

COMPILED BY BRUCE MATTHEWS, P.ENG.

This matter came on for hearing before a panel of the Discipline Committee on October 25, 2007 at the Association of Professional Engineers of Ontario (the association) in Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. Wojciech Stanislaw Remisz, P.Eng., and Remisz Consulting Engineers Ltd. were represented by Todd Plant of Plant Quinn Thiele LLP. Scott C. Hutchison of Stockwoods LLP served as independent legal counsel to the discipline panel.

### The allegations

1. It is alleged that Wojciech Stanislaw Remisz, P.Eng., (the member) and Remisz Consulting Engineers Ltd. (the holder) are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P.28.
2. "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."
3. The sections of Regulation 941 made under the said Act and relevant to this misconduct are:
  - (a) *Section 72(2)(a)*: negligence as defined in 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;

## 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:

**Wojciech Stanislaw Remisz, P.Eng.**

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

**Remisz Consulting Engineers Ltd.**

a holder of a Certificate of Authorization.

- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, bylaws 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 regulation, other than an act 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 disgraceful, dishonourable or unprofessional.
2. Remisz Consulting Engineers Ltd. (RCEL) was, at all material times, the holder of a Certificate of Authorization to offer and provide to the public services that are within the practice of professional engineering and was responsible for supervising the conduct of its employees and taking all reasonable steps to ensure that its employees, including Remisz, carried on the practice of professional engineering in a proper and lawful manner. Remisz was one of the professional engineers responsible for the services provided by RCEL.
  3. On or about February 2005, the City of Kingston (the city) received a building permit application for a proposed single-family residence. This application included a drawing sealed by Remisz for the full structural review of that residence, dated July 24, 2004. A copy of the design drawings reviewed and sealed by Remisz was attached as Schedule 1 to the Statement of Agreed Facts. The residence was a production house/unit known as Civic Da Vinci, Models A and B, for a local builder, Braebury Homes Corporation (Braebury). Upon review of these drawings, the city had concerns with

### Plea by member and holder

The member and the holder admitted the allegations of professional misconduct. The panel conducted a plea inquiry and was satisfied that the member's and holder's admissions were voluntary, informed and unequivocal.

### Statement of Agreed Facts

1. Wojciech Stanislaw Remisz, P.Eng., (Remisz) was, at all material times, a member of the Association of Professional Engineers of Ontario.

the design of the structural elements of the residence.

4. Alleged design deficiencies identified by the city included the following:
  - (a) location of girder trusses not provided and therein not allowing for the effect of concentrated load reactions to be accounted for in the design of supporting elements;
  - (b) two windows on the front of Elevation "B" require special brick lintels because of the arched soffit and side-lights and no details were shown for these lintels;
  - (c) framing around the stair opening was unclear on the ground and second-floor level and framing indicated results in potentially dangerously low bending resistance to applied bending forces;
  - (d) supporting steel beams in the garage area were at different elevations and no detail to provide for this condition was shown on the drawings;
  - (e) a steel beam over the garage was supported on two teleposts at each end and no detail was shown for this unusual condition; and
  - (f) supporting masonry veneer on the front elevation was supported on the wood beam in the garage area.
5. On August 23, 2004, Cristian R. Constantinescu, P.Eng., of RCEL, provided the city with a memo to Braebury regarding the stamping process of Braebury Homes drawings. In that memo, he stated that, "The engineer's stamp on a drawing means that full structural review of that drawing has been completed, if not otherwise specified." This informed the city that Braebury Homes drawing(s) stamped by the Remisz engineers were a complete structural review.
6. The Association of Professional Engineers of Ontario retained Robert E. Brown, P.Eng., (Brown) of Robert E. Brown and Associates Limited, Consulting Engineers, to conduct an independent third-party review of Remisz's sealed structural design drawings dated July 24, 2004. A copy of Brown's report dated June 28, 2006 was attached as Schedule 2 to the Statement of Agreed Facts.
7. Remisz and RCEL retained Heinz Keller, P.Eng., (Keller) to conduct a review of the work of Remisz and RCEL. A copy of Keller's report dated October 17, 2007 was attached as Schedule 3 to the Statement of Agreed Facts.
8. In respect to the expert reports referenced in paragraphs 6 and 7, the parties agree that the structural design drawings dated July 24, 2004 were deficient, as noted in paragraph 9.
9. It is agreed that Wojciech S. Remisz, P.Eng., and Remisz Consulting Engineers Ltd.:
  - (a) provided a design that was not compliant with current *Ontario Building Code* requirements for the proposed single-family residence;
  - (b) provided structural designs and drawings, which included the overstressing of structural elements beyond allowable limits; and
  - (c) acted in an unprofessional manner.
10. Remisz and RCEL stated, by way of mitigation, that the problems in relation to the work were exacerbated by a lack of communication among the builder, the city and RCEL.

### Decision

Upon reviewing the allegations and the evidence, the panel found that the holder and the member are guilty of professional misconduct as defined in section 28(2) of the *Professional Engineers Act*, R.S.O. 1990, and under sections 72(2)(a), 72(2)(b), 72(2)(d) and 72(2)(g), and of unprofessional conduct

under 72(2)(j) of Regulation 941/90 under the Act.

### Reasons for decision

The panel accepted the Statement of Agreed Facts and the member's and holder's admissions that substantiated the findings of professional misconduct. The panel noted that there was no disagreement about any element of the Statement of Agreed Facts in the submission by counsel for the association or in the submission by counsel for the member and holder. Paragraphs 8, 9(a), and 9(b) of the Statement of Agreed Facts support the finding by the panel against the member and the holder under sections 72(2)(a), 72(2)(b) and 72(2)(g) of Regulation 941/90 under the Act, paragraph 9(a) supports the finding under section 72(2)(d), and paragraphs 8 and 9 support the finding as unprofessional under section 72(2)(j) of Regulation 941/90 under the Act against the member and the holder.

### Penalty decision

Counsel for the association and counsel for the holder provided the panel with a Joint Submission as to Penalty for the member and holder dated October 22, 2007. After considering the facts and the submissions from counsel for the holder, counsel for PEO and independent legal counsel, the panel unanimously accepted the Joint Submission as to Penalty, and ordered that:

1. **Remisz and RCEL shall be reprimanded and the fact of the reprimand shall be permanently recorded on the register.**
2. **Remisz shall write and pass the PEO Advanced Structural Analysis (98-Civ-B1) and Advanced Structural Design (98-Civ-B2) technical examinations within 12 months, failing which his licence shall be suspended.**
3. **Remisz shall write and pass the technical examinations within 24**