

## SUMMARY OF DECISION AND REASONS

On allegations of professional misconduct under the *Professional Engineers Act* (the “Act”) regarding the conduct of Edward J. Ulrich, P. Eng. (the “Member” or “Ulrich”), a member of the Association of Professional Engineers of Ontario (the “Association” or “PEO”).

The Panel of the Discipline Committee heard this matter electronically via videoconference on April 11, 2023.

### AGREED STATEMENT OF FACTS & DECISION ON MISCONDUCT

In October 2017, Edward J. Ulrich, who was at all material times a licenced professional engineer, took design responsibility for two additions to a building he was selling, and provided design drawings to the Town of Lincoln in support of this. In an Agreed Statement of Facts (ASF), Ulrich admitted that the drawings were deficient and that they failed to make reasonable provision for the safeguarding of life, health and property of the additions’ occupants. Ulrich accepted as correct the findings, opinions and conclusions of an expert report prepared for PEO. Based on these admissions, the parties agreed that Ulrich was guilty of professional misconduct as follows:

- a. Preparing and providing inadequate drawings and specifications for the project, amounting to professional misconduct as defined by sections 72(2)(a), (b), (d) and (j) of Regulation 941; and
- b. Providing professional engineering services to the public without a valid Certificate of Authorization, amounting to professional misconduct as defined by section 72(2)(g) of Regulation 941.

In clarification of this agreement the parties stated that, with respect to Section 72(2)(j), Ulrich’s conduct was unprofessional, but was not alleged to be disgraceful or dishonourable.

At the hearing, Ulrich admitted to the information set out in the ASF. The panel conducted a plea inquiry and was satisfied that the Member’s admissions were voluntary, informed, and unequivocal.

The Panel accepted the Member’s admissions, and the facts set out in the ASF. On that basis, the Panel found the Member guilty of professional misconduct under section 72(2)(a), (b), (d), (g), and (j) of Regulation 941 under the Act.

### JOINT SUBMISSION ON PENALTY & DECISION ON PENALTY

The parties had agreed to a Joint Submission on Penalty (JSP), which was provided to the panel. At the hearing, both parties submitted that the penalty proposed in the JSP was appropriate in the circumstances. Counsel for the Association presented several cases in support of the argument that the penalty agreed to in the JSP falls within the range of penalties that have been previously ordered by discipline panels. She also noted that, pursuant to the *Professional Engineers Act* (the “Act”), when a suspension is ordered, publication in PEO’s official publication with names is mandatory.

There was considerable discussion regarding item (e) of the JSP quoted below. The Panel expressed concern that the safety of the public would not be adequately protected if the licence restriction preventing Ulrich from practicing structural engineering was immediately suspended for 14 months pending the completion of examinations. The Association’s lawyer provided reassurances that this was considered during the penalty negotiations. PEO’s position was that they made an assessment that there was minimal risk to the public, as the professional misconduct relates to Ulrich’s drawings, and they stated that there was no evidence that the structure of the building was unsound. Another factor that informed the PEO’s assessment was that Ulrich does not appear to carry on an active practice as a structural engineer at this time.

Previous Supreme Court decisions have instructed regulatory tribunals that joint submissions must not be rejected except when acceptance would be contrary to the public interest, which is a high threshold to meet. The Panel determined that this was not the case in the circumstances, and therefore it was satisfied that the penalty proposed in the JSP was appropriate.

The Panel then ordered the following penalty:

- a) Pursuant to s. 28(4)(f) of the Act, Ulrich shall be reprimanded, and the fact of the reprimand shall be recorded on the Register permanently. The Panel administered the reprimand on the date of the oral hearing, being April 11, 2023;
- b) Pursuant to s. 28(4)(b) of the Act, Ulrich’s license shall be suspended for a period of two (2) months, commencing on a date to be agreed, such date to be no later than three (3) weeks after the date of the Discipline Committee’s decision. The parties decided that the suspension would commence on the same day as the hearing and the oral decision rendered at the hearing – i.e. April 11, 2023;

- c) Pursuant to sections 28(4)(i) and 28(5) of the Act, the finding and order of the Discipline Committee shall be published in summary form in PEO's official publication, with reference to names;
- d) Pursuant to s. 28(4)(d) of the Act, it shall be a term, condition or restriction on Ulrich's license that he shall, within fourteen (14) months of the date of the Discipline Committee's decision, successfully complete PEO's Advanced Structural Analysis (07-Str-A4) and Advanced Structural Design (07-Str-A5) examinations;
- e) Pursuant to s. 28(4)(e) and (k) of the Act, a restriction shall be imposed upon Ulrich's licence prohibiting him from practicing structural engineering, which restriction shall be suspended for a period of fourteen months from the date of the Discipline Committee's decision. If Ulrich successfully completes the examinations referred to above at any time before or after the fourteen months period referred to above, this restriction shall be suspended indefinitely;
- f) Pursuant to s. 28(4)(h) of the Act, Ulrich shall be required to pay a fine in the amount of \$2500, within 30 days of the decision of the Discipline Committee; and
- g) There shall be no order as to costs.

At the conclusion of the Hearing, the Panel administered an oral reprimand to the Member in open session.

On May 26, 2023, Robert Willson, P.Eng., signed the Decision and Reasons for the decision as Chair of the Discipline Panel and on behalf of the Members of the Discipline Panel: Alisa Chaplick, LL.B., LL.M, and Albert Sweetnam, P.Eng.

The complete Decision and Reasons in this matter is available on PEO's website.