

## SUMMARY OF INTERIM ORDER

| Between PROFESSIONAL ENGINEERS ONTARIO and RENZO VILLA, P.ENG.

This Interim Order addresses the status of a penalty hearing in a discipline proceeding when the Discipline Committee has found the member guilty of professional misconduct and its Decision and Reasons on liability have been appealed to the court, but the Committee has not yet made its decision on penalty. This panel convened a hearing to receive submissions from the parties on what effect an appeal to the Divisional Court has on the status of a matter that has not been concluded with a decision on penalty.

The panel finds that the filing of a Notice of Appeal in respect of the panel's liability findings does not stay this proceeding at this stage. The panel finds that neither section 29(2) of *Professional Engineers Act*, R.S.O. 1990, c. P.28 (the "Act"), nor section 25(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the "SPPA") applies to automatically stay this proceeding at this stage. In the alternative, if section 25(1) of the *SPPA* is read so as to stay "the proceeding" on the filing of a Notice of Appeal from the panel's liability decision, the panel exercises its authority under section 25(1)(b) of the *SPPA* to order otherwise, and orders that the stay of the proceeding be lifted pending its completion.

In its Decision and Reasons issued August 30, 2019 (the "Liability Decision"), this panel of the Discipline Committee found Mr. Renzo Villa, P.Eng., ("Mr. Villa") guilty of professional misconduct, and invited him and the Association of Professional Engineers of Ontario (the "Association") to provide their submissions on penalty in writing. The panel set the following schedule for submissions: September 20, 2019 for the Association, October 11, 2019 for Mr. Villa, and October 18, 2019 for any reply from the Association. If either party objected to conducting the penalty hearing in writing, the panel required that party to advise it in writing by September 9, 2019 and request an oral penalty hearing, which the panel would convene on October 25, 2019.

The Association provided its penalty submissions on September 20, 2019, in accordance with the panel's schedule. On September 26, 2019, the panel received a copy of correspondence from Mr. Villa to Mr. Wong attaching a copy of the first page of his Notice of Appeal of the Liability Decision to the Ontario Superior Court of Justice (Divisional Court), filed on September 24, 2019.

Taking into account the balance of prejudice, the public interest and the institutional interest of the tribunal, and the Divisional Court's decision in *Villa*, the panel orders that the stay, if applicable, be lifted under section 25(1)(b) of the *SPPA* for the following reasons. While Mr. Villa's position

is that he will be prejudiced by a continuation of the hearing to the penalty phase, he has not provided details of how he would be prejudiced. This matter has been ongoing since 2015, when it was referred to Discipline and the hearing itself has spanned 2018 and 2019. Mr. Villa has ably represented himself in the proceeding, and he has had the Association's submissions on penalty since September 20, 2019. Moreover, the penalty phase is partly complete as a result of the Association providing its penalty submissions four months ago in writing.

There is a public and institutional interest in concluding proceedings as efficiently and expeditiously as possible. This proceeding has already taken a considerable amount of time, effort and resources on the part of the parties and the Discipline Committee. The panel has had to review and consider voluminous submissions and evidence, and retain a significant amount of information. If the panel were to stay the proceeding pending the completion of the appeal, the resulting delay would have a significant impact on the panel and the integrity of the proceeding. Reconvening the panel in a year or two and reviving memories of the liability phase may be difficult. The panel is wary of fragmentation or inconsistent decisions noted by the Association, which could result if there were multiple appeals of the Liability Decision and any subsequent decision on penalty. Considering the challenges that the additional passage of time would pose in the circumstances of an already long proceeding, the potential for fragmentation and inconsistent decisions, and the lack of any details on potential prejudice to Mr. Villa, the panel believes the balance weighs in favour of ordering that the proceeding continue and that the panel complete the penalty phase.

The panel shares Mr. Villa's concern that, if he were to be successful in his appeal, it will have been a waste of time and resources to have completed the penalty phase of the proceeding. However, without knowing what the Court will decide or how long it will take for the Court to issue its decision, the panel is satisfied that the more prudent and efficient use of time and resources demands that the proceeding be completed now, when the parties and the panel are immersed in the details of the proceeding. The panel notes the Divisional Court's ruling in *Villa* that absent exceptional circumstances, it is preferable to allow administrative proceedings to run their full course so that a reviewing court has the benefit of a full record and a reasoned decision. The panel is satisfied that in this proceeding the Divisional Court will benefit from a complete record including a penalty decision that completes the proceeding.

Nonetheless, to ensure there is no prejudice to Mr. Villa, the panel will provide him with another opportunity to provide his submissions on penalty. Due to the current pandemic and pursuant to section 3 of the *Hearings in Administrative Tribunals (Temporary Measures Act)*<sup>1</sup> the panel will continue this proceeding in writing. Accordingly, the panel invites Mr. Villa to provide submissions on penalty in writing in accordance with the timeline below.

The panel confirms that any penalty order it may make that falls within section 29 of the *Act* may be stayed if Mr. Villa's appeal to the Divisional Court remains outstanding at the time that the order is issued.

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<sup>1</sup>2020, S.O. 2020 c.5, Sched. 3.

## ORDER

1. The panel orders that the proceeding continue to the completion of the penalty phase in writing.
2. The panel orders that Mr. Villa provide his submissions on penalty to the panel, in writing, by June 22, 2020.
3. The panel also orders the Association to provide any reply submissions on penalty to the panel, in writing, by July 2, 2020.

On June 1, 2020, Glenn Richardson, P.Eng., signed the Decision and Reasons for the decision as Chair of this Discipline Panel and on behalf of the members of the Discipline panel: Stella Ball, LL.B., Paul Ballantyne, P.Eng., Aubrey Friedman, P.Eng., and Warren Turnbull, P.Eng.

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## SUMMARY OF PENALTY DECISION AND REASONS

Between PROFESSIONAL ENGINEERS ONTARIO and RENZO VILLA, P.ENG.; heard in writing and issued October 27, 2020

This Penalty Decision follows the Decision and Reasons on the merits, issued August 30, 2019 (the "Liability Decision") in which this Panel of the Discipline Committee found Mr. Renzo Villa, P.Eng. ("Mr. Villa") guilty of professional misconduct under section 72(2)(g) of Regulation 941 of the *Professional Engineers Act* (the "Act") for breaching section 12(2) of the Act by offering and providing professional engineering services to the public without the appropriate certificate of authorization, and under section 72(2)(j) of Regulation 941 for dishonourably and unprofessionally providing professional engineering services to the public while an employee of the Association of Professional Engineers of Ontario (the "Association") contrary to his commitment to the Association that he would not do so.

Having found Mr. Villa guilty of professional misconduct in the Liability Decision and for the reasons that follow, this Panel orders: that Mr. Villa's licence be suspended for four months starting one month after the date of this decision; that he successfully complete the Professional Practice Examination within 14 months after the date of this decision as a term and condition of his licence; that he pay costs to the Association in the amount of \$15,000; that he immediately cease offering and providing professional engineering services through business names that do not have a corresponding certificate of

authorization and that it be a term or condition of Mr. Villa's licence that he offer and provide professional engineering services to the public only through a business name that is registered with the Association as a holder of a certificate of authorization; and that the Liability Decision, the Panel's Interim Order dated June 1, 2020 and this decision be published in summary form in "*Engineering Dimensions*."

The Panel orders that:

1. Pursuant to section 28(4)(b) of the Act, Mr. Villa's licence shall be suspended for four months, commencing one month after the date of this penalty decision.
2. Pursuant to sections 28(4)(i) and 28(5) of the Act, all of the findings and orders of this Panel of the Discipline Committee, including the Liability Decision, the Interim Order and this decision, shall be published with names in summary form in the Association's official publication, "*Engineering Dimensions*."
3. Pursuant to section 28(4)(d) of the Act, it shall be a term or condition of Mr. Villa's licence that he successfully complete the Association's Professional Practice Examination within 14 months of the date of this decision.