

support of the steel beam above the garage doors. The Dialog Report further concluded that the design would have caused roof rafter failure and collar tie connection failure under snow loads, and that the public safety would have been at risk had the Drawings not been reviewed by Tacoma and corrected. Attached as Schedule “C” is a copy of the Dialog Report. [DB 327-334]

9. For the purposes of these proceedings, the Respondents accept as correct the findings, opinions and conclusions contained in the Tacoma and Dialog Reports. The Respondents admit that they failed to make reasonable provision for the safeguarding of the public, that they failed to make responsible provision for complying with applicable standards and codes, and that they failed to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances.
10. By reason of the aforesaid, the parties agree that the Respondents are guilty of professional misconduct as follows:
  - a. They prepared, signed, sealed and issued inadequate and deficient design drawings for the project, amounting to professional misconduct as defined by sections 72(2)(a), (b), (d) and (j) of Regulation 941 under the Act.

Regarding section 72(2)(j) of Regulation 941 under the Act, noted in paragraph 10 above, PEO was not seeking a finding that Shaw and LKS were guilty of “disgraceful” and “dishonourable” conduct but a finding that Shaw and LKS were guilty of “unprofessional” conduct.

Shaw and LKS pled guilty to the allegations in the ASF. The Panel conducted a plea inquiry and was satisfied that Shaw and LKS’ pleas were unequivocal.

#### JOINT SUBMISSION AS TO PENALTY AND COSTS

The parties submitted a Joint Submission as to Penalty and Costs (“JSP”), the relevant parts of which are as follows:

- a) Pursuant to s. 28(4)(f) of the Act, Shaw and LKS shall be reprimanded, and the fact of the reprimand shall be recorded on the Register permanently;

- b) Pursuant to s. 28(4)(b) of the Act, the Member’s licence and the Holder’s Certificate of Authorization shall be suspended for a period of six (6) weeks, commencing on the date of pronouncement of the Discipline Committee’s penalty decision;
- c) The findings and order of the Discipline Committee shall be published in summary form under ss. 28(4)(i) and 28(5) of the Act, together with the names of the Member and the Holder;
- d) Pursuant to s. 28(4)(d) [and] s. 28(4)(e) of the Act, it shall be a term, condition or restriction on Shaw’s licence and LKS’s Certificate of Authorization that they shall be prohibited from providing structural engineering services;
- e) If Shaw demonstrates her competence in structural engineering by successfully passing the following examinations administered by PEO, namely,
  - (i) 07-Str-A4 (Advanced Structural Analysis), and
  - (ii) 07-Str-A5 (Advanced Structural Design), the term, condition or restriction set out in subparagraph d) above shall be lifted; and
- f) There shall be no order as to costs.

The Association provided the panel with relevant caselaw stating that there is a stringent public interest test for rejecting a JSP and that a disciplinary body that rejects a JSP must show why the proposed penalty is so “unhinged” from the circumstances of the case that it must be rejected (*Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 (CanLII); *R. v. Anthony-Cook*, 2016 SCC 43).

In this case, the Panel accepted the JSP and, at the conclusion of the hearing, administered an oral reprimand to Shaw and LKS.

Glenn Richardson, P.Eng., signed the Decision and Reasons for the Decision as Chair of the Panel and on behalf of the other members of the Panel: Alisa Chaplick, LL.B., LL.M. and Jag Mohan, P.Eng.

**HUSSEIN MAKKE**’s professional engineering licence was suspended from Jan. 5, 2023 to April 4, 2023 inclusive, in accordance with an Amended Registrar’s Notice of Proposal issued pursuant to subsection 14(2)(c) of the *Professional Engineers Act* on Dec. 1, 2022. As Mr. Makke did not request a hearing within thirty days after the Notice of Proposal was served upon him, the Deputy Registrar carried out the proposal and suspended his licence.