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Discipline Committee of the Association of Professional Engineers of Ontario
In the matter of a hearing under the Professional Engineers Act, R.S.O. 1990, Chapter
P.28. And in the matter of a complaint regarding the conduct of

Akram Karmash, P.Eng.

A member of the Association of Professional Engineers of Ontario

Decisions and Reasons

**Notice: This
Discipline Committee
Decisions and
Reasons contains
graphic language.**

A panel of the Discipline Committee of the Association of Professional Engineers of Ontario met in the offices of the association on August 20, 21, 22 and 23, 1996, to hear allegations of professional misconduct against Akram Karmash, P.Eng., (hereinafter referred to as Karmash). R. Paul Steep of McCarthy Tétrault appeared as legal counsel for the association. Steven Chaplin of Bishop, Brooker, Chaplin appeared as legal counsel for Karmash.

At the commencement of the hearing, Chaplin brought a Motion for dismissal of the proceedings on the basis that the committee did not have jurisdiction in that the conduct alleged against Karmash could not constitute professional misconduct. He submitted that he was not contending the association did not have a role to play. If the facts were proven, he submitted that the conduct of Mr. Karmash may be considered offensive, it may be a human rights violation, it may be a breach of the Code of Ethics. He submitted, however, that it was not professional miscon-

duct. He submitted that the role of the committee was very limited and that there was no basis on the facts alleged against his client to bring a discipline hearing.

Chaplin submitted that the facts, if proven, would not constitute anything more than a breach of the Code of Ethics. He submitted that the facts, if proven, did not constitute professional misconduct as defined in Section 72(2) of Regulation 941. He further submitted that pursuant to 72(2)(j), there must be an act or conduct, and that attitude and words did not constitute conduct. He submitted that the acts referred to in Section 72(2)(j) should be relevant to the practice of engineering and that the panel of the Discipline Committee was assembled because of their expertise as engineers to judge on engineering competence. Chaplin submitted that the association does not have a non-harassment policy, and that the profession is divided on the issue of whether sexual harassment constitutes professional misconduct. He submitted that breaches of the Code of Ethics are not delin-

eated in the Act as professional misconduct.

Steep, on behalf of the association, submitted that if the allegations were proven, the committee would have to find that it constituted professional misconduct. He submitted that the members of the panel were the most skilled to make a determination of professional misconduct and of professionalism generally on the part of members of the association. He submitted that Section 2(3) of the Professional Engineers Act states that the principal object of the association is to regulate the practice of professional engineering and to govern its members in accordance with the Act, the Regulations and the By-laws in order that the public interest may be served and protected. He submitted that the duty of the Discipline Committee is therefore to uphold and protect the public interest.

With respect to the submissions that an engineer could not be charged under Section 72(2)(j) of Regulation 941 alone, Steep submitted that in the event that the acts of an engineer constituted profes-

sional misconduct, but not acts specifically itemized in other subsections of 72(2), that:

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,” would apply.

He submitted that the statements attributed to Mr. Karmash constitute conduct relevant to the practice of professional engineering.

The committee received advice from independent counsel, Mr. Brian Campbell, that the discretion was theirs to consider whether the conduct was disgraceful, dishonourable and unprofessional as defined in Section 72(2)(j). After hearing submissions by counsel for the association and defendant, the committee retired to deliberate. They found that the actions alleged against Karmash amounted to conduct, and that in the context of the facts, his actions were relevant to his engineering activities.

The Decision of the Discipline Committee was to dismiss the Motion brought forward by the defendant’s counsel. The committee found that it had the jurisdiction to make the findings that the alleged conduct, if proven, constituted professional misconduct as currently defined in the Regulations.

After rendering its Decision, the hearing was adjourned until 9:00 a.m. on August 21 for continuation of the hearing.

The hearing arose as a result of Karmash’s conduct towards Ann Raney, an engineering graduate employed by Pro-Tech, with which Karmash’s employer, Colonial Building Restoration, entered into a contract on April 4, 1995, to undertake the cutting out, re-pointing, and various masonry extras at the restoration project of the Peace Tower in Ottawa. Karmash was the project manager on this project.

The allegations of professional misconduct are set out in Appendix “A” to the Notice of Hearing, which was filed as an exhibit and is summarized as follows:

Appendix “A”

1. Karmash was at all material times a member of the Association of Professional Engineers of Ontario.

2. Public Works Canada engaged Spencer Higgins, OAA, as the architect for a restoration project of the Peace Tower in Ottawa (“the project”).

3. Thomas Fuller Construction Co. (1958) Limited (“Fuller”) was engaged as the general contractor for the project.

4. Colonial Building Restoration (“Colonial”) was engaged by Fuller to provide masonry services on the project. Karmash was at all material times the project manager for Colonial on the project.

5. On April 4, 1995, Colonial entered into a contract with Pro-Tech Building Restoration to undertake the cutting out, re-pointing and various masonry extras for the project. The contract was signed by Andrew Lough (“Lough”), on behalf of Colonial, and Raymond Wolf (“Wolf”), on behalf of Pro-Tech.

6. Ann Raney (“Raney”) was an engineering graduate employed by Pro-Tech. Raney was initially hired by Pro-Tech as an assistant to Wolf, and subsequently became Pro-Tech’s assistant project supervisor.

7. Raney was hired by Wolf in May of 1995. After witnessing Wolf interview Raney, Karmash approached Wolf and commented: “I hope you are not planning on hiring her.” Upon being advised by Wolf that he was, Karmash said: “You are looking for trouble. There is no place on a construction site for a woman.”

8. Following the hiring of Raney on May 1, 1995, Wolf was again approached by Karmash, who said: “What are you doing? I

told you I didn’t want her on this site. She’s going to be trouble. Get rid of the fucking bitch.” When questioned by Wolf as to why he should get rid of Raney, Karmash said: “She’s a woman. She’s going to be trouble, and we don’t want no women on this thing.”

9. In an initial meeting between Karmash and Raney during the first week of May 1995, Karmash said to Raney: “So you got an engineering degree, eh?” When advised by Raney that she had her degree in metallurgical engineering Karmash said: “Well that’s useless.” Raney’s fourth-year thesis was in mortar, and this was relevant to her position at Pro-Tech. She advised Karmash of this fact. In mid-July, Wolf assigned Raney the role of supervising the Pro-Tech workers, and her duties included recording material take-offs on the drawings to accurately record the lineal footage that was to be done in accordance with the specifications.

10. On numerous occasions thereafter, Karmash, in discussions with Wolf, would refer to Raney as “that bitch.” On many occasions, he requested Wolf to get rid of Raney and continually asked Wolf why Raney was on site.

11. On or about July 11, 1995, Wolf and Pro-Tech were to begin a similar project at the Museum of Nature in Ottawa. Colonial and Karmash were also involved in this project. In an endeavour to relieve the situation at the Peace Tower project, Wolf proposed assigning Raney to the museum project, where she would have less contact with Karmash. Wolf advised Karmash of this proposal, to which Karmash said: “You are not sending that bitch to the museum. Leave her at the Peace Tower if you are not going to get rid of her.”

12. Raney remained at the Peace Tower project. Karmash refused to deal with Raney in a businesslike manner with respect to the work being done by Pro-Tech at the project. When Wolf

was at the Peace Tower site, Karmash would correspond with Pro-Tech workers through Wolf. When Wolf was not on site, and Raney was in charge for Pro-Tech, Karmash would bypass Raney and correspond directly with the Pro-Tech workers. This caused confusion for the workers, and when Wolf confronted Karmash with the problem, Karmash said: “I want to get rid of her. I don’t want her here. I don’t want to deal with her.”

13. On or about July 21, 1995, Karmash telephoned Wolf’s home and spoke with Wolf’s wife. He told Mrs. Wolf that Raney was a problem, and that her husband should get rid of her. He said that he tried to talk to Wolf about the Raney problem, and he advised Mrs. Wolf that she should try to convince her husband to get rid of Raney.

14. On or about July 27, 1995, Karmash and Wolf were overheard by Pro-Tech’s Supervisor, Marcel Lamoureux (“Lamoureux”), arguing about Raney, and Karmash was heard to say: “Get rid of that fucking bitch,” and he subsequently tossed his hard hat, breaking windows in the site trailer.

15. On or about July 28, 1995, Lamoureux witnessed Raney attempting to have a conversation with Karmash regarding Raney’s responsibilities on site, and Karmash was heard advising Raney that he would not talk to her and would not answer any of her questions. On this occasion, Karmash was very polite to Lamoureux while ignoring Raney, and was heard making comments to Raney, such as “Fuck-off. I’m not talking to you.”

16. On or about July 28, 1995, Karmash inquired of Lamoureux what his opinion was of Raney. Upon being advised by Lamoureux that Raney had been a school teacher, Karmash responded: “Yes, that’s right, she’s not in fucking school here. And she’s going to get a fucking broken nose by a construction worker.”

17. On or about August 1, 1995, Ian Stolberg ("Stolberg"), an employee of Pro-Tech, spoke to Karmash at the site office. Upon advising Karmash that he was there to speak to Raney and Wolf about his pay, Karmash said: "That fucking Ann doesn't know what she's talking about."

18. On or about the second week of August, 1995, Stolberg, after receiving instructions from Raney on how to perform his work, was immediately approached by Karmash who said to him: "What is that fucking bitch doing?" Karmash went on to say: "That fucking bitch is nothing but trouble. I don't want you to do it this way." Stolberg confirmed the instructions given to him by Raney with Wolf, and proceeded to do the work in accordance with Raney's instructions. A few days later, Karmash approached Stolberg again and found that he was doing the work as instructed by Raney, whereupon Karmash said: "That fucking useless bitch should not be on the job site."

19. In early August, a contractual dispute arose over extras and progress payments. During discussions of these contractual issues, Karmash said to Wolf: "When you get rid of Raney, then maybe we can help you out financially. Maybe we can let you put some of these things on the invoice that you want to put on." Wolf indicated that the Raney issue should not be part of contractual negotiations and Karmash said: "If you get rid of the fucking bitch, I'll help you financially. And if you don't get rid of Ann you are finished here." Raney was not fired, and the project continued, but Karmash continued to pressure Wolf to fire Raney, and on numerous occasions repeated the words hereinbefore quoted.

20. On or about August 10, 1995, Raney was called to the site to investigate a situation where Pro-Tech workers were being told they would not be paid, and were threatening to

leave the job site.

21. Later that day, Raney approached the workers on the 10th level, and asked them to stop working and turn off the equipment in order that she could discuss a payroll issue with them. Karmash began yelling at the workers: "Keep working, keep working, don't listen to the fucking bitch. Tell her to fuck-off, don't listen to her, keep working." Raney continued to walk the site and inform the workers with Karmash following her, commenting as aforesaid. Concerned that the situation was creating more confusion than clarification, Raney stopped speaking to the men. On her way down the tower she passed Karmash. At that point, he said to her: "You can dance on tables for me, but you will never work for me."

22. By letter dated August 15, 1995, William N. Fuller, executive vice president of Fuller, wrote to Lough, president of Colonial, stating: "It was brought to my attention and that of my site superintendent, John Singleton, on Friday, August 11, 1995, that your project manager, Akram Karmash, was verbally abusive to an employee of our subcontractor, Ann Raney. Fuller Construction does not tolerate this behaviour, and I trust that you will ensure this practice will be eliminated."

23. It is alleged that Karmash harassed Raney to the extent that she was unable to perform her job duties effectively.

Karmash denied the allegations, and at the commencement of the hearing, entered a not guilty plea.

Mr. Steep called six witnesses on behalf of the association, including the complainant, Ann Raney; Raymond Wolf; Mrs. Wolf; Mr. Lamoureux; Mr. Conway; and Mr. Stolberg.

Raney testified that she was a graduate engineer with a bachelor of education degree from the University of Ottawa. Her degree was in metallurgical engineering. She did a fourth-year

thesis on mortar.

She was hired by Mr. Raymond Wolf, the owner of Pro-Tech Building Restoration, and commenced employment at the Peace Tower project, on which Pro-Tech was employed as a subcontractor undertaking certain masonry work, on May 1, 1995. When she commenced employment, there were 20 to 30 Pro-Tech employees on the project. This grew to 54 over the course of the next couple of months.

She testified that she was hired as Ray Wolf's Assistant.

During the first few days of her employment, she testified that Karmash entered into the trailer and asked whether she was an engineer. When she told him that she was, he asked what her discipline was. She advised him that she had a degree in metallurgy, and he responded that that was useless.

The following day she introduced herself, and Karmash nodded and shook her hand.

She was assigned the task of measuring the lineal metreage of the joints. She prepared a list of measurements with some important footnotes. She testified that Karmash requested her list, and when she provided them to him, he ripped off the footnotes.

She testified that in July 1995, Wolf talked to her about transferring to the Museum of Nature project in Ottawa in the capacity of supervisor. She would have assumed the responsibility there for keeping track of man hours, ordering materials, and ensuring that tools were available.

At this time, she was not aware of the problem that Karmash had with her.

She testified that the week before the commencement of the Museum of Nature project, Wolf advised that she would not be going to the museum. Karmash had told Wolf that he didn't want her on the museum project on which Karmash was also the project manager.

During the period of May to July 1, 1995, Karmash was abrupt with her, but did not

express any concerns or dissatisfaction about her work directly to her.

When the museum contract started, she testified that she became the assistant supervisor on the Peace Tower project due to the requirement for Wolf to be present at the museum project from time to time. In this capacity, she gave direction to the workers.

On July 28, Wolf was in Kingston dealing with his bankers. The crew had received direction and were working on the scaffold removing parging and retooling the stone. She attended on the crew, who were upset because Karmash had asked them to do the work differently. She directed them to continue to do the work as instructed by Wolf. She testified that she then went to find Karmash, who ignored her.

She was very frustrated with the situation, and in the trailer that afternoon, confronted him and told him that he had to talk to her, and that it was business. She told him: "Don't be a prick," when he did not respond.

She testified that at the end of July, a dispute arose about the payment of extras. She was removed from the site and replaced by a Colonial employee to appease Karmash.

She testified that she received a phone call after Colonial had assumed the payroll from a Pro-Tech employee, who was concerned about his wages. She went to the job site after contacting Wolf to try and resolve the confusion. Colonial had agreed to cover Pro-Tech's payroll. She attended at the site on the morning of August 11. Karmash's assistant refused to let her on the site. She testified that she told him that she worked for the company. She testified that Karmash said that the NSF cheques paid to the men were Wolf's problem, and he told her to get the fuck off the site because she was going to cause a fucking riot.

She testified that she yelled and told Karmash that he was an embarrassment to the engi-

neering profession, and that his P.Eng. designation should be taken away.

That afternoon, she spoke to Singleton, the site superintendent, who gave her permission to go on the site. He advised her that she was entitled to speak to the men to reassure them that they would be paid.

She testified that she went to the lift, and Karmash approached but didn't speak to her. He got into the lift with her, and they went up to the 10th level together. She felt uncomfortable. She testified that she went up to Pro-Tech employees and asked them to stop working, so that she could talk to them. Karmash shouted to them: "Get back to work. Don't listen to her. Don't listen to the bitch. Don't listen to the fucking bitch." She stopped trying to attempt to speak to the men and proceeded to the level below. When she passed by Karmash, she testified that he said: "You can dance on tables, but you will never work for me." He followed her down to the next level and stood very close to her. On the lower level, he shouted: "Don't listen to her. Don't listen to the fucking bitch. Tell her to fuck-off." She testified that she was nervous, and that Karmash seemed to be very unpredictable. Before leaving the site, she reported to Singleton that Karmash had intervened, and had been abusive.

She testified that she subsequently filed a complaint with the Human Rights Commission, because she learned that her boss' invoices were not being paid because he had refused to fire her. A settlement and release were entered into in February 1996.

On cross-examination, she testified that she was employed as an assistant to Wolf. She initially assisted in transferring things onto drawings, and measured the entire area of the tower that she could access. She measured 25,500 lineal metres over a period of five days. From mid-May to mid-July, she was recording the quantities of the work com-

pleted, and recorded when the crew had finished on each level. She kept track of the work in progress, and recorded the materials used.

She was doing mostly quantity work. She was not supervising during this period.

At the end of July, she assisted with the payroll. She admitted that she was doing a lot of watching, listening and learning. She never discussed the job with the architect.

With respect to an incident on the observation tower, she advised that when the observation deck started, Wolf asked her to supervise, and she went up and introduced herself to the architect.

She stated that she told Spencer Higgins, the architect, that she and Wolf had discussed the protection of the finials, and Karmash responded: "I am talking to Lloyd, and you can stand there and shut up."

She testified that Wolf was her boss, and during the first week of her employment determined that Karmash was the project manager.

Wolf was the masonry supervisor. He was the site superintendent, and she took direction from him. She didn't have any knowledge about the contract, and never saw the contract and was not aware that Colonial was accountable for the work done by Pro-Tech.

She conceded that Karmash was not uncivil to her directly until the end of June or the beginning of July, although he was abrupt.

Karmash did not talk to her, but she had no problem with him, and was not aware of any problems until she was told that she could not transfer to the museum site.

On or about July 13, she testified that she was advised by Wolf that she was to be his eyes and ears when he was not at the site. She had no masonry experience, and she is not qualified as a mason. She was not aware that, in order to supervise masons, you are supposed to be a mason.

In July, the crew size increased from 50 to 55. She testified that there were problems on the project, but they were not uncommon problems. At that time, Pro-Tech was having difficulty paying the men.

When she received what she considered to be a promotion, she understood that Karmash would direct her, but Karmash didn't want to deal with her at the Peace Tower. She testified that he always had a problem with her being there.

Her understanding was that Karmash as project manager was not to direct Pro-Tech's employees unless a safety issue was involved. She denied setting out to assert herself on the site.

On July 28, she went to find Karmash after he had told Pro-Tech's men not to do the work the way they were doing it. She testified that she was not going to let Karmash ignore her.

She testified that she tried to get him to discuss the issues because the contradictory statements which he gave to the men caused a lot of confusion. She testified that she tried to get Karmash to do business with her, but was unsuccessful.

She testified that she was not having a great day, and was feeling impatient and annoyed. When Karmash came into the trailer, she became annoyed with him. There was an issue about a bank book left by an employee on the site. He was reading through the employee's bank book. She admitted that she told him not to be a prick and not to act so childish. She admitted that this was the first time that any profanity had passed between them. Karmash smiled at her when she asked him to do business with her.

She testified that she was removed from the Peace Tower on August 1 or 2. Ray Wolf advised her that he was having problems getting invoices paid, and on August 1 or 2, he transferred her off the site to March Road to appease Karmash.

On August 11, she testified that she was called by an employee who was concerned

about getting paid. She called Wolf, and he asked her to go to the site. She was met by Ahmad, who politely told her that he didn't want her there. Karmash approached her and was yelling: "Get the fuck off the site." That afternoon, she got authority from Singleton, and went up to the 10th level to calm down the workers and tell them that they were going to get paid. She testified that Karmash was yelling at the men. He was yelling: "Don't listen to the bitch; tell her to fuck-off." She testified that it was noisy and confusing, and that she was shouting at the men to be heard. She was more frightened than upset. She was angry. She remembers trying to be very cool. She hadn't expected any trouble.

She testified that Singleton told Karmash that she was on site with his authority. When she went up, she didn't presume that Karmash was going to give her trouble. She attempted to speak to the men on the 10th and ninth floors. She testified that she was trying to do what she was there to do. She testified that she was on the 10th level for about five minutes, but the whole situation turned out not to be very calming. While she was trying to speak to the men on the 10th and ninth levels, Karmash was trying to shout her down.

She testified that he said to her at a level that was just meant for her to hear: "You can dance for me on tables, but you can't work for me."

She said that problems began when he ripped off her footnotes. She testified that he used to give her the finger, but he never touched her. She conceded that until July 20, there were not an awful lot of problems. The incident on July 28 was the first day that Ray Wolf was not there. She left on August 1 and was replaced by a Colonial employee on the 2.

When she returned on August 11, she conceded that she went back to a situation that was tense. She testified that she spent five minutes on the 10th level

and less time on the ninth level. She then left the site.

On August 11, she met separately with Fuller and Wolf. She does not recall telling Fuller about the statement made about dancing on tables. She said that the purpose of the meeting was to discuss the men getting paid.

On questioning by the committee, she testified that she understood that when Wolf was not on site, she was to be his eyes and ears. She testified that she found out later how Karmash referred to her. She testified that she thinks that he had a problem with the fact that she was a woman. She didn't know it at the time, but there were instances where Karmash undermined her and spoke of her in derogatory terms. She noted that she had difficulty getting respect.

Karmash called her a "slut" and a "whore" in front of others. She tried to avoid getting into his mind, and didn't care to know why he did or said the things that he did. She testified that he treated others poorly, but that Karmash had a special place in his heart for her.

Raney testified that she still works for Pro-Tech.

Raymond Wolf was called by the association as a witness. He testified that he is the owner of Pro-Tech. He is a master of stone masonry. He was an employee of Colonial and worked on the Kingston Penitentiary and Armouries. Karmash was a project manager on those two projects. He formed Pro-Tech to do the subcontract masonry work on the Peace Tower project. He started working on the Peace Tower during the last week of March 1995. During the month of April, he employed more people because the scope of work changed. There was a constant flow of people looking for employment. He testified that Raney was introduced to him by John Singleton, who was the superintendent for the general contractor, Fuller Construction. She was very enthusiastic. He hired her and her employment commenced at the beginning of May.

He testified that Karmash was the project manager.

He testified that Karmash told him that he had seen him interviewing her, and stated: "I hope you're not planning on hiring her. We don't need any women on this site." He testified that he doesn't think that he took Karmash's statement seriously at that time. Once Raney was hired, however, Karmash constantly questioned him why she was hired. He said that he asked Karmash why he questioned her employment and what his problem was, but Karmash never responded. It became almost a daily issue.

Karmash repeatedly stated: "Why is she still here? We don't need the bitch." He testified that "bitch" became Karmash's term of reference for Raney. Wolf testified that he had no problems with the work that Raney was performing.

Wolf testified that he was asked by Karmash to attend a site meeting on the museum project. He agreed to provide a crew if Colonial got the contract. They were awarded the contract, and he put the first crew on that project on July 10. A full crew was put on the job on July 26. He proposed that Raney do supervisory work at the museum. This would be at an administrative position where she was in charge of the crew and time sheets.

He testified that he spoke to Karmash and Lough, and they needed a list of employees names for security purposes. This was discussed at a meeting at The Keg Restaurant in Ottawa. Wolf testified that he had brought a list, and Karmash jumped up and made a scene raising his voice and stated: "You're not putting that bitch on that job site." Wolf testified that he was embarrassed, but there was no response from Lough. He told Karmash and Lough that Raney was part of his team. He said that there was no issue made about her performance. Karmash never raised the issue of her inability to perform her job functions. He testified that

Lough intervened and said: "Drop it. We will deal with it later."

Lough called him the next day in the morning at the Peace Tower site, and asked him to leave her on that site as a favour to him. He testified that Lough advised him that Karmash had a problem with Raney. He told Raney about this telephone conversation, and thereafter tried to protect the work environment. He testified that he couldn't put a finger on the problem that Karmash had with her. He told her at that time what had been said, and what had been going on, and she was very upset. He told her that for the betterment of everyone, that she was going to stay at the Peace Tower. He therefore moved his son to the museum site, and put Raney in his place as a supervisor on the Peace Tower project. He testified that he was splitting his time between the Peace Tower and the museum, and would tell Raney if he was leaving the Peace Tower and would leave her with instructions. He told Karmash that if there were problems in his absence, to advise Raney, and Karmash's response was that he wouldn't communicate with her.

On cross-examination, he testified that, when they started the Peace Tower, they had six masons. He was the only management person involved. Their responsibility including cutting out of mortar and back pointing. The scope of work wasn't fully established when they started.

Wolf testified that he was the site supervisor for masonry and was under contract with Karmash's employer. He was responsible for the masonry work that was being undertaken. He testified that Karmash interfered with his employees, and this confused the employees. He testified that he was supervising the work and was responsible for the workers.

He stated that John Barkey, the clerk of works, reported deficiencies, and his reports went to Karmash as project manager. He testified that there were com-

plaints in July. At that time, they had 53 employees, some of whom did not have a great deal of experience with back-pointing. There were some deficiencies. He testified that he was asked by Karmash what Raney was doing, when Karmash knew on a daily basis what she was doing. Karmash was aware, for example, that she was measuring the lineal metres. Wolf testified that Raney didn't have any function that interfered with Karmash.

He testified that Karmash told him: "Get rid of her" and "We don't need her," but never gave a reason why. These complaints and suggestions became more frequent.

He testified that after they moved people to the museum site, he became more aware of the problem that Karmash had with Raney.

He testified that there was an outstanding invoice dated July 28, 1995, and Karmash told him to get rid of Raney.

Raney was sent to March Road at the end of July. He was asked by Karmash to remove Raney from the site if he wanted the invoice to be paid. Karmash told him that if he got Raney off the site, his financial difficulties would go away. He was told that Ahmad would take over as the supervisor of the men. Wolf was to attend as a figure head.

The arrangement for Colonial to take over the payroll did not get resolved until August 9. He testified that he felt that he was being replaced by Ahmad, Colonial's site foreman. He was asked to put him on the payroll and refused, because he neither needed him nor wanted him.

On August 10, Raney discussed with him what took place. He had further discussions with her on the 11. He spoke to Karmash in the morning and told him that he heard that there had been some kind of a problem with payroll.

Karmash told him that they were meeting the payroll, but were not covering previous NSF cheques. He spoke to Karmash

on August 11, because Colonial was to replace the failed July 28 cheques. Karmash mentioned to him that he didn't like the fact that Raney had been at the site that day or on the previous day.

When Wolf asked Raney to attend at the site on August 11, he was aware of the problems that Karmash had with her. She phoned back and told him that she had been denied access. He testified that he was concerned that the men were going to walk off the site because there was total confusion, and the situation was getting out of control.

With respect to her promotion, he stated that she was to be his eyes and ears when he was not on the site. He said that her function was not to tell masons what to do. She had authority, however, to supervise labourers, and she was to assist the masons.

He testified that Karmash refused to acknowledge her on the job site, and indicated to him that he would not do so.

With respect to Karmash's problem with Raney, he testified that he had known Karmash for a long period of time, and had no reason to believe that he couldn't overcome the difficulties. He decided to move her off the site when he realized that it was an insurmountable problem.

He testified that Karmash never gave any reason for his attitude towards Raney. He was concerned for Raney's safety. He had previously found Karmash to be reasonable. Karmash was irrational on this site, and it was scary. He testified that the abusive references started prior to her employment on May 1, and continued thereafter on a daily basis. Early on, the comments were casual, such as: "What are you doing with her here?" The comments became more and more vicious.

He always gave Karmash the courtesy of recognizing him as the boss on the site, but Wolf testified that he was responsible for his own men. There was an incident in the trailer on or about July 20. At this time, Karmash became extremely angry,

threw a chair across the room and threw his hard hat through the window. Wolf told Raney to leave the site for the rest of the day. He testified that Karmash sometimes dealt directly with Wolf's men, and he had asked him not to do that because it created confusion.

He stated that he had a concern about her safety when she attended at the site on August 11. He therefore asked her to speak with the site superintendent to get permission to go onsite.

He subsequently was thrown off the site, and Karmash made the statement to him: "I don't need your men and take that fucking bitch with you." As a result, he wrote a letter to Lough suggesting that Karmash should be removed from the site. There was no reference to Raney, because she was no longer an issue when the letter was sent.

In the incident at the trailer, Karmash made the statement to him: "You've got to get rid of that fucking bitch, or we're going to get rid of you."

Carol Wolf testified. She is Ray Wolf's wife. She had met and knew Karmash. She testified that she received two calls from Karmash: one in the middle of July, and one at the end. She testified that at the time of the first call, Karmash stated that Ray (Wolf) had to get rid of Raney or he was going to do so.

She didn't even know who Raney was. She thought Karmash was referring to a man. At the end of July, she testified that Karmash called and said that Ray had to get rid of Raney or he was going to get rid of Ray.

On cross-examination, she testified that when Karmash called, he asked for Ray and these were messages for Ray. She testified that the first call was not long. The second call was three-to-four minutes.

Marcel Lamoureux was called by the association. He was employed by Pro-Tech as a supervisor and trained at the Peace Tower. Karmash was the site superintendent. He testified that he didn't speak to him that

much. He testified that he was familiar with Raney, but didn't know much about her either.

He testified that he walked into a few arguments between Karmash and Wolf. He overheard Karmash stating: "Get rid of that fucking bitch." He was asked by Karmash what he thought of Raney.

He told Karmash that she had been a school teacher, and Karmash stated: "She's not at school now. She's going to get her nose broken."

He was present during the incident at the trailer when Karmash took an employee's bank book. He testified that Karmash grabbed the bank book, and told Raney to fuck-off when she said to him that he shouldn't be looking at it.

On cross-examination, he testified that he was hired by Pro-Tech in mid-June. The only incidents he witnessed were after that. The argument in the site trailer was in mid-July. He testified that he was present when Karmash smashed his hat through the window. Karmash was right beside him. He testified that he wasn't about to leave, because it looked like someone could get hurt. He said that Wolf was calm throughout, and said: "What's the problem? What's the problem?"

He admitted that it was a construction site, and if there were arguments, it was not uncommon for people to swear.

He stated that Raney did not call Karmash a prick.

During the incident when Karmash threw his hard hat through a window, Karmash was yelling and screaming, and hitting his hat. He testified that he had never heard profanity of that nature.

Ian Stolberg was called as a witness by the association. He testified that in 1995, he was employed by Pro-Tech. He worked at the Peace Tower from the third week in July. Raney was his supervisor. He testified that he vaguely knew Karmash. He testified that Karmash stated to him that a woman had no place on a construction site. He

also overheard him calling her a fucking bitch on three separate occasions.

On cross-examination, he testified that he started work at the Peace Tower during the second or third week of July. He left the Peace Tower at the end of August. He was an apprentice mason and was helping out. He went to Raney if he had problems.

He testified that Karmash was putting her down. He said that in his presence, Karmash stated to her: "There is no place for a woman on a job site." This statement was made at the end of July. He testified that Karmash stated: "You have no place on the job site. There is no place for a woman on a job site." He said that he heard Karmash refer to her as a fucking bitch when speaking to others.

He also heard Karmash say to her: "The only way you are going to work for me is as a table dancer." He stated that he didn't recall where he was when Karmash said this to Raney.

On questioning by the committee, he testified that he never saw Raney provoke Karmash.

Andy Conway was called by the association as a witness. He has been a stone mason since 1986. He worked in Kingston with Wolf, and went with the Pro-Tech team to the Peace Tower. He was one of the more experienced employees. When he started at the Peace Tower, he didn't know Raney or Karmash. He heard Karmash refer to her with profanity. He was on a break and Raney was on a bicycle. He testified that Karmash was inside the compound, and was yelling at her to get the fuck off the site.

On cross-examination he testified that he didn't know what the dispute was about.

Andrew Lough was called by the defence. He is the president of Colonial. The company was formed in 1984. It carries out historic building restoration. He employed Ray Wolf. Wolf started working for him on the Kingston Penitentiary.

Lough testified that Wolf

approached him along with Karmash to form his own company for the Peace Tower. He testified that Pro-Tech had a unit price contract for cutting out and back-pointing on a lineal metre basis. Colonial were subcontracted to Fuller, the general contractor. Karmash was the project manager and was responsible for everything and anything relating to masonry work.

He testified that Karmash was responsible for Pro-Tech's employees, and that there was an agreement with Ray Wolf in this regard. Karmash was the technical support referred to in the contract.

He testified that Ray Wolf was to look after his people with Karmash overseeing Wolf.

He testified that Karmash had authority to request that someone be removed from the site if they were unqualified.

This was a historical job of significant importance. If there was a problem on the job, he testified that Karmash had the right to fire an employee.

He testified that the first time he was aware of a problem between Karmash and Raney was when Fuller sent him a letter. He responded right away to the letter. He stated that Colonial would not tolerate any abuse.

He was never advised of Raney's role or responsibility. He would have asked what her experience was if she was hired as a supervisor. He testified that he would expect that a supervisor would have five years experience in the trade.

With respect to the discussions at The Keg Restaurant, he said that there were several meetings at The Keg, and there was no discussion about her taking a supervisory role at the museum. He testified that not anyone could be allowed to supervise. He testified that a conversation took place at The Keg, but Raney's name was never brought up.

He testified that he never heard about problems between

Karmash and Raney prior to August 15. If he had been aware, he would have raised it with Karmash and Wolf. He testified that he discussed other problems including deficiencies and bad workmanship.

In July 1995, he testified that they received work reviews, which were disgusting to him. There was a meeting in his office on the Saturday after he received these, and he made it clear to Wolf and Karmash that he would not accept it. The whole meeting was about bad workmanship. He also spoke to Spencer Higgins, the architect, because he didn't like the wording of the reviews. He was told by Spencer Higgins to get rid of the garbage on the site.

He told Karmash to get rid of the unqualified people on the site, and that Spencer Higgins had so directed. His expectation was that unqualified people would be fired. He spoke to Wolf about the financing of the company, because Pro-Tech could not meet their payroll. He testified that Colonial were to take on workers from Pro-Tech. He stated that at this time, Wolf did not raise unpaid invoices. If he had heard that invoices were not being paid due to a problem between Karmash and Raney, he would have intervened.

He testified that Karmash has worked for Colonial for eight years on dozens of contracts in a professional capacity. Karmash has worked with women including an architect, Jill Taylor, and there was no problem with that relationship.

She would direct him. He also worked with a woman on the Kingston Armoury named Patricia. He said that he had never received any complaint about Karmash's behaviour or demeanour.

On cross-examination, he testified that the head office of the company was in Scarborough. He did not have an office on site in Ottawa. Karmash was based in Ottawa. Lough attended on a regular basis initially, then

attended meetings one or two times a week. The contract started before March. They were doing poulting underground before erection of the scaffold.

In June and July, he attended meetings every other week. He spoke with Karmash every day. The only other job site was in Ottawa. He attended twice a week to see what was going on. He did walkabouts every time that he attended the site. These walkabouts lasted approximately five hours. Most of the time, the responsibility of the site was left to Karmash. He testified that part of Karmash's responsibility was to look at the qualifications of the supervisors. He testified that if they were not qualified, Karmash could ask for the supervisor's removal.

He testified that there was no need for profanity, and that he expected his employees to conduct themselves in a professional-like manner.

He testified that the Peace Tower was a prestigious job. The project manager, i.e. Karmash, should conduct himself in a business-like manner. If Karmash used profanity, it is not what he would expect.

He was not on site on August 11, and was not in a position to contradict or corroborate either party's version of the events. He understood that neither Fuller, the general contractor, nor the superintendent, Singleton, witnessed the events. In his response to Fuller, he wanted him to be aware that they were on the same wave length, and would not tolerate abusive behaviour.

He conceded that if there was bad workmanship, there was no need for Karmash to be verbally abusive. The letter from Colonial to Raney and Wolf dated February 15, 1996, involved and included Karmash. This letter acknowledged that there was discrimination against Raney. It also acknowledged that there was discrimination by association to Raymond Wolf. He testified that the lawyers involved in the Human Rights Proceedings required these words to be

included, and that they were under pressure from Public Works and Fuller to resolve the human rights issue.

They were told that they would not get the Centre Block contract unless they did so. He stated that he signed the letter, although they wanted to go to the Human Rights Hearing. He testified that the words were someone else's. He testified that he didn't know that the letter was going to the Human Rights Commission. The letter, however, did resolve that matter.

He testified that he was not saying that the letter was false. He stated that the lawyers wanted a public apology, and they gave it to them. He testified that at the meeting at The Keg, there was no discussion about Raney working as a supervisor. He testified that there was no list of names. At the meeting, he said that they were throwing around ideas.

On reexamination, he testified that if it had been brought to his attention that there was a problem, and he discovered profanity directed to one specific worker, he would have met with Karmash.

On questioning by the committee, he testified that he met Raney on several occasions at the job site. He saw her in the trailer, and she seemed pleasant enough. He saw her on the scaffold, and he also met her one night in The Keg. He testified that he was baffled that she showed up at a meeting. He asked Ray Wolf about why she was there and never got an answer.

With respect to the problems between Karmash and Raney, he testified that he was a phone call away, and there was a lot of opportunity for problems to have been raised. They had meetings on site and in Toronto. He was never apprised of any problem.

The first time that he was aware of a problem was when he received the letter from Fuller. When he received this letter, he spoke to Karmash. Karmash

told him that there had been a heated argument between himself and Raney, and that four letter words had been exchanged by each party. He testified that he told Karmash that he didn't want that type of nonsense on the job.

He testified that if he had been aware of anything prior to receiving the letter from Fuller, he would have been the first to step in.

Karmash testified that he is employed by Colonial Restoration. In 1991, he was aware that Colonial was being considered for work at the Peace Tower. He assisted Spencer Higgins in 1991 on the specifications. In 1993, he was working on the Kingston Penitentiary. He told Ray Wolf that Colonial was bidding on the job. He informed Ray Wolf that Colonial were accepting bids from subcontractors, and assisted Wolf in putting together a tender.

He indicated that he was interested in putting a company together for the project. Wolf prepared the price for the job, and decided that they could not do the entire job. Colonial decided that they would only give Pro-Tech the cutting out and the re-pointing of the masonry work. Wolf was well aware of the quantities on the specifications.

Karmash testified that his responsibility was to ensure that the work was done on schedule, efficiently and in accordance with the specifications. His role was to supervise and provide technical assistance on the job. There were enough men on the job who were qualified to do the work. The only person that he was dealing with at Pro-Tech was Raymond Wolf. He testified that he was a hands-on manager, and liked to get involved in all aspects to ensure quality. Before they started on the job, Pro-Tech had to do a cutting out and mock-up. Ray Wolf and he did the mock-up on a square metre.

In his walkabout on the scaffold, he kept an eye on the quality, and asked workers to do

things differently if they were doing them wrong. He testified that he did this on a constant basis. He did it when Wolf was on the site. He testified that he first met Raney during the first week of May.

She was talking to Karmash's supervisor. He noted that she had no hard hat on, and asked her to put one on. She stated that she was working for Colonial, and he told her that she was not. She then stated that she was employed by Ray Wolf.

He testified that he was never advised that Raney was a supervisor on the site.

At the end of July, Ray Wolf suggested she go to the museum in a supervisory category, and he testified that he said that she didn't have the knowledge or experience.

At the meeting with Andrew Lough, they discussed the sloppy quality of the work. They were ordered to correct deficiencies. Ray Wolf and he were to get together to rectify the situation. They looked through the minutes of the meetings to determine who was working at the levels criticized. He testified that Raney was not performing supervisory work, but she was attempting to do so. Wolf said that he had asked Raney to rectify deficiencies. Karmash stated that he gave Wolf a list of solutions, and provided him with a verbal list of people not qualified to do pointing. He asked Wolf to move certain personnel from the Peace Tower. He didn't suggest that Wolf fire Raney. He testified that that was not his business.

He suggested to Wolf that he send the personnel not qualified to the March Road site. He suggested that Raney go there. He was also the supervisor at that site. He was supervising Pro-Tech.

He denied that he told Raney that her metallurgical degree was useless. He did ask her if she was a professional engineer, and she said that she was an engineer.

With respect to the conversation in the trailer during the

week of July 20, he stated that he was talking to Wolf about tools on the site, and Raney kicked in the door. He testified that Raney said to him: "Don't be a prick. Don't act childish. You are going to have to deal with me sooner or later." He ignored Raney, because he was only willing to do business with Wolf.

With respect to the August 11 incident, he testified that Ray Wolf had removed her and others. Her last day on the site had been August 2. On August 11, he was advised by Ahmad that Raney was on site and she was talking to Singleton. He said that she left, and he had no conversation with her. He testified that the statement that she made that the truth would hang him was made in the afternoon. He said at that time, she called him a "fucking asshole" and told him that she was going to nail his ass to the wall. He told her to "fuck-off" and to "get the fuck off the job site." He said that there were people around. He said that when she attended in the afternoon, he went back to his trailer. He called Ray Wolf and asked him what she was doing on the site. Ray Wolf said: "I wish everyone would stay the fuck out of my business." He said that Ray Wolf told him that he hadn't authorized her to go to the site.

He said that in the afternoon when she showed up, she didn't have a hard hat or boots. She said that Singleton had given her authority to go on the site. She put on a hard hat and boots. She went up to the observation deck, and he went with her. He said that there were people cutting and grinding, and she started yelling at them to stop working. He was yelling at the workers, but denied that he called her a "bitch." He told them to keep on working. He testified that "bitch" was not part of his vocabulary. He said to the men: "Keep working, you are going to be paid." They went down to level nine and then to level eight. He said that she got frustrated. She ran down the scaffold, and

he followed and she said: "Are you too old Akram to catch up." He never swore at her. He testified that he never made the comment: "You can dance on tables for me, but you will never work for me." He said that she didn't work for him. On level 10, nine and eight, he said that they were five feet apart. He said that when they got down, she went to speak to Singleton who was on the roof. They went up to the roof in the hoist. She went and talked with Singleton, and then left the site.

He testified that there was an argument in July. There was a meeting regarding deficiencies. The deficiencies had not been rectified, and the grouting could not begin. They went to level three. He asked someone to get Wolf. He asked Wolf why the deficiencies had not been rectified. Wolf claimed that they were. He pointed the deficiencies out, and Wolf stated that he had asked Raney to get a couple of men. She was making notes and stated: "I'm sick and tired of this bull shit. I am not taking this crap."

He said that he then went to the trailer with Wolf. Ahmad accompanied them. He started yelling at Ray Wolf in the trailer that "nobody fucking talks to him like she did." He told Wolf that if Raney could not get the job done, to "get her the fuck off the site." He said that he broke the window with his hard hat accidentally.

Prior to her employment, he said that she attended at the site constantly, and Singleton told him that there was a woman engineer who was looking for a job and asked him if there was a position. He said that he spoke to Wolf, who advised that he had spoken with her, and that she was willing to do anything. Karmash testified that he suggested to Wolf that she be employed to mix mortar.

He testified that he told Wolf to hire her to mix mortar. He testified that he spoke to Wolf all the time, and may have asked him what Raney was doing. He

testified that he never used the word “bitch,” and repeated that “bitch” was not part of his vocabulary.

In the discussion at The Keg Restaurant, he denied any discussions about Raney taking place.

He testified that he asked Wolf, to remove a lot of people from the site, and he did so. He never suggested that there would be consequences if Wolf didn't do so.

He testified with respect to the telephone calls to Carol Wolf, confirming that he spoke to her on several occasions. He knew her personally. He called in June to speak to Raymond Wolf. This call was made because Singleton had called him on the site regarding Pro-Tech's NSF cheques. He had spoken to an employee who needed money, because he had to buy food for his family. He told Carol Wolf that there was a guy whose cheque had bounced. He testified that he wrote the man a personal cheque.

In mid-July, he was looking for Ray Wolf, and he was not on the job site. He called Carol Wolf and asked for Wolf to call him. The third call that he made was at the end of July. On July 28, which was a pay day, there were 20 people outside of his trailer who were upset that they didn't have pay cheques. They had cheques from the previous week that had been returned NSF. He called Ray Wolf at home, and Carol answered the phone. She started crying on the phone and said she didn't know where he was. He testified that Carol Wolf stated to him that Raney was the problem. He testified that he stated that he didn't care, but that he was calling because the cheques had to be paid.

He testified that in July, the site was a big mess with a lot of men at Pro-Tech not getting paid. The morale was low. He testified that Ray Wolf disappeared. He stated that the architect noted various areas of sloppy work. He stated that Lough was not happy with the situa-

tion, and demanded that heads roll. He testified that he was under a lot of pressure. He had a very unhappy employer and an unhappy architect. He testified that it was a difficult period.

Karmash stated that he worked with various women in the past, and never had a problem with them. There have never been complaints about his conduct or behaviour.

The allegations first came to his attention when the letter was sent by Fuller. The second time was the complaint to the Human Rights Commission. The Human Rights Commission complaint was made in or around November. He was never advised by Wolf that he had to deal with Raney. When Lough spoke to him about the letter, he told Lough that there had been an incident at the east gate. He testified that she had called him a fucking ass-hole, and that he had told her to get the fuck off the job site.

Lough told him that he shouldn't be using such language on the job site. He stated that neither Fuller, Nixon, nor Singleton contacted him.

On cross-examination, he testified that his application for licensure with the association outlined his responsibilities as an engineer. It outlined similar work to that which he was doing on the Peace Tower. He agreed that what they did on the Peace Tower related directly to the description. Karmash testified that he was practising engineering, and that his duties were consistent with those noted on his application for licensure. He stated that at the commencement of the contract, there were 10 Colonial personnel on site, including himself and two supervisors. Pro-Tech was a sub-trade. Their numbers grew in June and July.

There were many more Pro-Tech workers on site. They were cutting out and back-pointing. He admitted that he is not a stone mason. He stated that stone masons were employed by Pro-Tech. They were cutting out

masonry joints and back-pointing. He testified that there were site meetings every two weeks. Between May and August, the crew became larger.

The purpose of the site meetings was to review progress and quality. Deficiencies would be noted in the minutes, and there would be follow-ups. In mid-July, there were problems with the stone masons' work. The site minutes were prepared for Spencer Higgins.

He testified that he requested Raney and several others to be removed from the site.

The July 11 minutes did not refer to poor quality, but a July 14 memorandum listed deficiencies. There were no specific comments about Pro-Tech employees not being qualified. The July 25 minutes indicated that the back-pointing work was sloppy in several joints.

Pro-Tech employees were not referred to specifically. Masons were not referred to specifically. He testified that he provided Wolf with a verbal list. He conceded that Raney was not doing any masonry work. She was not doing work by hand, but he testified that it came to his attention that she had told masons not to do the work the way that he had told the masons to do it, and that the masons should not listen to him, and that they should listen to her and Ray Wolf.

When he asked Wolf to get her off the site, he testified that he gave Wolf the reasons, including lack of experience, lack of knowledge and constant interference. He told Wolf that she was interfering, and he wanted her and others off the site. He testified that she was getting in his way and was interfering with the architect and the clerk at the works. He didn't know her background prior to her employment. He had told Wolf that she was an engineer, and that she could be employed to mix mortar.

He testified that prior to August 1, he never used profanity. He denied ever referring to her as a “bitch” or a “fucking

bitch.” He admitted that if he did so, it would be unprofessional.

He was aware that Singleton had authorized her to be on site on August 11. He testified that Wolf told him, however, that she had not been requested by him to attend at the site. He went up the hoist with her to represent his company's interests.

He said that he was concerned for her safety, he was concerned that she was going to disrupt the workers, and he was concerned that workers would walk off, and that tools would be stolen. He agreed with her evidence as to where they went. He disagreed with her evidence as to what was said.

He stated that the only time that he swore at her was after she called him a “prick” and childish. He testified that he broke the panel in the trailer by mistake, and he was angry. He testified that he and Wolf were upset with each other, and he told Wolf that nobody spoke to him like that. He testified that, after she had attempted to speak to the men, he told her to get the fuck off the job site.

He testified that at the gate, she swore at him and he swore back.

He didn't bring to Lough's attention the events of August 11. He testified that she was constantly interfering, and that in his view, she had done enough to justify being removed from the job site. He testified that there was bad workmanship.

He stated that he never raised the problems he had with Raney with Lough.

He admitted that the letter in response to the human rights complaint admitted discrimination on the basis of gender. He testified that he was on vacation when the letter was sent. He was never consulted, and didn't know about it. He said that Lough did not consult with him, but he certainly was not going to overrule his boss.

He said that Lough settled the claim, and didn't need his autho-

rization to do so. His understanding was that as a result of the settlement, the complaint to the association was dropped. He testified that he agreed that there was discrimination only on the basis of him telling her to “get the fuck off the job site.” He conceded that the complaints to the Human Rights Commission involved more than that allegation.

A letter was sent to PEO indicating that the human rights case was settled. He testified that Raney refused to accept this as an apology, and proceeded with the PEO complaint.

He stated that he apologized for saying “get the fuck off the job site,” and admitted that it was less than professional.

He conceded that the complaint to the Human Rights Commission and the association pertain to the same incidents.

He admitted that when she attended on August 11, she did have authority from Singleton, although he stated that she did not have authority from her boss to be on the site.

On questioning by the committee, he testified that Raney interfered with him performing his duties. If this had been a man, he testified that his behaviour would have been the same. He denied that his behaviour happened repeatedly. He denied asking her to be removed from the job site repeatedly. He said that he asked Wolf to get her off the job site at one meeting.

He testified that he told Wolf to hire her. He stated that he never had a problem with a woman on a job site. He has never had a problem with any other woman on a job site, and he stated that they have the right to be anywhere they want to be. He apologized for telling her to “fuck-off—get the fuck off the job site.” He never told her that he endorsed her employment or recommended her employment.

When asked by Wolf whether he would sponsor her, he told Wolf that he didn’t know her well enough. He said that he had no explanation as to why Wolf’s

account was so different. After the July meeting on the scaffold, he took Ray down to the trailer, and told him to get her off the fucking job site. He denied that he ever used the word “bitch.” He wanted her to get off the site. At the July 28 meeting, she said: “You have to deal with me.” He stated that Lamoureux said that he doesn’t recall her calling him a prick, but she admitted it. He testified that Stolberg had lied. He testified that the statements made by the association’s witnesses were a total fabrication.

He testified that he authorized invoices. He stated that there were no invoices that he held hostage, and that her removal was not a condition of payment release. He testified that he did not know why the association’s witnesses said that he called her a bitch. He testified that Marcel Lamoureux had threatened his life, and called him a “sand nigger.” He said that he had received hate mail. He admitted to using obscenities on August 11, but on no other occasion. He only asked Wolf once to get her off the job site.

He testified that in late July, the situation was very volatile.

Pro-Tech withdrew from the project on August 11, which was a pay day, and some Pro-Tech employees became Colonial employees on August 13.

He said that the quality of the work required proper supervision. It was repetitive work and became sloppy. The supervisor’s responsibility was to ensure quality. When he issued certain commands, Raney told the men to do it the way that Ray Wolf had told them, and overruled what he had said. He testified that Raney interfered with a number of operations.

John Barkey was called as a witness by the defence. He was the clerk of works on the Peace Tower, and was employed by Spencer Higgins.

He reviewed the masonry work in May and June 1995, on a daily basis. The standard of work was generally good. He testified that in July they start-

ed to get into problems. The work started getting sloppy. It happened rapidly when there was a significant increase in manpower. With less control, the work became sloppy. There were more and more deficiencies. He spoke with Raney on a daily basis.

He did not speak to her regularly in May and June, but more and more during the month of July. He reviewed the work with her. Prior to that, he had reviewed it with Ray Wolf. When he reviewed the work with Raney, she would ask him to walk through the site, and he pointed out deficiencies. She stated that they would have to do it over again. Usually, the deficiencies could be rectified. He testified that by the end of July, they weren’t being rectified, and that he reviewed one area with Raney on five occasions.

He wrote a memo to the general contractor with respect to the deficiencies, which went to his employer, Spencer Higgins. He recalls a couple of incidents involving Raney. She confronted Spencer Higgins, and recommended protection of the finals.

In late July, he testified that Spencer Higgins was unhappy with the back-pointing, and that the curing wasn’t being done properly. He met with the masons, and she was upset that he had called the masons without advising her.

He testified that he saw her direct the masons and show the masons how to do things.

She would come to him and ask him to review the work. They spent half an hour to one hour per area. She never raised any concerns about Karmash’s attitude towards her with him. He testified that he had observed Karmash working with other women, and that there were no complaints. He recalls a site meeting on July 25, at which Andy Lough was present, and he was quite embarrassed about the notes and the site review. He wanted people to be removed from the site who were not performing acceptable work.

In August and September, he continued to review the work, and it improved greatly.

On cross-examination, he testified that he had done project management before at the University of Toronto and York University. He went to site meetings from time to time as a project manager. At site reviews and construction reviews, they dealt with deficiencies in general terms. He testified that he always dealt with deficiencies in a polite and business-like manner. He testified that it was unacceptable to use abusive or foul language. He testified that there was a significant increase in the number of workers on site during June and July 1995. He testified that the specs required masons employed to do a mock-up before commencing employment, and that didn’t happen.

He testified that he was exposed to Raney daily. They walked around the site together more frequently in July. He had no contact with her on site after August 1.

He never complained about Raney in any respect. He never complained that she was interfering. He doesn’t know how she would interfere with his work.

On questioning by the committee, he testified that Raney worked closely with Wolf. He said that Wolf stated to him that if he wasn’t on site, he should deal with Ann. He stated that there was confusion on the site about the supervisory hierarchy. He discussed the deficiencies raised with Raney, with Karmash. Karmash never said anything about her. He never saw them argue. He stated that quality was very important, and that Raney sought him out to review completed work.

He testified that her general attitude was good. She was quite happy working with the conservator initially, although the work was repetitive. She got tired of this, and sought a change in the work. She showed enthusiasm in finding a different type of job task. He testified that progressively, he could see that there was an increase in ten-

sion.

The work went along smoothly during the early stages of the project. There was not a large rush. Pro-Tech was cutting out and back-pointing, which was tedious work. The work, however, became sloppy in mid to late July. In mid-August, the number of masons dropped to the 20s. He stated that they are still cleaning up deficiencies today.

Following submissions by Mr. Steep for the association and Mr. Chaplin on behalf of the defendant, the committee retired to deliberate. The committee considered the evidence and the exhibits filed, as well as the submissions made by the association's and defendant's counsel. The committee found the complainant, Ann Raney, to be entirely credible. They found that she had testified in a straightforward manner, and that a lot of the problems that Karmash had with her were not known to her. They noted that she admitted that she had called him a "prick" and had told him not to act so childish toward her, because Karmash had refused to deal with her.

The committee believed her evidence with respect to the August 11 episode. Raney testified that she went to the site after phoning Wolf. In this regard, they noted that Wolf corroborated her evidence. They believed that she went to Singleton, who authorized her presence on the site. They noted that Karmash admitted that he had no business to transact with her, but notwithstanding this fact, he went up to the 10th floor because he claimed that she was going to disrupt the workers.

The committee also found Raymond Wolf, Carol Wolf, Andy Conway and Marcel Lamoureux to be entirely credible. They found that Ray Wolf testified in a straightforward manner, and that his evidence was clear that "bitch" was Karmash's term of reference for Raney.

The committee accepted the evidence of Mrs. Wolf that she

received a telephone call from Mr. Karmash, and that he advised her that he wished that Wolf would get rid of Raney. The committee did not accept Karmash's version with respect to the telephone call in which he testified that Mrs. Wolf told him that Raney was Wolf's problem, and that she was crying at the time.

The committee found, on the basis of the evidence given by three workers who testified that Karmash used the terms "bitch" and "fucking bitch," that there was overwhelming evidence that Karmash had used these terms when referring to Raney, and on occasions when he addressed her.

The committee found that the workers at the site who had attended to give evidence at the hearing had no motivation to lie, and their attendance at the hearing was an inconvenience to them, and that they had no interest in slandering Karmash as claimed by Karmash.

Karmash testified that the evidence given by these witnesses that he had called Raney a "bitch" was simply not true. The committee found that Karmash was not credible. They found that his evidence was not clear, concise or responsive, and that he gave no valid reason for his conduct towards Raney.

The committee did not believe Karmash's evidence with respect to the telephone calls with Carol Wolf, or his evidence that he had discriminated against Raney only once when he told her to: "Get the fuck off the job site." Further, the committee did not believe Karmash's evidence that he did not refer to Raney as a "bitch" or a "fucking bitch," and that "bitch" was not a word in his vocabulary.

The committee found that Karmash told Wolf to get rid of Raney, and that he referred to her on numerous occasions as a "bitch" or "fucking bitch"; made the comment "You can dance on tables for me, but you will never work for me"; told her to "fuck-off"; discriminated against her; and used outstanding

invoices to persuade her employer, Ray Wolf, to get her off the site.

The committee did not find Mr. Lough to be credible, and where his evidence contradicted that of Ray Wolf with respect to the meeting at The Keg Restaurant, they accepted the evidence of Ray Wolf.

They found that Mr. Barkey's evidence confirmed that Raney did not interfere with his role as clerk at the works. This contradicted the evidence given by Karmash.

The committee was unanimous that Karmash's conduct was relevant to the practice of engineering and that it was disgraceful, dishonourable and unprofessional. They considered Karmash's conduct to Raney, a graduate engineer, to be absolutely inappropriate.

After considering all the evidence, the exhibits filed and the submissions made on behalf of the parties, the Discipline Committee found the defendant, Akram Karmash, P.Eng., guilty of professional misconduct as defined in Section 28(2)(b) of the Professional Engineers Act, R.S.O. 1990, Chapter P. 28, and in particular, Section 72(2)(j) of Regulation 941, which reads: "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 and

unprofessional."

After hearing submissions with respect to penalty from Steep for the association and Chaplin for the defendant, the committee retired to consider a penalty.

The committee considered this to be an extremely serious matter. By virtue of the power vested in it by Section 28 of the Professional Engineers Act, the committee ordered that:

1. The licence of Akram Karmash be suspended for a period of 12 months.
2. That Akram Karmash pay costs to the association with respect to the conduct of these proceedings in the amount of \$2,500.
3. That the licence of Akram Karmash not be reinstated until he completes successfully a course related to gender sensitivity acceptable to the Registrar of the association, and makes payment of the costs ordered in these proceedings.
4. The Decision and Reasons of the committee be published in the official journal of the association with names, forthwith.

Dated at Toronto this 10th day of December 1996

Jag Mohan, P.Eng. (Chair)

For and on behalf of the committee:

Boris Boyko, P.Eng.

Ann Poschmann, P.Eng.

David Smith, P.Eng.

Note from Legal and Professional Affairs

Mr. Karmash appealed the Discipline Committee's Decision, including the finding of guilt and the penalty imposed. In a written Decision dated May 28, 1998, the Ontario Court of Justice Divisional Court dismissed the appeal save as to penalty. The court reduced the suspension ordered by the Discipline Committee from 12 months to four months, citing among other things that this was a first offence, the offending activity did not involve physical contact or sexual impropriety, and the incidents in question took place over a relatively short period of time. Being guided by the discipline decisions of other licensing bodies, the court found a four-month licence suspension to be consistent with the range of penalties generally imposed in roughly similar circumstances.

Enforcement Trial/Order

Association of Professional Engineers of Ontario vs

Michael Edward Coveley

At a trial at the Provincial Offences Court, Newmarket, Ontario, on May 5, 1998, before Her Worship Deputy Judge Holmes, Michael Edward Coveley pleaded guilty to the following charge brought under the Professional Engineers Act:

"Michael Coveley from March 1993 through February 1996 at Concord, in the Regional Municipality of York, did commit the offence of being a person who is not a holder of a licence or a temporary licence, used the title 'professional engineer' or an abbreviation or variation thereof as an occupational or business designation, to wit: by representing yourself to Miki Radivojsa as an 'engineer' and a 'professional engineer,' contrary to the *Professional Engineers Act R.S.O. 1990 C. P28*, subsection 40(2)(b)."

The accused, Mr. Michael Edward Coveley, was at all material times the principal of a number of companies, including Omega Digital Data Inc., Omega Advanced Systems Ltd. and Avar Communications Inc. Through his companies, Mr. Coveley was engaged in the development and production of various computer software and hardware products.

Mr. Coveley described himself as a professional engineer in the course of dealing with certain employees, and he did use the designation "P.Eng." on his business card.

Mr. Coveley is not, nor has he ever been, a member of the Association of Professional Engineers of Ontario, nor is he a licensed professional engineer in any other jurisdiction.

After hearing joint submissions from counsel on sentence, the court

imposed a fine of \$5,000 against Mr. Coveley.

In addition, in an Application brought pursuant to the Professional Engineers Act in the Ontario Court of Justice (General Division), Osgoode Hall, Toronto, on May 5, 1998, the association obtained the following Declaration and Order against Mr. Coveley:

(a) directing the respondent to comply with the *Professional Engineers Act, R.S.O. 1990, Ch.P.28*, and particularly subsections 12(1) and 12(2) thereof, (hereinafter referred to as the "Act");

(b) declaring that the respondent has by his conduct breached the Act, and specifically subsection 12(1) thereof;

(c) that the respondent is hereby restrained from advertising or repre-

senting himself, directly or indirectly by any medium in Ontario, as engaging in the practice of professional engineering, or as holding any accreditation or certification containing the word "engineer," or any abbreviation or variation thereof, including the term "P.Eng.," in contravention of the Act, unless and until the respondent is the holder of a valid licence, a temporary licence or a limited licence, all as defined in the Act, or if necessary, a Certificate of Authorization from the Association of Professional Engineers of Ontario to provide professional engineering services to the public, as provided for in the Act; and

(d) the balance of the relief sought in the Application is dismissed without costs.

Council approves designation of Consulting Engineers

At the 380th meeting of PEO Council held on September, 12, 1998, the following members were designated or redesignated as consulting engineers pursuant to Ontario Regulation 941 of the Professional Engineers Act. Also listed are the firms to which Council has granted permission to use the title "Consulting Engineers."

Designation of a consulting engineer is for a period of five years; at the end of that time, the member must be redesignated for a further five-year period in order to maintain his or her designation. Anyone wishing further information on the consulting engineers program may contact James Lamont, Department of Professional Affairs, at (416) 224-1100 or (800) 339-3716.

Newly designated Consulting Engineers

Michael Douglas Beer, P.Eng.
MD Beer Engineering
Toronto, ON

David Owen Boutin, P.Eng.
AGRA Monenco
Timmins, ON

Ralph David Brook, P.Eng.
Building Inspection and Engineering Associates Inc.
Hamilton, ON

Tai D. Bui, P.Eng.
Weslake Inc.
Hamilton, ON

Ewen Stuart Fisher, P.Eng.
IBI Group
Toronto, ON

Gabriel Litvin, P.Eng.
Sole Practitioner
Scarborough, ON

George William Meyer, P.Eng.
Quartz Holdings
Toronto, ON

D. Christopher Redmond, P.Eng.
Proctor and Redfern Limited
Sudbury, ON

G. Wesley Roberts, P.Eng.
BLM Bharti Engineering Inc.
Toronto, ON

Donovan A.E. Spence, P.Eng.
EPCM Services Ltd.
Oakville, ON

S.S. Alfred Tam, P.Eng.
Alfred Tam and Associates
Scarborough, ON

Redesignated Consulting Engineers

Craig A. Baker, P.Eng.
Robert Edward Baker, P.Eng.
Harold Scott Belore, P.Eng.
Kearon John Bennett, P.Eng.
Zoltan John Bodroghkozy, P.Eng.
Helmut Gunter Brosz, P.Eng.
Frank Burford, P.Eng.
Robert John Burnside, P.Eng.
Peter E. Casson, P.Eng.
Robert H. Clark, P.Eng.
John E. Coulter, P.Eng.
Ivor David, P.Eng.
Saleem Dedhar, P.Eng.
Edward Paul Dries, P.Eng.
Harold Earle Droppo, P.Eng.
Ian B. Dunlop, P.Eng.
Michael J. Dwyer, P.Eng.
Rudy J. Fliegl, P.Eng.
David P. Frost, P.Eng.
Vince Gambino, P.Eng.
I. Michael Gomes, P.Eng.
Garry Michael Gray, P.Eng.
G. Robert Guillet, P.Eng.
Vijay Gupta, P.Eng.
H. Paul Haines, P.Eng.
Bruce W. Hamilton, P.Eng.
Graham Hill, P.Eng.
Samuel O. Ilchukwu, P.Eng.
Ardeshir Jehangir Irani, P.Eng.
Richard George Irvine, P.Eng.

Rameshwar Jagdat, P.Eng.
Timothy Scott Janzen, P.Eng.
Robert E. Kerrigan, P.Eng.
Siegfried Arthur Kirchhefer, P.Eng.
Murgun Cheung-Kong Ku, P.Eng.
Pritham Singh Lamba, P.Eng.
Jack Gordon Lay, P.Eng.
John S. Luscombe, P.Eng.
Stephen G. MacDonald, P.Eng.
Stanley Campbell MacGillis, P.Eng.
Simeon Ivan Marcev, P.Eng.
William I. Marcovitch, P.Eng.
Livia Mattacchione, P.Eng.
Clifford Randy Morey, P.Eng.
Reginald Leonard Nalezty, P.Eng.
David Scott Naylor, P.Eng.
M. Hugh Nelson, P.Eng.
Robert D. Peterman, P.Eng.
Thomas Randal Pickle, P.Eng.
Mark F. Pinet, P.Eng.
George G. Powell, P.Eng.
Eryk Wilhelm Psiuk, P.Eng.
Henry Edward Regts, P.Eng.
Brian Richardson, P.Eng.
Herbert P. Roerig, P.Eng.
Gabriel Isaac Rohekar, P.Eng.
Leslie S. Rolko, P.Eng.
Peter M. Sawras, P.Eng.
Pat Silano, P.Eng.
Wayne Allen Stacey, P.Eng.
Angus F. Sutherland, P.Eng.
W. Marcus Sztrimbely, P.Eng.
Robert T. Tamblin, P.Eng.
Gin-Hooi Tan, P.Eng.
Jeffrey Charles Tucker, P.Eng.
Frank Tung, P.Eng.

W.R. Bill Vaughan, P.Eng.
Matthew Declan Whelan, P.Eng.
Paul R. Wiancko, P.Eng.
R. Scott Wiggins, P.Eng.
Derek L. Wilson, P.Eng.
Raymond Joseph Wilson, P.Eng.
Peter Ernest Winch, P.Eng.
Robert William Wingate, P.Eng.
Brian A. Young, P.Eng.
Thomas Lit Yung, P.Eng.

Companies granted permission to use the title "Consulting Engineers" or an approved variation

Building Inspection and Engineering Associates Inc., Hamilton, ON
Caskanette & Associates Consulting Engineers, a division of 1300904 Ontario Inc., Kitchener, ON
Colt Engineering (Ontario) Corporation Markham, ON
lanuzziello Fullerton Inc. Richmond Hill, ON
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Sucher Consulting Engineering Inc. Downsview, ON
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Transamtec Inc., Mississauga, ON
Woermke Jackman & Associates Inc. Markham, ON