

SUMMARY OF FINDING AND ORDER OF THE DISCIPLINE COMMITTEE

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.

This matter came on for hearing before a panel of the Discipline Committee on September 16 and 17, 2015 at the offices of the Association of Professional Engineers of Ontario in Toronto. The association was represented by Leah Price. Gerard J. Van Iterson, P.Eng. (the member), and 694470 Ontario Ltd. O/A Unicon Engineering (the holder) were represented by Alex Flesias.

The member pled guilty to three counts of professional misconduct arising out of a letter, which he had signed and sealed on the holder's letterhead. The letter had been provided to the City of Guelph's building office. The letter had been the subject of a complaint to the Association of Professional Engineers of Ontario made by Jeremy Laur, a building inspector for the City of Guelph. As part of an agreed statement of facts filed by the parties, the member admitted that: he did not carry out an inspection referred to in the letter or prepare or check the letter; he signed and sealed the letter at the request of the coordinator of the project, who had retained him; and he had no training or experience in the area of structural engineering.

The panel of the Discipline Committee hearing the matter found the member and the holder guilty of professional misconduct on the basis of the admissions. The parties submitted a joint submission as to penalty. The Discipline Committee was concerned about the penalty jointly submitted and sought submissions.

The panel was satisfied with three of the four penalties submitted by the parties. The committee was not satisfied with the parties' submission that the member and holder should be reprimanded, and that the fact of the reprimand should be recorded on the register for a period of one year. The Discipline Committee panel determined that the recording of the reprimand on the register for one year was not sufficient. The panel concluded that the public

interest was not served by having the reprimand expunged from the register after a period of one year and that it should remain on the register indefinitely.

The panel determined that the member's actions, in affixing his signature and seal to the letter in question without carrying out the inspection referred to in the letter that he did not prepare or check, and in signing and sealing it at the request of the person who retained him, struck at the very heart of the integrity of the profession and placed the public at risk.

In 1982, Van Iterson had been convicted of signing an application for renewal of a certificate of authorization, and of affixing his seal to drawings not made by him or under his personal supervision for three separate building projects. Although the panel appreciated that he was so convicted in the past, the panel concluded that repetition of the same offence strikes at the heart of the integrity of the profession and so overrides the consideration that he should be treated as a first offender on the basis of the length of time between offences. The panel additionally concluded that if the offence is serious enough to result in a reprimand being placed in the register, it should remain indefinitely.

The panel directed that:

- a. Pursuant to s. 28(4) of the *Professional Engineers Act*, the member and holder shall be reprimanded, and the fact of the reprimand shall be recorded on the register for an indefinite period;
- b. The finding and order of the Discipline Committee shall be published in summary form together with the names of the member and holder;
- c. It shall be a term, condition or limitation on the member's licence that he shall engage in the practice of professional engineering only in the following areas: (i) mechanical engineering; and (ii) environmental engineering, limited to the area of environmental assessments and site remediations, in accordance with the applicable standards and guidelines promulgated by the Ministry of Environment; and
- d. In the event that the member demonstrates his competence in electrical engineering, either through an interview with two (2) electrical engineering members of the Experience Requirements Committee (who shall provide a report to the deputy registrar, regulatory compliance, stating whether or not such competence was demonstrated by the member), or by successfully passing the

Association of Professional Engineers of Ontario examination 98-Elec-87 (Power Systems Engineering), the term, condition or limitation set out in subparagraph (c) above shall be amended to add electrical engineering as subparagraph (iii) thereof.

The written Decision and Reasons were dated August 31, 2017, and were signed by Richard Austin as the chair of the panel on behalf of himself and panel members Santosh Gupta, P.Eng., and Charles Kidd, P.Eng. Panel member Ravi Gupta, P.Eng., dissented in respect of the penalty. Previous panel chair Kenneth Serdula, P.Eng., passed away before the Decision and Reasons were concluded and Richard Austin chaired the panel subsequently.

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 PEO v. JASON W. BRASSEUR, P.ENG., a member of the Association of Professional Engineers of Ontario.

The panel of the Discipline Committee met to hear this matter on October 13, 2016 at the Association of Professional Engineers of Ontario at Toronto.

The notice of hearing was issued on September 22, 2016. The decision of the Complaints Committee to refer the matter, dated March 21, 2016, including the Statement of Allegations as referred and a Registrar's Certificate attesting that the member's licence issued December 3, 1997 was current, were filed with the panel.

OVERVIEW

In July 2009, the town of Parry Sound awarded a fixed price (\$3,184,948 + GST) contract to Samson Management and Solutions Ltd. for renovations to the Bobby Orr Community Centre. The contract included a Request for Change (RFC) process for work beyond the scope of the contract. Work on the contract commenced in August 2009.

Steenhof Building Services Group was retained by the town to supervise the project and administer the contract. In March 2010, an employee of Steenhof discovered apparent discrepancies in an RFC submitted by Samson in that a subcontractor's stipulated quote was different from the quote provided by the subcontractor to the general contractor, Samson. Subsequent investigation showed a number of other irregularities and the town terminated the contract.

The member was the sole officer and director of Samson, a general contracting company incorporated in 1999. Samson specialized in open

tender public construction projects and did not hold a certificate of authorization under the act. The member directly caused to be prepared all RFCs submitted by Samson.

As a result of a police investigation, the member was charged on September 29, 2010 with 32 counts of fraud and use of forged documents. Samson was also charged with 16 counts of fraud and attempted fraud for the same occurrences. Negotiations between the crown prosecutor and the defendant's legal counsel pursued and on September 6, 2011 and the Ontario Court of Justice found Samson guilty of attempted fraud according to section 24(1) and section 380(1) of the Criminal Code of Canada. The charges against the member were withdrawn.

Samson was ordered to reimburse the town \$873.65, the actual amount of the fraudulent benefit, and pay a fine totalling \$5,000.

THE ALLEGATIONS

The Statement of Allegations against Jason W. Brasseur, P.Eng., as referred by the Complaints Committee, was dated March 21, 2016.

AGREED STATEMENT OF FACTS

Counsel for the association advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which provides as follows:

1. At all material times, the respondent, Jason Brasseur, P.Eng. (Brasseur), was a professional engineer licensed pursuant to the *Professional Engineers Act*.
2. At all material times, Brasseur was the sole officer and director of Samson Management and Solutions Ltd. (Samson), a general contracting company specializing in open tender public construction projects. Samson did not hold a certificate of authorization. A Corporation Profile Report for Samson, dated February 11, 2016, was attached to the Agreed Statement of Facts.
3. In or about July 2009, the Town of Parry Sound (the town) awarded a fixed-price contract to Samson to conduct renovations to the Bobby Orr Community Centre. Work under the contract commenced in or about August 2009.