

DECISION AND REASONS

In the matter of a hearing under the *Professional Engineers Act* and in the matter of a complaint regarding the conduct of VINCENZO MARCO FERRARO, P.ENG., a member of the Association of Professional Engineers of Ontario, and DALEY FERRARO ASSOCIATES ENGINEERING SERVICES, a holder of a Certificate of Authorization.

SUMMARY OF FINDING AND ORDER OF THE DISCIPLINE COMMITTEE

At a hearing held on June 3, 2008, and following a guilty plea and Statement of Agreed Facts, the five-member panel of the Discipline Committee found Vincenzo Marco Ferraro, P.Eng., and Daley Ferraro Associates Engineering Services (a partnership of the following corporations, namely, 3525287 Canada Inc. and 3525279 Canada Inc.) guilty of professional misconduct as defined in section 72(2)(d) of Regulation 941 made pursuant to the *Professional Engineers Act*, insofar as they: failed to make adequate provision for the safety of a property in Ottawa regarding the sump pit/pump and drainage facilities; failed to note deficiencies regarding grading and sump elements; and failed to make responsible provision for complying with applicable statutes, regulations, standards, codes, bylaws and rules in connection with work being undertaken by or under the responsibility of a practitioner. No evidence was presented as to allegations of incompetence and of professional misconduct under sections 72(2)(a), 72(2)(b), 72(2)(h) and 72(2)(j) under Regulation 941 and such allegations were withdrawn.

The majority of the Discipline Committee panel ordered that Vincenzo Marco Ferraro, P.Eng., and Daley Ferraro Associates Engineering Services shall be orally reprimanded, the fact of such reprimand shall not be recorded on the register and that a summary of the Decision and Reasons of the Discipline Committee, including names, shall be published in Gazette. Two members of the panel concluded that the names should not be published and thus dissented from the Decision and Reasons. The Decision and Reasons was released on November 12, 2008.

The written summary of the Decision and Reasons was signed by Bill Walker, P.Eng., on November 12, 2008, as chair on behalf of the other members of the discipline panel: Gina Cody, P.Eng., Albert Sweetnam, P.Eng., Santosh Gupta, P.Eng., and Derek Wilson, P.Eng.

PEO OBTAINS ORDER AGAINST MICHAEL TOLFO

On Monday, November 9, 2009, PEO obtained an order plus costs in the amount of \$2,500 against Michael James Tolfo, requiring that he refrain from using an engineering seal in Ontario. The order was obtained under the *Professional Engineers Act* in the Ontario Superior Court of Justice, at Osgoode Hall, Toronto.

Tolfo has never held a licence to practise professional engineering or a Certificate of Authorization in Ontario.

PEO brought the application after receiving information from a professional engineer, of whom Tolfo was a former client, who complained that his engineering drawings had been altered and his engineering seal had been used by Tolfo without his prior knowledge and consent in an application for a building permit.

PEO's investigation revealed that Tolfo had retained the professional engineer to provide engineering drawings to him for an alteration to his residence. The work was produced and sealed by the professional engineer and formed part of a building permit application by Tolfo to the City of Toronto.

The engineer later found out that Tolfo had altered the drawings and filed them with the building department in support of a new building permit application without the engineer's prior knowledge or consent.

Neil Perrier of Perrier Law Professional Corporation represented PEO on the application. After reviewing the affidavit evidence and hearing the submissions of counsel for PEO, the Honourable Mr. Justice Matlow found that Tolfo had breached the *Professional Engineers Act* and ordered that he refrain from using an engineering seal in Ontario until such time as he is licensed as a professional engineer.

Says Eric Newton, PEO's manager of litigation: "The success of this action was due, in part, to the prompt reporting of the matter by the engineer whose seal was misappropriated, as well as the co-operation of the City of Toronto building department."