

- 28.(1) The Discipline Committee shall,
- (a) when so directed by the Council, the Executive Committee or the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the association or a holder of a certificate of authorization, a temporary licence, a provisional licence or a limited licence;
 - (b) hear and determine matters referred to it under section 24, 27 or 37; and
 - (c) perform such other duties as are assigned to it by the Council.

The panel decided not to grant the motion for leave to withdraw the allegations.

The panel is of the view that section 4.1 of the SPPA does not apply in this case since a hearing had already started in this matter in accordance with section 28 of the act.

The panel found that section 23(1) of the SPPA does not apply in this case since, completing the hearing, would not be an abuse of process in this case.

The panel interpreted section 28 as mandatory in this matter.

The panel took note of the fact that the prosecutor function under the act was split between the association and the Complaints Committee, and that the Complaints Committee is charged with considering the public interest when it decides to refer a matter to the Discipline Committee. In the absence of a revocation of this direction, the test for deciding to not proceed with a hearing is very high.

HEARING ON THE MATTER

The panel accepted the Statement of Allegations as the only evidence in this matter. In the absence of any evidence upon which to make any findings of fact, the panel dismissed the allegations.

SUBMISSION AS TO COSTS AND PUBLICATIONS

The panel will accept written submissions from the parties as to costs, and a submission from the defendants as to publication, within 10 working days from the date of this decision. Unless the parties object, the panel will consider and rule on these submissions in writing.

Submissions are to be sent to the panel chair, c/o the Tribunals Office (Room 206), Professional Engineers Ontario, 40 Sheppard Avenue West, Suite 101, Toronto, Ontario, M2N 6K9.

Aubrey Friedman, P.Eng., signed this Decision and Reasons for the decision as chair of this discipline panel and on behalf of the members of the discipline panel: James Amson, P.Eng., Paul Ballantyne, P.Eng., Richard Hilton, P.Eng., and Glenn Richardson, P.Eng.

DECISION ON COSTS AND PUBLICATION

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., a holder of a certificate of authorization.

This matter came for hearing before a panel of the Discipline Committee on November 23, 2011 at the Association of Professional Engineers of Ontario (the association) in Toronto, Ontario. As part of the Decision and Reasons issued January 18, 2013, the panel stated it would accept written submissions from the parties as to costs, and a submission from the defendants as to publication, within 10 working days from the date of this decision.

No submission was received from the defendants on either costs or publication.

A submission was received from the association stating that, in their view, costs payable to the defendants are not warranted in the circumstances of this case.

In light of the facts of the case, the absence of any submission by the defendants and the submission by the association with respect to costs, the panel orders that no costs be awarded to the defendants. As for publication, the panel orders that the Decisions and Reasons dated January 18, 2013 and this Decision on Costs and Publication be published in the Gazette with names.

Aubrey Friedman, P.Eng., signed this Decision on Costs and Publication as chair of this discipline panel and on behalf of the members of the discipline panel: James Amson, P.Eng., Paul Ballantyne, P.Eng., Richard Hilton, P.Eng., and Glenn Richardson, P.Eng.