

## 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 EHSANULLAH TAWHIDI, P.ENG., a member of the Association of Professional Engineers of Ontario, and EHSAN TAWHIDI AND ASSOCIATES, a holder of a Certificate of Authorization.

The hearing proceeded with the counsel for the association introducing an Agreed Statement of Facts, which included items in summary as follows:

1. Ehsanullah Tawhidi, P.Eng. (Tawhidi), was, at all material times, a professional engineer licensed under the *Professional Engineers Act* (the act). Tawhidi is the holder of a Certificate of Authorization for “Ehsan Tawhidi and Associates” (ETA).
2. In April 2013, Tawhidi signed a Commitment for General Structural Reviews with EnviroEn Inc. (EE) for a solar panel installation on a nine-storey apartment building at 31-35 St. Dennis Drive, Toronto.
3. In June 2013, Tawhidi issued a structural investigation report on EE letterhead and structural drawings for the project for building permit submission.
4. In August 2013, Tawhidi signed and sealed a revised set of drawings prepared by EE to include additional array solar panels.
5. The solar panels were installed under the EE’s supervision in autumn 2013. Tawhidi performed a site review of the installed panels. He issued two review letters on ETA letterhead in November 2013 stating: “As per our visual observation, the work done in general is satisfactory and work has been completed as per city reviewed permit drawings, the requirements of the OBC and all the deficiencies identified during the construction have been corrected.”
6. In January 2014, the largest solar array collapsed, causing property damage.
7. PEO commenced a registrar’s investigation into the collapse under section 33 of the act retaining Daria Khachi, P.Eng. (Khachi), as an independent expert to review the work of Tawhidi and ETA. Khachi visited the site in May 2014 and wrote a report dated July 8, 2014.
8. The report identified deficiencies in the work of Tawhidi and ETA, which included insufficient structural notes on the drawings, a failure to identify additional snow accumulation on the permit documents, a lack of lateral load resisting element for stability, inadequately specified base plate anchorage details, a mismatch between the specified number of anchor rods for each base plate and the observed number seen in the site visit, inadequate anchor bolts, inadequate welds specified for certain column bases, and in general a failure to show the proper structural support system.
9. Tawhidi and ETA admit that the contents of and the conclusions in the report are correct and further admit that they made the errors/omissions referred to above. Tawhidi and ETA admit that, in so doing, they:
  - a) Failed to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances;
  - b) Failed to make reasonable provision for the safeguarding of the life, health or property of the persons who might, and indeed were, affected by the work for which they were responsible; and
  - c) Failed to make responsible provision for complying with applicable codes and/or standards.
10. It is agreed that Tawhidi and ETA are guilty of professional misconduct, as follows:
  - a) Reviewing and approving the structural design of a photovoltaic solar panel supporting structure without properly accounting for

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wind loads, amounting to professional misconduct as defined by sections 72(2)(a), (b) and (j) of Regulation 941;

- b) Signing and sealing structural drawings for a photovoltaic solar panel supporting structure that failed to comply with applicable codes and/or standards, amounting to professional misconduct as defined by sections 72(2)(a), (d) and (j) of Regulation 941;
- c) Signing and sealing structural drawings for a photovoltaic solar panel supporting structure that inadequately resisted lateral forces, amounting to professional misconduct as defined by sections 72(2)(a), (b) and (j) of Regulation 941; and
- d) Signing and sealing structural drawings that failed to meet the standard of a reasonable and prudent engineer, amounting to professional misconduct as defined by sections 72(2)(a), (b) and (j) of Regulation 941.

#### PLEA BY MEMBER AND/OR HOLDER

The member and holder admitted to the allegations of professional misconduct as set out in the Agreed Statement of Facts. The panel conducted a plea inquiry and was satisfied that the member's admission was voluntary, informed, unequivocal and without reservation.

#### DECISION

The panel, having considered the Agreed Statement of Facts and the submissions of the parties, finds that the facts support a determination of professional misconduct and, in particular, finds that Ehsanullah Tawhidi, P.Eng., and Ehsan Tawhidi and Associates committed an act of professional misconduct pursuant to sections 72(2)(a), (b), (d) and (j) of Regulation 941.

#### PENALTY DECISION

The panel received a Joint Submission as to Penalty that the panel concluded is reasonable and in the public interest. The panel acknowledged that Ehsanullah Tawhidi, P.Eng., co-operated fully with the association in the investigation and concurred with the Agreed Statement of Facts, taking full responsibility for his actions. He has agreed to the proposed penalty. His co-operation avoided unnecessary expense to the association.

The panel considered the proposed penalty to fulfill the requirements of protecting the public, maintaining the reputation of the profession, providing a general deterrence to members, providing a specific deterrence to the member and providing for professional rehabilitation of the member.

The panel orders:

- a) Pursuant to section 28(4)(b) of the act, Tawhidi's licence shall be suspended for a period of five working days, commencing on the day after the pronouncement of the penalty decision by the Discipline Committee;
- b) Pursuant to section 28(4)(f) of the act, Tawhidi and ETA shall be reprimanded, and the fact of the reprimand shall be recorded on the register for a period of one year;
- c) The finding and order of the Discipline Committee shall be published in summary form under sections 28(4)(i) and 28(5) of the act, with reference to names;
- d) Pursuant to section 28(4)(d) of the act, it shall be a term or condition on Tawhidi's licence that he shall, within 14 months of the date of pronouncement of the decision of the Discipline Committee, successfully complete the following examinations administered by PEO: 98-CIV-A1 Elementary Structural Analysis, and 98-CIV-A2 Elementary Structural Design;
- e) Pursuant to sections 28(4)(b) and (k) of the act, in the event that Tawhidi does not successfully complete the examinations listed above within the time set out above, his licence shall be suspended for a period of 10 months thereafter, or until he successfully completes the examinations, whichever comes first; and
- f) There shall be no order as to costs.

#### REPRIMAND

Following the member's and holder's waiver of their right to appeal, the panel administered the oral reprimand immediately after the hearing.

The Decision and Reasons was signed on March 27, 2017 by panel chair Brian Ross, P.Eng., on behalf of the members of the discipline panel: Rishi Kumar, P.Eng., Anne Poschmann, P.Eng., Nadine Rush, C.E.T., and Warren Turnbull, P.Eng.