

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 LI HANG WANG, P.ENG., a member of the Association of Professional Engineers of Ontario, and LHW ENGINEERING LTD, a holder of a certificate of authorization.

The panel of the Discipline Committee met to hear this matter on September 20, 2022, by means of an online video conference platform that was open to observers from the public. All participants in the proceedings attended via videoconference, including counsel for the Association of Professional Engineers of Ontario (the association or PEO); Mr. Li Hang Wang, P.Eng. (the member or Wang); and legal counsel for the member and LHW Engineering Ltd. (LHW or the holder).

The parties provided the panel with an Agreed Statement of Facts signed by Wang and LHW on September 13, 2022, and by the association on September 14, 2022. The Agreed Statement of Facts was provided as follows, with references to schedules omitted:

1. Wang is a professional engineer licensed pursuant to the *Professional Engineers Act* (the act).
2. LHW is the holder of a certificate of authorization under the act. Wang is the principal of LHW, and is the person designated under section 47 of Regulation 941 under the act as assuming responsibility for the professional engineering services provided by LHW.
3. The complainant, Wenqing (Hanna) Wei, and her husband own a house in Markham. On or around September 3, 2015, the complainant contracted with LH Solar Inc. (LH Solar) for the lease and installation of solar panels on the roof of her house. LH Solar subcontracted with Polaron Solartech Corporation (Polaron) for the panels' supply and installation.
4. On October 6, 2015, a Polaron representative conducted a pre-installation inspection of the complainant's house, taking measurements and photos and completing two Polaron forms setting out details of the roof structure (the Pre-Installation Visit).
5. Polaron verbally retained LHW to "conduct an assessment of the roof structure...to confirm if the roof can accommodate the additional weight of the solar panels, and to review and approve a plan of the roof showing the solar panel locations."
6. On or around October 14, 2015, Polaron provided the forms and photos from the Pre-Installation Visit to LHW, along with a drawing indicating roof dimensions, a roof pitch of 3/12, truss locations and the planned location of solar panels (the S-1 Drawing). Wang returned the S-1 Drawing to Polaron, unsealed, and Polaron prepared two further drawings with added details and differing roof dimensions and pitch (the S-2 and I-2 Drawings).
7. Without visiting the complainant's house and in sole reliance on information provided by Polaron, Wang sealed the S-2 and I-2 Drawings on October 16, 2015 [...]. The S-2 Drawing was deficient for several reasons, including that it:
 - a. Lacked material data and specifications; and
 - b. Did not identify the applicable design and construction codes.
8. Despite having previously declined to seal the S-1 Drawing, Wang sealed the S-1 Drawing on December 30, 2015 [...]. Wang sealed the S-1 Drawing based on the address of the property without checking the Drawing. The S-1 Drawing was deficient for several reasons, including that it:
 - a. Lacked material data and specifications;
 - b. Did not identify the applicable design and construction codes;
 - c. Did not comply with the requirements of the Ontario Building Code;
 - d. Identified an incorrect roof slope;
 - e. Failed to identify critical framing elements; and
 - f. Provided incorrect roof dimensions.
9. Following concerns of the complainant that the solar panel installation was causing her house to shift, LH Solar retained LHW to inspect and report on the house. Wang visited the house and accessed the attic but did not climb into the attic to inspect it in detail. On the basis of this partial inspection only, on March 21, 2019, Wang signed and sealed a report concluding that any cracks in the dry-wall of the house "are not caused by the installation of roof top solar panels" (the March 2019 LHW Report) [...].

10. Following further concerns of the complainant, Polaron asked LHW to evaluate “the existing roof structure.” On the basis of measurements and photos taken during the March 2019 visit, but without having climbed into the attic to inspect the roof structure or attic in detail, Wang signed and sealed a report on July 23, 2019 (the July 2019 LHW Report) [...]. The July 2019 LHW Report asserted that:
- “the existing roof structure is structurally adequate to support the loads from the roof system, including the roof top solar panel system and snow load, and satisfying the requirements of OBC 2012.”
11. On or around October 17, 2019, LH Solar removed the solar panels from the complainant’s roof.
12. PEO retained Will Teran, P.Eng., of Tacoma Engineers, to review the Drawings and the LHW Reports. He provided an Independent Review Report (the November Expert Report) dated November 18, 2021, [...] which concluded, among other things:
- “In our opinion, the work completed by Wang and LHW does reflect a public safety concern. The initial drawing issued was clearly deficient, the first report issued presented structural conclusions without sufficient data nor analysis, and the second report issued indicated a lack of adequate knowledge in application of codes, standards and a deficiency in structural analysis. If this project is representative of a pattern of behaviour, there is a significant public safety impact.”
13. Following comments made by Wang in response to the November Expert Report, Mr. Teron provided a further report dated January 31, 2022 (the January Expert Report) [...]. The January Expert Report replied to Wang’s comments and maintained the conclusions set out in the November Expert Report.
14. For the purposes of this proceeding, the respondents accept as correct the findings, opinions and conclusions contained in the November and January Expert Reports. The respondents admit that they failed to make reasonable provision for the safeguarding of life, health or property, and that they failed to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances. The respondents further admit that they failed to make reasonable provision for complying with applicable codes, and that they signed and sealed a drawing not prepared or checked by them.
15. By reason of the aforesaid, the parties agree that the respondents, Wang and LHW, are guilty of professional misconduct as follows:
- Negligence, amounting to professional misconduct as defined by sections 72(1) and 72(2)(a) of Regulation 941;
 - Failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible, amounting to professional misconduct as defined by section 72(2)(b) of Regulation 941;
 - Failure to make responsible provision for complying with applicable codes in connection with work being undertaken by the practitioner, amounting to professional misconduct as defined by section 72(2)(d) of Regulation 941;
 - Signing or sealing a final drawing not prepared or checked by the practitioner, amounting to professional misconduct as defined by section 72(2)(e) of Regulation 941; and
 - Conduct relevant to the practice of professional engineering that would reasonably be regarded as unprofessional, amounting to professional misconduct as defined by section 72(2)(j) of Regulation 941.
- The parties provided a Joint Submission on Penalty. The Joint Submission as to Penalty and Costs provided, in part, as follows:
- That PEO, Wang and LHW make the following Joint Submission as to Penalty and Costs:
- Pursuant to s. 28(4)(1) of the act, Wang and LHW shall be reprimanded, and the fact of the reprimand shall be recorded on the register permanently;
 - Pursuant to s. 28(4)(b) of the act, Wang’s licence and LHW’s certificate of authorization shall be suspended for a period of three (3) weeks, 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;
 - Pursuant to s. 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;
 - Pursuant to s. 28(4)(d) of the act, there shall be a term, condition and restriction on Wang’s licence requiring him to successfully complete both:
 - The “House Syllabus 2012” examination established by the Ministry of Municipal Affairs and Housing, and

- (ii) The National Professional Practice Examination (the examinations), no later than twelve (12) months after the date (the date) that the Discipline Committee pronounces its decision;
- e. Pursuant to s. 28(4)(e) and (k) of the act, a restriction shall be imposed upon Wang's licence prohibiting him from practising professional engineering except under the direct supervision of another professional engineer who shall take professional responsibility for Wang's professional engineering work by affixing his or her signature and seal on every final drawing, report or other document prepared by Wang, which restriction shall be suspended for a period of twelve (12) months from the date. If Wang successfully completes the examinations at any time before or after the 12-month period referred to above, this restriction shall be suspended indefinitely; and
- f. There shall be no order as to costs.

DECISION

The panel considered the guilty plea and an Agreed Statement of Facts and carefully considered the Joint Submission on Penalty and Costs. It is a well-established principle of law that a disciplinary panel should not interfere with a Joint Submission on Penalty except where the panel is of the view that to accept the joint submission would bring the administration of the disciplinary process into disrepute or otherwise be contrary to the public interest (see, e.g., *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303).

The panel is satisfied that the penalty protects the public and serves the principles of general and specific deterrence, rehabilitation and maintenance of the public's confidence in the profession.

Delivering a reprimand and publishing the panel's findings with reference to names deters the member and holder from reoffending and provides general deterrence to the profession as a whole from engaging in similar conduct. These outcomes serve as strong condemnation of the member's and holder's actions and provide the member and holder with a clear statement on how they failed to meet their professional obligations and the consequences of professional misconduct. The imposition of a suspension on the member's licence and LHW's certificate of authorization serves to reinforce this message and provides an added measure of specific deterrence.

The panel notes that the member's co-operation with the association through the Agreed Statement of Facts and Joint Submission on Penalty demonstrates that he has accepted responsibility for his actions and has avoided unnecessary expense to the association for a contested hearing. The panel considers this evidence of the member's insight and his steps

towards rehabilitation, which will be supplemented by the requirement that he complete the two specified examinations. These examinations will provide an opportunity for the member to upgrade his skills and to demonstrate that his practice aligns with the standards of the profession.

Further, the requirement that the member practice under supervision in the event that he fails to successfully complete the examinations within the required timeframe ensures that the public is protected. This serves to uphold the public's confidence in the profession and its ability to regulate the practice of engineering in the public interest.

For all of the above reasons, the panel accepted the Joint Submission as to Penalty and Costs. Counsel for the parties confirmed that they waived their right of appeal from the panel's order, and the panel delivered the reprimand immediately following the conclusion of the hearing.

Eric Bruce, 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: Paul Ballantyne, P.Eng., and Tommy Sin, P.Eng.