

Iqbal that he shall successfully complete PEO's professional practice exam (PPE), within one year of the date of hearing of this matter, failing which his licence shall be suspended pending successful completion of the PPE.

4. Pursuant to s. 28(4)(i) of the act, the finding and order of the Discipline Committee shall be published in summary form, including reference to names; and
5. On agreement by the parties, the panel made no order with respect to costs.

The panel concluded that the proposed penalty is reasonable and in the public interest. Iqbal and IAE have co-operated with the association and, in agreeing to the facts and a proposed penalty, have accepted responsibility for their actions and avoided unnecessary expense to the association.

#### REPRIMAND

Following the member's and holder's waiver of their right to appeal, the panel administered the oral reprimand immediately after the hearing.

The written summary of the Decision and Reasons was signed by Jim Lucey, P.Eng., as chair on behalf of the other members of the discipline panel: Tim Benson, P.Eng., Ishwar Bhatia, P.Eng., Evelyn Spence, LGA, and Michael Wesa, P.Eng.

## SUMMARY OF DECISION AND REASONS

In the matter of a hearing under the *Professional Engineers Act*, R.S.O. 1990, c. P.28; and in the matter of a complaint regarding the conduct of GERARD J. VAN ITERSON, P.ENG., a member of the Association of Professional Engineers of Ontario and 694470 ONTARIO LTD. o/a UNICON ENGINEERING, a holder of a Certificate of Authorization issued by the Association of Professional Engineers of Ontario.

This matter was brought forward for a hearing before a panel of the Discipline Committee on May 3, 2013, at the Association of Professional Engineers of Ontario (the association) in Toronto.

#### BACKGROUND

The hearing arose as a result of the member and holder having signed and sealed an environmental assessment report, which was alleged to have been deficient in numerous respects and did not meet minimum industry standards or the minimum standard of practice for engineering work of this kind.

#### ADMISSIONS

The parties reached agreement on the facts and filed an Agreed Statement of Facts (ASF). For summary purposes, the essential facts of these admissions are as follows:

1. A report titled "Phase I and II Environmental Site Assessment" (ESA) was signed by Van Iterson on or about February 22, 2010, and to which Van Iterson affixed his seal pursuant to sections 52 and 53 of the act as the qualified person required by sections 26 and 33.3 of Ontario Regulation 153/04, as amended, under the *Environmental Protection Act*, RSO 1990, c E-19 (qualified person).
2. As the qualified person, Van Iterson took responsibility for the work documented in the report as a professional engineer.
3. The report stated that its terms of reference for the Phase I Environmental Site Assessment were prepared in general accordance with CSA Standard Z768-01 and that the Phase II Environmental Site Assessment was conducted under the guidance of CSA Standard Z769-00 and in accordance with Part XV.1 of the *Environmental Protection Act*, O. Reg. 153/04, as amended.

- (a) The report was deficient in numerous respects and did not meet minimum industry standards, nor did it meet the minimum standard of practice for engineering work of this kind; and
- (b) The report failed to meet the requirements of the *Environmental Protection Act* and its regulation *Records of Site Condition—Part XV.1 of the Act*, O. Reg. 153/04.

By reason of the facts set out above, it was alleged that the member and holder were guilty of professional misconduct as defined in section 28(2)(a) of the act. The member and holder pled guilty to these charges in the ASF.

### PLEA OF THE MEMBER AND HOLDER

The member and holder admitted the allegations as outlined in the ASF.

The panel conducted a plea inquiry and was satisfied that the member's and holder's admissions were voluntary, informed and unequivocal. The engineer and holder also admitted and fully accepted that their conduct in this matter constituted professional misconduct as defined by the *Professional Engineers Act*, section 28(2) and Regulation 941, sections 72(2)(a),(b),(d) and (j).

### DECISION AND REASONS

The panel considered the Agreed Statement of Facts and the submissions of the parties and found that the agreed facts supported a finding of professional misconduct contrary to section 28(2) of the *Professional Engineers Act*. The panel thus found the member and holder guilty of professional misconduct under the following sections of Regulation 941 made under the act:

- (a) SUBSECTION 72(2)(A): they were negligent;
- (b) SUBSECTION 72(2)(B): they failed to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which they were responsible;
- (c) SUBSECTION 72(2)(D): they failed to make responsible provisions for complying with applicable statutes, regulations, standards, codes, bylaws and rules in connection with work being undertaken by or under their responsibility; and
- (d) SUBSECTION 72(2)(J): they engaged in conduct or performed an act, relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, or unprofessional.

### PENALTY DECISION

The parties filed a Joint Submission as to Penalty. The panel accepted the joint submission and accordingly ordered:

1. Pursuant to s. 28(4)(f) of the act, Van Iterson and Unicon shall be reprimanded, and the fact of the reprimand shall be recorded on the register for a period of six months;
2. The finding and order of the Discipline Committee shall be published in summary form under s. 28(4)(i) of the act, with names;
3. Within one year of the decision of the Discipline Committee, Van Iterson shall successfully complete the professional practice examination (PPE), failing which Van Iterson's licence shall be suspended until such time as he successfully passes the PPE; and
4. There shall be no order with respect to costs.

The panel concluded that the proposed penalty is reasonable in all the circumstances.

When considered in its totality, it achieves an equitable balance by recognizing both the protection of the public and fairness also to the member and holder, giving them the opportunity to demonstrate their ability to be professionally rehabilitated. The panel made special note of the fact that Van Iterson and Unicon had fully co-operated with the inquiry throughout and by agreeing to the facts and a proposed penalty have accepted responsibility for their actions and avoided unnecessary expense to the association.

### REPRIMAND

Following the member's waiver of his right to appeal, the panel administered the oral reprimand immediately after the hearing.

The written summary of the Decision and Reasons was signed by Jim Lucey, P.Eng., as chair on behalf of the other members of the discipline panel: Tim Benson, P.Eng., Ishwar Bhatia, P.Eng., Evelyn Spence, LLB, and Michael Wesa, P.Eng.