regarding design and field review services (Exhibit “C”). Papadopoulos had signed the Confirmation with respect to structural engineering and electrical engineering services. Spathis had signed the Commitment with respect to mechanical engineering services.
8. On February 21, 2002, on the basis of detailed drawings and specifications provided by Ioannidis, the Ministry of the Environment issued an amendment to their previously issued Certificate of Approval for the private sewage treatment facility associated with the project. The amendment formally deleted a condition on the original Certificate (Exhibit “D”).
9. The township issued a building permit on March 4, 2002 (Exhibit “E”). Construction on the underground drainage system started on or about May 16, 2002.
10. On May 16, 2002, Brian Hunt, resource planner for the Grand River Conservation Authority (“Hunt”), sent a letter by facsimile transmission to James Watson, C.E.T., chief building official for the township (“Watson”). In the letter, Hunt asked Watson to “check out” issues of fill and silt control for construction in the township. Hunt made specific mention that “the Truckers Haven site may need some site checking” (Exhibit “F”).
11. The township inspected the Truckers Haven site that same day. The township inspection report noted that material, such as culverts and plastic piping, had been delivered to the site.
12. Watson also wrote to Papadopoulos by letter dated May 16, 2002, regarding the requirements for mud mats and silt fences at the construction site (Exhibit “G”). These requirements were as per the Site Plan Agreement dated July 1, 2001. Watson asked Papadopoulos to ensure that the conditions of the Site Plan Agreement were complied with before any additional site work was done. Papadopoulos relayed this information to Ioannidis and informed him of the need to comply.
13. Construction of the truck stop/restaurant building started on or about June 12, 2002.
14. On June 12, 2002, the township telephoned Papadopoulos regarding a needed site inspection report for the drainage work on the Truckers Haven parking lot. Papadopoulos told the township to contact LGI Consulting Engineers Inc. (“LGI”), who had done the design for the parking lot drainage system. At the request of Ioannidis, Papadopoulos discussed with LGI an alternative to the storm interceptor specified on the drawings.
15. On June 14, 2002, the township inspected the Truckers Haven site. Papadopoulos and Ioannidis were on site at the time of the inspection. The township noted in its inspection report that Papadopoulos had authorized the addition of two pieces of rebar to the footings and had made the concrete pads a little larger than was indicated on the drawings. During the site inspection, the township and Papadopoulos had further discussions about various project issues, which included:
- (a) A water table problem had been encountered at the northeast corner and along the north side of the building. Papadopoulos indicated to the township that he would revise the footing detail and provide revised drawings bearing his seal;
- (b) The need for a soil engineer to examine the area where the sewage

- tank was to be installed. Papadopoulos relayed this to Ioannidis;
- (c) The requirement to install the silt fence and mud mats required by the Site Plan Agreement. Papadopoulos relayed this information to Ioannidis;
- (d) The fact that the construction project had not been registered with the Ministry of Labour as required under the *Occupational Health and Safety Act*. Papadopoulos relayed this information to Ioannidis;
- (e) The need for the parking lot drainage work performed to date to be approved by LGI. Papadopoulos relayed this information to Ioannidis;
- (f) The fact that the Ministry of the Environment and the County of Oxford would have to provide their approval before any changes were made to the design of the sewage system from that which was indicated on the permit drawings. Papadopoulos relayed this information to Ioannidis;
- (g) The fact that any changes to the permit drawings must be submitted to the township prior to the work being done. Papadopoulos relayed this information to Ioannidis; and
- (h) The requirement for Papadopoulos to submit his site inspection reports to date, as well as subsequent reports, to the township. Papadopoulos relayed this information to Ioannidis.
16. On June 20, 2002, the township inspected the site and again requested from Papadopoulos the information and documentation initially requested on June 14, 2002. Papadopoulos conveyed this to Ioannidis.
17. On June 21, 2002, the township contacted the Association of Professional Engineers of Ontario (“PEO”) and learned that Papadopoulos did not possess a Certificate of Authorization allowing him to offer and provide professional engineering services to the public (Exhibit “H”).
18. On or about June 27, 2002, Papadopoulos contacted PEO and requested information about the requirements for a Certificate of Authorization. PEO sent Papadopoulos a Certificate of Authorization application form that same day.
19. On July 3, 2002, the township observed that work was proceeding on the construction site and that none of the items of information and documentation requested on June 14, 2002, had been provided. On that basis, and in consideration of Papadopoulos’ lack of a Certificate of Authorization, the township issued an “Order to Comply with Act or Code” and a “Stop Work Order” against the project (Exhibit “I”).
20. In telephone conversations with Watson on July 4, 2002, and July 5, 2002, Watson advised Papadopoulos that the township could not accept any drawings, reports, etc. from him until the Certificate of Authorization had been issued.
21. On July 16, 2002, Papadopoulos hand delivered his Certificate of Authorization application to PEO (Exhibit “J”).
22. On or about July 23, 2002, Watson visited the project site and observed that the foundation wall was constructed using 10” concrete blocks, whereas the drawing specified 12” concrete block. He also observed that the mortar work on the foundation wall was sloppy, with numerous gaps and incomplete joints. He further observed that the rebar used in the concrete pads consisted of two 25mm bars and two 15mm bars, whereas the drawings specified four 25mm bars.
23. Papadopoulos agrees that he:
- (a) breached section 12(2) of the Act by offering and providing professional engineering services to the public while not in possession of a Certificate of Authorization;
- (b) signed the Confirmation of Commitment by Owner for electrical engineering work that he was not competent to perform by virtue of his training and experience;
- (c) sealed drawings for electrical engineering design work on fire alarms, emergency lighting and exit signs that did not conform to the requirements of the *Ontario Building Code*;
- (d) sealed drawings for electrical engineering design work on fire alarms, emergency lighting and exit signs which he was not competent to perform by virtue of his training and experience;
- (e) failed to submit written reports of deficiencies and conformity with plans as prescribed in section 78 of Regulation 941 made under the Act regarding the general review of construction from the start of construction on June 12, 2002, until June 21, 2002, when the township no longer accepted submissions from Papadopoulos;
- (f) authorized changes to the design of the footings to the project during construction without revising the drawings; and
- (g) acted in an unprofessional manner.
24. By reason of the facts set out above, Papadopoulos admits that he is guilty of professional misconduct as defined in section 28(2)(b) of the Act as follows:
- “28(2) A member of the Association or a holder of a certifi-

cate of authorization, a temporary licence, or a limited licence may be found guilty of professional misconduct by the Committee if, ...

(b) the member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.”

25. The sections of the regulation, Regulation 941 to the Act, relevant to the alleged professional misconduct by Papadopoulos are:
- (a) *Section 72(2)(a)*: negligence, which is defined as 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 the 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;
 - (e) *Section 72(2)(h)*: undertaking work the practitioner is not competent to perform by virtue of the practitioner's training and experience;
 - (f) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all of the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional.

Decision

The panel considered the Agreed Statement of Facts and finds that the facts support a finding of professional misconduct and, in particular, finds that the member committed an act of professional misconduct as alleged in paragraphs 24 and 25 of the Agreed Statement of Facts.

Penalty

Counsel for the association advised the panel that a Joint Submission as to Penalty had been agreed upon. The panel accepted the Joint Submission as to Penalty and accordingly orders as follows:

1. **That Papadopoulos' licence be suspended for a period of two months;**
2. **That Papadopoulos write and pass the Professional Practice Examination and PEO Technical Examination 98-Civ-B8 (Management of Construction), within 12 months from the date of the hearing, failing which it would become a condition and limitation on his licence that he not engage in the practice of professional engineering related to the general review of construction as contemplated by section 78 of Regulation 941 made under the *Professional Engineers Act*; this condition and limitation would remain in effect until such time as Papadopoulos writes and passes both exams;**

3. **That Papadopoulos receive a reprimand and the fact of the reprimand be recorded on the Register of the association;**
4. **That, within one year of the date of this hearing, Papadopoulos pay costs to PEO in the amount of \$5,000; and**
5. **That as required by section 28(5) of the Act, the findings and order of the Discipline Panel be published in detail, in the official publication of the association.**

The panel requested clarification from the association with respect to the proposed payment of costs to PEO in the amount of \$5,000 and, after due deliberation of the submission by counsel for PEO, agreed to accept the joint submission on costs. The panel accordingly orders as set out above.

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

The written Decision and Reasons in this matter were dated November 6, 2003, and were signed by the Chair of the panel, Gina Cody, P.Eng., on behalf of the other members of the Discipline Panel: James Dunsmuir, P.Eng., Santosh Gupta, P.Eng., Cam Mirza, P.Eng., and David Smith, P.Eng.

Note from the Regulatory Compliance Department

Papadopoulos waived his right of appeal in this matter, and the suspension of his licence was effective June 2, 2003. The cost award was paid on June 1, 2004. Because of health problems, Papadopoulos requested and was granted an extension to the time required to write the examinations.