

REVISED 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 **GEORGE S. VUJNOVIC, P.ENG.**, a member of the Association of Professional Engineers of Ontario; and **1429312 ONTARIO LIMITED O/A FIRST PRINCIPLES**, a holder of a certificate of authorization.

This matter came before a panel of the Discipline Committee of the Association of Professional Engineers of Ontario (the association or PEO) for hearing on August 22, 2018, at the offices of the Association of Professional Engineers of Ontario, 40 Sheppard Avenue West, Toronto, Ontario. The Notice of Hearing was issued March 23, 2018.

THE ALLEGATIONS

The Agreed Statement of Facts was filed with the chair of the Discipline Committee on August 13, 2018, with the allegations.

AGREED STATEMENT OF FACTS

The Agreed Statement of Facts, which had been signed by the member and the certificate holder on August 9, 2018, and by the association on August 13, 2018, was filed at the hearing. The only witness called was the member, who gave evidence solely with respect to the issue of penalty. The association did not call any witnesses. The member was examined, cross-examined and re-examined on his evidence. Both parties made oral submissions on the penalty.

The Agreed Statement of Facts provided as follows (attachments omitted):

This Agreed Statement of Facts is made between the Association of Professional Engineers of Ontario (PEO), and the respondents, George S. Vujnovic, P.Eng., and 1429312 Ontario Limited o/a First Principles (collectively, the parties).

1. At all material times, George S. Vujnovic, P.Eng. (Vujnovic), was a professional engineer licensed pursuant to the *Professional Engineers Act* (the act). Vujnovic obtained a B.A.Sc. degree in mechanical engineering in 1994. His work experience both before and after licensure has been in the area of mechanical engineering.
2. At all material times, 1429312 Ontario Limited o/a First Principles (First Principles) held a certificate of authorization (C of A), and Vujnovic was the designated individual taking responsibility for engineering services provided under the C of A. First Principles obtained its C of A in 2001. In his C of A application, Vujnovic described the business as: “drafting, CAD, design and engineering services, equipment design and engineering, automation design and engineering.”
3. In or about February 2013, Vujnovic and First Principles were retained by Trade-Mark Industrial Inc. (Trade-Mark) to prepare shop drawings for splice connections for W 18x35 beams for a basement floor upgrade (the project) in a building owned by Frito Lay. The beams were intended to support the first floor of Frito Lay’s plant because the floor above the basement had been determined not suitable for forklift traffic and required reinforcement in several areas. The nature and intended location of the beams required that they be spliced in the middle to allow them to be moved into the basement for installation.
4. On April 12, 2013, Vujnovic signed and sealed four drawings, utilizing First Principles’ title block, showing floor plans and beam details. These drawings were submitted to the Corporation of the City of Cambridge as part of Frito Lay’s permit application. Attached as Schedule “A” are copies of these drawings. Vujnovic also signed a Commitment to General Review, showing him as the structural engineer for the project. Attached as Schedule “B” is a copy of the Commitment to General Review.
5. On or about June 12, 2013, First Principles prepared shop drawings for the beams and beam connections for Trade-Mark, copies of which are attached as Schedule “C.” The drawings were signed and sealed by Vujnovic. The shop drawings lacked the detail expected of, and otherwise fell below the standard expected of, a prudent and reasonable engineer.
6. Based on the First Principles June shop drawings, Trade-Mark manufactured and installed the beams in or about June 2013.

ENFORCEMENT HOTLINE Please report any person or company you suspect is practising engineering illegally or illegally using engineering titles. Call the PEO enforcement hotline at 416-224-1100, ext. 1444 or 800-339-3716, ext. 1444. Or email enforcement@peo.on.ca. Through the *Professional Engineers Act*, Professional Engineers Ontario governs licence and certificate holders and regulates professional engineering in Ontario to serve and protect the public.

7. On or about September 25, 2013, Frito Lay engaged Stantec, a third-party engineering company, to review the floor slab capacity in the facility. Stantec requested the shop drawings, which were provided to it by Frito Lay on or about November 11, 2013. Stantec reviewed the shop drawings, inquired into what was built and requested calculations, which were provided by Vujnovic on or about January 28, 2014 (the January calculations). The January calculations erroneously showed a safety factor of over 2.2 for the specified loads. Stantec did their own calculations and concluded that the capacity of the splice connections that had been installed were inadequate for the load. Stantec accordingly required that the floor be shored. Mark Milner, P.Eng., was the engineer at Stantec responsible for overview of the review project. He filed a complaint with PEO on February 11, 2014, a copy of which is attached as Schedule "D."
8. Upon being advised in February 2014 of Stantec's concerns, by email dated February 24, 2014, Vujnovic advised Trade-Mark that he "re-evaluated the moment calculations" for the beam and "determined that the original design proposed does not meet the strength and serviceability required." He attached new calculations dated February 26, 2014, and a proposed remedial design. Vujnovic subsequently provided calculations dated March 10, 2014 (the remedial calculations). They were identical to the February 26th calculations, except that they included additional calculations for an alternative design detail. The remedial calculations, and the associated shop drawing, is attached as Schedule "E." The remedial design itself was accepted by Stantec, which had done its own calculations, and was installed.
9. The January calculations were deficient. Vujnovic had made a number of errors, including:
 - a. incorrect calculation of the beams' live load shear value;
 - b. incorrect units of measurement;
 - c. incorrect calculation of a double shear connection instead of the required full moment splice connection;
 - d. incorrect calculation of the safety factor; and
 - e. failure to consider laterally bracing the top flange.
10. The remedial calculations retained most of Vujnovic's earlier errors and suffered from a number of additional errors, including the following:
 - a. incorrect calculation of the maximum force at the centre of the beam;
 - b. use of the incorrect force to splice the beam flanges;
 - c. incorrect weld calculations; and
 - d. other errors in engineering logic and judgment.
11. PEO retained Daria Khachi, P.Eng., as an independent expert. He prepared a written report dated May 29, 2017 (the expert report), a copy of which is attached as Schedule "F" hereto. The expert report concluded, among other things:
 - i. Based on a thorough review of calculations for the initial design connection and also for the remedial work, I would respectfully conclude that the design of George S. Vujnovic, P.Eng., and First Principle Design and Engineering Services are inconsistent with generally accepted standards in the field of professional engineering and are not expected of a reasonable and prudent practitioner.
 - ii. The deficiencies in the design and errors in design judgment as noted in my report are critical and a potential risk to public safety. The work of the respondent lacks sufficient understanding of basic principles pertaining to engineering beam connections and splices. Based on reviewing some of the calculations and reviewing the details submitted, the respondent lacks the appropriate level of knowledge, skills and abilities that are rudimentary in understanding steel connections.
12. In June 2017, PEO's investigator was advised by the municipality that Vujnovic and First Principles were involved in another project for Frito Lay. Attached as Schedule "G" are copies of the following: drawings signed and sealed by Vujnovic on February 8, 2016, and March 20, 2017; Commitment to General Review, Structural Engineer (platforms only) signed by Vujnovic; and a letter dated June 13, 2017, sealed by Vujnovic, advising of the outcome of his review of the installation of the platforms.
13. For the purposes of this proceeding, the respondents accept as correct the findings, opinions and conclusions contained in the expert report. The respondents admit that they have failed to meet the minimum acceptable standard for engineering work of this type, that they failed to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances and that

they undertook structural engineering work that they are not competent to perform by virtue of their training and experience.

14. By reason of the aforesaid, the parties agree that Vujnovic and First Principles are guilty of professional misconduct as follows:
- a. signing and sealing one or more shop drawings for the connections of structural support beams that failed to meet the standard of a reasonable and prudent engineer, amounting to professional misconduct as defined by s. 72(2)(a), (b), (d) and (g) of Regulation 941;
 - b. producing calculations for the splice connection capacity of one or more structural support beams that failed to meet the standard of a reasonable and prudent engineer, amounting to professional misconduct as defined by s. 72(2)(a), (b), (d) and (g) of Regulation 941; and
 - c. undertaking structural engineering work that the practitioner is not competent to perform by virtue of the practitioner's training and experience, contrary to s. 72(2)(h) and (g) of Regulation 941.

The respondents have had independent legal advice with respect to their agreement as to the facts, as set out above.

PLEA BY MEMBER AND BY THE HOLDER

George S. Vujnovic, P.Eng., a member of the Association of Professional Engineers of Ontario, and 1429312 Ontario Limited o/a First Principles, a holder of a certificate of authorization, both admitted to the allegations set out in the Statement of Allegations. The panel conducted a plea inquiry and was satisfied that both the member's and the holder's admission was voluntary, informed and unequivocal.

DECISION

The panel considered the Agreed Statement of Facts and finds that the facts support a finding of professional misconduct and, in particular, finds that George S. Vujnovic, P.Eng., a member of the Association of Professional Engineers of Ontario,

committed an act of professional misconduct as alleged in paragraphs 14 a., b. and c. of the Agreed Statement of Facts.

The panel finds that the facts support a finding of professional misconduct and, in particular, finds that 1429312 Ontario Limited o/a First Principles, a holder of a certificate of authorization, committed an act of professional misconduct as alleged in paragraphs 14 a., b. and c. of the Agreed Statement of Facts as follows:

1. The member signed and sealed one or more shop drawings for the connections of structural support beams that failed to meet the standard of a reasonable and prudent engineer, amounting to professional misconduct as defined by s. 72(2)(a), (b), (d) and (g) of Regulation 941;
2. The member produced calculations for the splice connection capacity of one or more structural support beams that failed to meet the standard of a reasonable and prudent engineer, amounting to professional misconduct as defined by s. 72(2)(a), (b), (d) and (g) of Regulation 941; and
3. The member undertook structural engineering work that he was not competent to perform by virtue of his training and experience, contrary to s. 72(2)(h) and (g) of Regulation 941.

PENALTY

The member and the holder did not agree on what would be an appropriate penalty. Both parties made submissions on penalty. The member gave evidence in support of his position on penalty.

OVERVIEW

There were elements of penalty that were agreed upon. All parties agreed that both the member and the holder should be reprimanded pursuant to paragraph 28(4)(b) of the *Professional Engineers Act*, R.S.O. 1990 C. P.28 (PEA) and that the fact of the reprimand should be recorded on the register permanently. The parties also agreed that, pursuant to paragraphs 28(4)(d) and 28(4)(e) of the PEA, there should be a condition and restriction placed on the licence of the member restricting him from practising structural engineering. The member agreed with the association that "structural engineer" for purposes of the prohibition was to be defined as "designing or analyzing one or more elements that alone or together form a system that can resist a series of external load effects applied to it, which includes its own self weight, and can provide adequate rigidity." The parties agreed that the decision and order of the Discipline Committee be published in the official publication of the association pursuant to paragraph 28(4)(i) and subsection 28(5) of the PEA with reference to names. The parties all agreed that there be no order as to costs.

The parties disagreed on a suspension of the licence of both the member and of the certificate holder pursuant to paragraph 28(4)(b) of the PEA. It was the position of the association that the licences of both the member and of the holder should be suspended for a period of no less than one month. The member and the holder argued that there should be no suspension, or, if there was to be a suspension, it should be for no more than a few days. The parties also disagreed on the extent and necessity of a requirement for a practice inspection of the work of the member and of the holder pursuant to paragraph 28(4)(e)(iv) of the PEA. The association sought a restriction on the licence of the member and on the certificate of authorization of the holder requiring them to report to the deputy registrar, regulatory compliance such that, within three months of the date of the decision of the Discipline Committee, they provide copies of all drawings, analyses or reports signed or sealed by the member from April 2007 to April 2017 that were structural in nature for review by its independent expert.

EVIDENCE ON PENALTY

The member gave evidence in support of his position. He described his career path. He started in the automotive industry, and he worked on projects involving infrastructure and worked with piping and steel. From the beginning of his career until 2004, he was an employee in the automotive industry and worked within a corporate engineering group to build factories. He admitted that the work he did up until 2004 did not include structural engineering. In 2004, he started his own practice through 1429312 Ontario Limited o/a First Principles (First Principles, also referred to as the holder).

Working through First Principles, he worked mainly in the food service industry, doing work for bakeries, in the beverage industry, chemical and paper mills. His job involved work that included optimizing production lines and designing plant layouts. He would be asked to put a platform together for equipment used in production. His work led him to working with Trade-Mark. The timelines for his work were tight. If a production line was down, it had to be fixed immediately. Most of his projects had a turnaround time of about a month or less. He confirmed that his core competency was to optimize production.

With respect to the project that was the subject of the complaint, he explained that he became involved with it because of his working relationship with Trade-Mark. Trade-Mark was his client. It was site conditions that led to his engagement. The beams supplied by Vasko could not be brought into the basement where they were to be installed

without being cut into shorter lengths. Once brought into the basement, the beams needed to be spliced back together. The member dealt with Vasko in connection with the splice connections. He designed the splice connections. When the splice connections were first designed, there was no external review of the member's design. The member admitted he had not done a splice connection before. The only other structural work he had done at that time was small platforms for machinery. He thought he was capable of doing the design work at the time. He admitted that he now knows he is not.

The member reported that he learned that there was a problem through Trade-Mark. As soon as he learned of the problem, he asked to be told what it was so that he could make it right. The member offered a remedial design, which was reviewed by another professional engineering firm. He gave evidence that, as far as he was aware, his remedial design was reviewed and approved. He paid all expenses: shoring, labour, materials, reapplying fireproofing. It cost just under \$100,000.00 to fix the problem. A payment plan was established with Trade-Mark. The member paid for everything over a period of about a year. He felt it was his responsibility to fix the problem with his design. The member acknowledged that his design errors were serious.

The member gave evidence that, after the complaint was made regarding his work at Trade-Mark, his design work changed. He changed how he does business. He retained a third party to look after his structural work. He gave evidence that he started doing that in February or March of 2017.

On a personal level, he explained that the complaint had been hard on his health and on his family. The health issues were mainly related to the stress. He reported that the biggest lesson is that no one is infallible. People make mistakes. He recognizes the limits of his own abilities.

The member admitted that he still did design one or two small platforms. He gave evidence that his approach was to overdesign. When pressed as to how many, he was not certain as to the exact number of small platforms in total that he had designed. He gave evidence that he had not understood the work he was doing to be structural. He has since had the scope of what is considered to be structural clarified. He confirmed that there had not been any other concerns or complaints expressed regarding any of his other designs.

The member reported feeling a heavy responsibility, experiencing both a significant financial and personal burden. He explained that if a suspension of his licence was imposed, it could also have a significant impact on his business. He mentioned that an employee of a client of his had lost a hand in equipment that was not guarded as an example of the type of project that could not wait for a suspension to be over. He

would not have been able to respond if suspended. When asked if he would be willing to have someone else look over his structural engineer projects, the member said he would. He apologized for his actions that resulted in the complaint.

ARGUMENTS ON PENALTY

Summary of submissions of counsel for the association

Counsel for the association, Leah Price, pointed out that the design at issue was for beams that held up the floor of a factory. There was a significant public safety issue. Ms. Price pointed out that Stantec, the engineering firm that had reviewed the design of the member for the splice connections, had insisted on immediate shoring. She pointed out that even after receiving the details of the errors in his design for this project, the member still designed seven other platforms. Ms. Price also referred to the evidence of the member that none of his structures have fallen down. She said that the association's position that a structure had not fallen down was not good enough, and that to provide specific deterrence, to protect the reputation of PEO and to provide general deterrence, the licence of the member and the certificate of the holder needed to be suspended.

Counsel for the association, Ms. Price, took the position that a practice inspection was needed. She argued that the association does not know whether the platforms the member designed are safe, as the association is missing information, such as the size of the structures. She noted that the member was designing structures and opining that they are safe, but that he was not competent to do so. Counsel for the association argued that the association needed information to allow an expert to assess each project that the member had designed in the past. She said that the association believes that, on a go-forward basis, the public is protected, but argued for a review of all past projects that were structural in nature, meaning all platforms that were designed by the member should be reviewed. It was primarily because of the risk to public safety that counsel for the association took the position that a practice inspection was necessary.

Counsel for the association referred to the decision of the Discipline Committee in Bailey, Marc, P.Eng., Gazette (July/August 2004) (Bailey) in support of the need for both a practice review and a suspension of the licence of the member. In Bailey, each of five separate projects had major issues. All five projects were required to be inspected, as well as a selection of other projects that were to be reviewed in the discretion of the independent expert. The cost of the inspection was to be paid by the member. In addition, the licence of the member in Bailey was suspended until the practice inspection was completed, or for 24 months, whichever was sooner.

In support of the position of counsel for the association that a licence suspension was appropriate in this case, Ms. Price referred to the decisions of the Discipline Committee in Crozier, Bruce D., P.Eng., and Bruce D. Crozier Engineering Inc., Gazette (March/April 2004) (Crozier); in Krupka, Jiri, P.Eng., and Caelliot Inc., Gazette (March/April 2015); in Krupka, Jiri, P.Eng. and Caelliot Inc., Decision and Reasons, October 30, 2014 (Krupka); and in McCavour, Scot S., P.Eng., and McCavour Engineering Limited, Gazette (May/June 2004) (McCavour). She pointed out that, in each of these cases, the member was found negligent, and there was an element of danger to public safety as a result of the negligence of the member. She noted that it was not required that the design, in fact, fail or that a member of the public was, in fact, injured for a suspension to be imposed.

Counsel for the association also pointed out that the licence of the member in Crozier was suspended. In Krupka, the licence of the member was suspended for two months. In McCavour, the licence of the member was also suspended for two months. Counsel for the association submitted that there is a tendency to see a combination of penalty where there is a finding of incompetence, negligence and in a circumstance where the conduct of the member resulted in a potential danger to the public.

Counsel for the association also referred to the decisions of the Discipline Committee in Schor, Michael A., P.Eng., and M.A. Steelcon Engineering Limited, Decision and Reasons (August 15,

2018) (Schor); Valdez, Hector R., P.Eng., and H.R. Valdez Engineering Limited, Decision and Reasons (April 28, 2014) (Valdez); Widla, Waldemar M., P.Eng., and Fulton Engineering Specialities Inc., Decision and Reasons (July 5, 2018) (Widla); and Wood, Robert G., P.Eng., Saunders, Gregory J., P.Eng., and M.R. Wright & Associates Co. Ltd., Decision and Reasons (November 15, 2010) (Wood). Counsel for the association pointed out that, in Schor, the Discipline Committee ordered a six-week suspension of the licence of the member and imposed a supervision requirement in relation to the deficient design of a lifting device. In Valdez, a machine failed and a practice review was ordered. In Widla, a one-month suspension was ordered, and the member was required to write an exam. The member in Widla had been responsible for designing attachment plates for a solar panel array that failed. In Wood, the licence of the member was suspended for two months. In that case, the member had been afforded a number of opportunities to fix his deficient design but continued to fail to do so.

The association submitted that, in the case before the panel, that a one-month suspension was required and that a practice review is the only option because of the concern that there are other structures that might not be safe.

Summary of submissions of counsel for the member

Counsel for the member, James R. Lane, pointed out that there were mitigating factors in this case that lessened culpability and affected what was an appropriate penalty in this case. Mr. Lane pointed out that the project in question was of limited scope. It was a first offence. The member had no complaints before this one. He argued that it was an isolated error. Mr. Lane noted that, regarding the other designs of the member, his approach was to overdesign. He pointed out that, upon being alerted to the errors in his design, there was no denial, no defensiveness on the part of the member. The member accepted he had made a significant mistake and that the member was transparent in his dealings with his client and with PEO. Upon realizing that remediation was required, he wanted to make it right. The member insisted on the review of his

remedial design and paid for the remediation. The member felt that the professional thing to do was to fix it, and he did. Mr. Lane added that there was no failure in the design, no injury occurred, and there was no damage to property. The member made a genuine expression of regret. He was co-operative.

Counsel for the member submitted that an important factor is whether a penalty is similar in similar cases. He argued that the goal is that members be dealt with in a consistent manner and that penalties be proportionate. He referred to a number of cases where competency to design was a key issue, including the decision of the Discipline Committee in Engio, Houston T., P.Eng., and Houston Engineering & Drafting Inc., Decision and Reasons (November 2016), and in Engio, Houston T., P.Eng., and Houston Engineering & Drafting Inc., Decision and Reasons on Penalty (November 2016) (Engio); Perera, Chitra K.G., P.Eng. (January 2013) (Perera); and in Braunshtein, Suli, P.Eng. (May 2010) (Braunshtein). He pointed out that in Engio, the design was catastrophic, the member did not appear, and that Engio proceeded without a permit. In that case, the penalty included revocation of the licence of the member. In Perera, the conduct of the member was found to be disgraceful and dishonourable. The member had been found to be deliberately doctoring the numbers for the results of testing of concrete samples, and a two-month suspension was imposed. In Braunshtein, a six-month suspension was imposed, even though the member was retired.

Counsel for the member submitted that cases with longer suspensions have serious aggravating factors, and that most of those cases have a public safety element such that the decisions comment on the public being at risk. Mr. Lane referred to a number of decisions where no suspension was imposed, or where the suspension was short. For example, in the decision of the Discipline Committee in Tawhidi, Ehsanullah, P.Eng., and Ehsan Tawhidi and Associates (September 2017) (Tawhidi), where the design of the member resulted in the collapse of a solar panel array without injury, a five-day suspension of the licence of the member was imposed. In the decision of the Discipline Committee in Soscia, Sandro P., P.Eng., and Soscia Engineering Ltd. (May 2017), no suspension was

ordered. There was a requirement to submit a Quality Assurance Plan and practice inspection imposed. That case involved structural drawings for a five-storey residential development that was found to have failed to comply with standards. Another case referred to by Mr. Lane included the decision of the Discipline Committee in Etches, Thomas A., P.Eng. (May 2010) (Etches). In Etches, the member did design work outside of the area of his competence. No suspension was ordered, and no practice review was ordered.

Counsel for the member reviewed several decisions with the panel. He submitted that practice inspections were not the norm. He noted that, in most of the cases he reviewed, the design of the member that resulted in the complaint was flawed and there was some element of public safety at issue. He submitted that, for there to be a requirement for a practice review, there was something more than that in the evidence before the panel that imposed a practice review requirement. If there was to be a practice inspection imposed in this case, counsel for the member submitted it should be limited. A practice inspection going back 10 years would be unfair to the member. He emphasized that the practice inspection should not be punitive, it should be to protect public safety. On the matter of a suspension, he argued that, in this case, it should be no more than five days, if one were to be ordered at all, and, if ordered, it should be delayed for two months. The member was working on his own and had already suffered a significant financial and emotional burden as a result of his error. He had already taken measures to ensure such an error would not happen again.

PENALTY DECISION

The panel makes the following order as to penalty:

1. Pursuant to paragraph 28(4)(f) of the PEA, the member and the holder shall be reprimanded, and the fact of the reprimand shall be recorded on the register permanently.
2. Pursuant to paragraph 28(4)(d) and 28(4)(e) of the PEA, there shall be a condition and restriction prohibiting the member from practising structural engineering, except that the member shall be permitted to design platforms, subject to design review by a structural engineer for platforms larger than 20 square metres.
3. Pursuant to paragraph 28(4)(e)(iv) of the PEA, there shall be a restriction placed on the certificate of authorization of the holder, and a further restriction placed on the licence of the member, requiring them to report to the deputy registrar, regulatory compliance, as follows:
They shall, within six months of the date of the Discipline Committee decision, provide PEO, for review by its independent expert, copies of all drawings, analyses or reports related to the opinion given by the member regarding the Frito Lay Canada Platform Installation As-Built Review dated June 13, 2017, and, if there are any issues of concern discovered by the independent expert, then they shall submit up to two additional projects for review by the independent expert. The number and choice of the projects will be at the discretion of PEO. The cost of the design inspections is to be paid by PEO.
4. Pursuant to paragraph 28(4)(i) and subsection 28(5) of the PEA, the decision and order of the Discipline Committee shall be published in PEO's official publication, with reference to names; and
5. There shall be no order as to costs.

REASONS FOR PENALTY DECISION

The panel considered application of the following principles:

- a) protection of the public;
- b) maintenance of professional standards;
- c) maintenance of public confidence in the ability of the profession to regulate itself;
- d) general deterrence;
- e) specific deterrence; and
- f) rehabilitation.

No single principle should govern. The decision should balance aggravating and mitigating factors.

The panel was impressed with the response of the member when he learned that his design was deficient. The panel considered the personal out-of-

pocket expense of the member in determining an appropriate penalty, as well as the complete transparency and lack of defensiveness. The panel would hope that other members will follow the example of the member in the event that an error in their own work is found. The panel was impressed that the member had changed the way he works, including being aware and mindful of his own competencies and careful to work within them, and that he had hired a third party to look after the structural design needs of his clients.

The panel accepted the evidence of the member that he overdesigned the other platforms he had designed. The panel also accepted his evidence that they were few in number and that they were structurally sound. To address the issue of public safety, the panel decided that a limited practice review was warranted in this case. The panel also felt that a complete limit on all work that fell within the definition of structural engineering presented by the association was overly broad in this case. The panel was satisfied that the practice review ordered, together with the less broad restriction on the licence of the member, is sufficient to ensure the safety of the public.

The panel recognized the fact that the member expressed remorse for his conduct, now understands clearly the limitations on his competencies and has taken appropriate steps to avoid any similar issue in the future. The panel accepted that this was an isolated incident in an established career in which there was no record of discipline. In addition, the panel was especially impressed with the manner in which the member responded to this complaint and to remedying the deficiencies in his design, and to the work for which he was responsible.

The panel acknowledges that the association should act to deter members from similar acts of misconduct by imposing a meaningful but reasonable penalty. The panel decided, given the special circumstances of this case, that the publication of the Decision and Reasons, with names, the imposi-

tion of a restriction on the licence of the member, and the limited practice review is sufficient in all of the circumstances.

The panel did not find that, in all of the circumstances of this case, a suspension of the licence of the member or of the certificate of authorization of the holder was warranted.

The panel concluded that the penalty, as ordered, is reasonable and in the public interest. The member co-operated with the association. He agreed to the facts and has accepted responsibility for his actions and has avoided unnecessary expense to the association. It was not, in the panel's view, unreasonable for the member to contest the penalty requested, and the panel found his evidence on the issue of penalty helpful in making its decision. As such, the panel finds that an award for costs was not warranted.

In summary, the panel finds that the penalty imposed is reasonable and that public confidence in the ability of the association to be a self-regulator of the profession is satisfied by the penalty.

The member was asked if he wished to waive his right to appeal and have the reprimand administered without delay. The member confirmed that he wished to waive his right to appeal. The member received advice from his counsel with respect to the waiver of his right to appeal. The reprimand was administered by the panel immediately after the conclusion of this hearing.

Glenn Richardson, P.Eng., signed this Decision and Reasons for the decision as chair of this discipline panel and on behalf of the members: Michael Chan, P.Eng., Patrick Quinn, P.Eng., Kathleen Robichaud, LLB, and Warren Turnbull, P.Eng. **e**