

## PENALTY DECISION

The panel makes no decision as to penalty at this time. The panel directs that the parties be provided with notice of this decision, and the prosecution is to provide the panel with submissions in writing regarding the appropriate penalty within 14 days of such notice having been given. Sinha and EOA shall have an opportunity to respond in writing to the prosecution's submissions within seven days, following which the prosecution will have three days in which to reply, following which the panel will make a decision regarding the appropriate penalty in this matter.

Bruce Clarida, P.Eng., FEC, signed this Decision and Reasons for the decision as chair of the discipline panel and on behalf of the members of the discipline panel: James Amson, P.Eng., Ishwar Bhatia, P.Eng., David Germain, JD, and Charles M. Kidd, P.Eng.

## DECISION AND REASONS ON PENALTY

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 KANAN K. SINHA, P.ENG., a member of the Association of Professional Engineers of Ontario, and 1523829 ONTARIO LTD. o/a ENGINEERING ONLINE AMERICA, a holder of a Certificate of Authorization.

In its decision dated February 23, 2016, the panel found the member, Kanan K. Sinha, and 523829 Ontario Ltd. o/a Engineering Online America guilty of professional misconduct. Further to that finding, the panel requested that the parties to this matter provide their recommendations with respect to an appropriate penalty.

The panel has carefully considered the submissions of counsel for the association, as well as the responding submissions from Sinha.

Further to the association's request for an award of \$10,000 in costs, the panel requested that PEO provide documentation in support of the amount requested. The association provided a detailed outline of costs on March 3, 2016, to which Sinha provided a brief response.

Having considered all of the foregoing submissions, the panel largely accepts the submissions of the association and, for the reason set out in those submissions, imposes the penalties that were requested, with one significant deviation.

The penalties imposed are as follows:

1. Pursuant to subsection 28(4)(f) of the *Professional Engineers Act* (PEA), Sinha shall be reprimanded, and the fact of the reprimand shall be recorded in the register permanently;
2. Pursuant to subsection 28(4)(a) of the PEA, Sinha's licence shall be revoked;
3. Pursuant to subsection 28(4)(i) of the PEA, the findings and the order of the panel shall be published, with reasons therefore, together with the names of the respondents, in the official publication of PEO; and

4. Pursuant to subsection 28(4)(j) of the PEA, the respondents shall pay costs to PEO in the amount of \$10,000, within three months of the date of this penalty decision.

The panel finds that the above penalties are appropriate in this matter to ensure that this decision serves as a significant deterrent.

In the matter of the revocation of Sinha's licence, the association had asked that a condition be imposed on the licence prohibiting the member from practising engineering alone. The panel, in its deliberations, concluded that the requested condition would not provide a sufficient level of protection to the public at large. This panel's finding in this matter was the second finding of misconduct against Sinha. Furthermore, the misconduct in this case involved the approval of a design that the evidence demonstrated was likely to fail and, thus, in the panel's view, posed a significant danger to the public.

The panel has determined that the goal of protecting the public would not have been adequately served by the placing of a limitation on Sinha's

licence. The panel finds that the protection of the public is best achieved by the revocation of Sinha's licence.

The panel was advised by email dated March 3, 2016 that Sinha had advised that he is now retired. The panel finds that the need to ensure the protection of the public outweighs any interest that the member may have had in continuing to hold a licence. The panel, therefore, finds that, in the circumstances, it is appropriate to exercise its power pursuant to subsection 28(4)(a) of the PEA to revoke Sinha's licence.

With respect to costs, the panel has granted the association's request in full. The panel notes that the costs awarded represent approximately a third of the association's actual expenditure in this matter. One of the key factors in awarding costs was Sinha's apparent disregard for the Discipline Committee's process. He was fully aware of the hearing of this matter. Nonetheless, he did not appear at the hearing, nor did he plead guilty. Instead, he made submissions by email only, which, in the absence of sworn testimony and an opportunity to ask questions, were of little value to the panel or the discipline process.

Accordingly, the association presented its case in Sinha's absence. This expense could have, and should have, been avoided. Given that these costs were incurred entirely as a result of Sinha's actions, the panel finds that the requested \$10,000 award is appropriate in the circumstances.

Bruce Clarida, P.Eng., FEC, signed this Decision and Reasons on Penalty for the decision as chair of this discipline panel and on behalf of the members of the discipline panel: James Amson, P.Eng., Ishwar Bhatia, P.Eng., David Germain, JD, and Charles M. Kidd, P.Eng.

## SUMMARY OF DECISION AND REASONS: SANDRO P. SOSCIA, P.ENG., AND SOSCIA ENGINEERING LTD.

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 SANDRO P. SOSCIA, P.ENG., a member of the Association of Professional Engineers of Ontario and SOSCIA ENGINEERING LTD., a holder of a Certificate of Authorization.

This matter came to a hearing before a panel of the Discipline Committee on August 2, 2012. The Association of Professional Engineers of Ontario was represented by Leah Price. The member (Soscia) and the holder (Soscia Engineering Ltd.) were represented by M. Gosia Bawolska. Sean McFarling provided independent legal advice to the panel.

The parties entered into an Agreed Statement of Facts, and the member and the holder admitted the allegations of professional misconduct set out in the Agreed Statement of Facts.

The member was the president of Soscia Engineering Ltd. (the holder), an engineering firm that held a Certificate of Authorization under the *Professional Engineers Act*. The member was the responsible professional in the application for the Certificate of Authorization. The member entered into an agreement with a client to provide engineering services for a set of structural drawings for a foundation permit for a five-storey residential development with an underground parking garage. The owner applied for a foundation permit with the drawings.

The city did not issue a permit due to a lack of information on this first set of drawings, including the location of existing services and foundation-bearing elevations. The owner was asked to provide a

complete set of structural and architectural drawings for review.

Unbeknownst to the member, the owner had proceeded to pour footings and start erecting the concrete block foundation. The city issued an Order to Comply, and a Stop Work Order.

The member signed and sealed a second set of foundation drawings for the owner. The member had told the owner that the drawings were preliminary, but the drawings were not so marked.

The city engaged another structural engineer to review this second set of drawings. He determined the footings were undersized, and noted other deficiencies and omissions as well.

The member issued a third set of signed and sealed drawings for submission to the city.

After the complaint against the member was received by PEO, an independent professional engineer reviewed all three sets of drawings. The design