

1. The member is to be reprimanded and the fact of the reprimand shall be recorded on the Register until such time as the member writes and successfully completes the Professional Practice Examinations, Parts A and B ("PPE").
2. A summary of the decision and reasons of the Discipline Committee shall be published in Gazette with the name of the member, and any identifying references.
3. The member shall write and successfully complete the Advanced Structural Design (ASD-98-CIV-B2) ("ASD") and PPE within 14 months of the date of the order of the Discipline Committee.
4. That in the event the member fails to write and successfully complete the ASD within a 14-month period commencing on the date of the order of the Dis-

cipline Committee, his licence to engage in the practice of professional engineering shall be restricted in that he shall not be allowed to engage in the practice of structural design.

5. That in the event the member fails to write and successfully complete the PPE within a 14-month period commencing on the date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering shall be suspended.
6. That in the event the member fails to write and successfully complete the PPE within 24 months from the commencement date of the order of the Discipline Committee, his licence to engage in the practice of professional engineering shall be revoked; and

7. The member shall pay costs of the disciplinary proceeding fixed in the sum of \$2,000 within 12 months of the date of the hearing.

Reasons for Penalty

The assignment of the ASD and the PPE will help upgrade current knowledge of the skills offered by this member. The reduction in the cost is based on the offering of free service on this project. No financial gain was received by the member. Consequently, in the panel's judgment, the \$2,000 penalty is adequate in this case. Further, the panel concluded that publication with names and identifying references was warranted in the circumstances of this case.

The member signed a waiver of appeal and at the conclusion of the hearing, the oral reprimand was administered.

The written Decision and Reasons in this matter were dated December 12, 2005, and were signed by the Chair of the panel, Nick Monsour, P.Eng.

This matter came on for hearing with the consent of both parties before a single-member panel of the Discipline Committee on Monday, November 7, 2005 at the Association of Professional Engineers of Ontario ("association") at Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. William L. Haas, P.Eng., ("Haas") and William Haas Consultants Inc. ("WHCI") were represented by Robert Hutton of Brown Beattie O'Donovan LLP.

Agreed Facts and Allegations

The allegations against William Lloyd Haas, P.Eng., and William Haas Consultants Inc. were contained in the Fresh Notice of Hearing dated November 4, 2005. Counsel for the association advised the panel that agreement had been reached on the facts and advised that the facts contained in the Fresh Notice of Hearing could be treated as an Agreed Statement of Facts. The relevant facts and allegations are summarized as follows:

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:

William L. Haas, P.Eng.

a member of the Association of Professional Engineers of Ontario, and **William Haas Consultants Inc.**, a holder of a Certificate of Authorization.

General

1. Haas was at all material times a member of the Association of Professional Engineers of Ontario.
2. WHCI was at all material times the holder of a Certificate of Authorization to offer and provide to the

public services within the practice of professional engineering and was responsible for supervising the conduct of its employees and taking all reasonable steps to ensure that its employees, including Haas, carried on the practice of professional engineering in a proper and lawful

manner. Haas was one of the professional engineers.

Plains Road Building

3. In or about August 2003, the City of Burlington (“City”) received building permit application drawings for a multi-storey apartment building located at 168 Plains Road West (“Plains Road Building”) sealed and signed by Haas. The City subsequently retained Halsall Associates Limited (“Halsall”) to conduct a limited structural review of the building application permit drawings.
4. On or about August 28, 2003, Samir Nakkar, P.Eng., (“Nakkar”) a senior staff member at Halsall, conducted a limited structural review. Nakkar requested seismic calculations and informed the City and Haas that the subject Plains Road Building drawings were incomplete for the following reasons:
 - (a) general notes should indicate the design was in conformance with the latest requirements of the *Ontario Building Code*;
 - (b) wind loading: values of p and q were missing;
 - (c) seismic loading: data and assumptions for design were not given;
 - (d) the majority of the concrete walls were unreinforced; and
 - (e) levels P1 and ground: no slab thickness or design loading was specified.
5. On or about August 28, 2003, in response to the Halsall list of concerns, Haas provided to the City and Halsall a one-page response letter and copies of a four-page information and calculations attachment from the Canam Manac Group, a manufacturer and supplier of structural steel systems.
6. In or about September 2003, Halsall noted that all items on its list had not been addressed and continued its review with the information provided. Consequently, a second list of

comments and missing information was compiled by Halsall and forwarded to the City and Haas. The second list contained items relating to moment and punching shear overstressing of building elements, among other issues.

7. In or about October 2003, Haas provided to the City and Halsall a three-page letter, and attached hand calculations in response to the September request by Halsall for information.
8. On or about October 24, 2003, Halsall continued its review and made additional requests for information from Haas and wherein noted that it (Halsall) was not willing to provide an opinion as to whether the building permit could be released until appropriate calculations had been received from Haas and reviewed.
9. In or about November 2003, in response to the Halsall request for information, Haas provided a two-page letter, including calculations, to the City and Halsall.
10. In or about November 2003, Halsall continued its review and again requested information from Haas. Halsall noted the drawings were still considered incomplete for the purpose of obtaining a building permit.

Ironstone Drive Building

11. In or about October 2003, the City received building permit application drawings for a multi-storey apartment building located at 1998 Ironstone Drive (“Ironstone Drive Building”), sealed and signed by Haas. The City again retained Halsall to conduct a limited structural review of the building application permit drawings.
12. On or about November 10, 2003, Halsall, through Nakkar, conducted

a limited structural review and forwarded a list of comments and missing information to the City and Haas. This list included the following:

- (a) incorrect specification of R (seismic ductility factor) for plain (unreinforced) concrete shear walls;
 - (b) only one generic foundation wall section was indicated on the drawings; and
 - (c) top and bottom bar placing layers not indicated on plans.
13. On or about November 10, 2003, Haas sent to Halsall a one-page response letter to the Halsall list. The response letter noted Haas’s willingness to revise the R factor, to specify nominal steel in the lower wall levels, with the addition of details and notes to the drawings, and requested the approval for foundation permit only.
 14. On or about November 11, 2003, in a fax memorandum to the City and Haas, Halsall noted that seismic load calculations and distribution were still not addressed, as requested, and issuance of the foundation building permit would be dependant on that information. Halsall continued its review with the information provided. Consequently, a second list by Halsall, of comments and missing information, was compiled and forwarded to the City and Haas. The second list included the following:
 - (a) garage reinforced slabs, ramps, walls and columns exposure and strength specifications of Type C-1 and 35 MPa, which must be indicated on the drawings;
 - (b) garage slab on grade requires exposure type C-2, 32 MPa concrete, which must be indicated on the drawings;
 - (c) concrete slabs reinforcing steel required concrete cover for top bars is 40mm and for the bottom bars is 30mm, which must be indicated on the drawings;
 - (d) along Lines A and G: slab punching shear capacity exceeded at the terraced area supporting columns by

- about 35 per cent. Designer should submit punching shear calculations and building sections across these lines for review; and
- (e) are outside garage and terraced areas slab protected from the elements, as sufficient details for this issue were not found on the drawings? Designer to clarify.
15. In or about November 2003, Haas provided response letters regarding items on the second Halsall list. These letters noted apparent compliance with concrete exposure types and strengths and column capital provision; however, Haas did argue the concrete exposure types issue in the presence of chlorides and reaffirmed the use of a membrane for slab protection from the elements. The seismic load calculations issue was still not addressed.
16. On or about November 19, 2003, Halsall continued its review and did not agree with Haas's arguments on the issue of concrete exposure types and strengths. The issue of seismic load calculations and distribution submission remained outstanding.

Independent Third-party Review

17. By letter dated May 31, 2004, Robert E. Brown, P.Eng., ("Brown") provided the association with an independent third-party review of the work performed by Haas. Among other findings in the review, Brown provided the following opinions:
- (a) The drawings signed and sealed by Haas for the Plains Road and Ironstone Road buildings did not meet the minimum standard of practice for structural engineering services;
- (b) The drawings were not properly checked before they were signed and sealed by Haas;
- (c) The drawings were not adequate for construction;
- (d) There were errors in items such as seismic response factor and shear strength calculations for concrete walls;
- (e) Errors in sizing of footings could result in excess settlement;
- (f) Errors in proportioning slab thickness and reinforcement could lead to

- excessive cracking, deflection and, in severe cases, collapse; and
- (g) Obsolete load factors were used in a sample calculation by Haas indicating lack of familiarity with current code requirements.
18. It is alleged that William L. Haas, P.Eng., and William Haas Consultants Inc.:
- (a) failed to comply with current *Ontario Building Code* requirements for seismic loadings for proposed multi-storey residential buildings at 168 Plains Road West and 1998 Ironstone Drive in Burlington, Ontario;
- (b) failed to provide adequate structural designs and drawings for a proposed multi-storey residential building at 168 Plains Road West in Burlington, Ontario, which included the overstressing of reinforcing steel for moments in the garage floor slabs, and of punching shear at garage and ground floor columns, beyond allowable limits;
- (c) failed to provide adequate structural designs and drawings for a proposed multi-storey residential building at 1998 Ironstone Drive West in Burlington, Ontario, which included the overstressing of punching shear at the columns of the terraced areas beyond allowable limits;
- (d) sealed substandard structural designs and drawings for two proposed multi-storey residential buildings that, among other things, lacked building sections and details and were designed using an incorrect seismic ductility factor for plain concrete; and
- (e) acted in an unprofessional manner.

By reason of the facts aforesaid, it is alleged that William Lloyd Haas, P.Eng., and William Haas Consultants Inc. are guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P.28.

19. "Professional misconduct" is defined in section 28(2)(b) as:
 "The member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations."

20. The sections of Regulation 941 made under the said Act and relevant to this misconduct are:
- (a) *Section 72(2)(a)*: negligence as defined at section 72(1): In this section "negligence" means an act or an omission in the carrying out of the work of a practitioner that constitutes a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances;
- (b) *Section 72(2)(b)*: 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;
- (c) *Section 72(2)(d)*: failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of a practitioner;
- (d) *Section 72(2)(g)*: breach of the Act or regulation, other than an act that is solely a breach of the Code of Ethics;
- (e) *Section 72(2)(e)*: signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner; and
- (f) *Section 72(2)(j)*: conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional.

Plea by Member and/or Holder

The member and WHCI admitted the allegations set out in the Fresh Notice of Hearing. The panel conducted a plea inquiry and was satisfied that their admissions were voluntary, informed and unequivocal.

Decision

The panel deliberated and found that the facts support a finding of professional misconduct and, in particular, found that Haas and WHCI committed an act of professional misconduct as alleged in the Fresh Notice of Hearing. Specifically, the panel found that

the member and WHCI were guilty of professional misconduct as set out in sections 72(2)(a), 72(2)(b), 72(2)(d), 72(2)(g), 72(2)(e) and 72(2)(j) of Regulation 941.

Reasons for Decision

The panel accepted the member and WHCI's plea and admission of the facts as set out in the Fresh Notice of Hearing, which substantiated the panel's findings of professional misconduct. In particular, the panel's finding of professional misconduct as set out in sections 72(2)(a), 72(2)(b), 72(2)(d), 72(2)(g), and 72(2)(e) of Reg. 941 is based on the facts set out in paragraph 19 and 20 (a) to (d), inclusive. The panel's finding of professional misconduct as set out in section 72(2)(j), Regulation 941, is based on the facts set out in paragraph 20 and, in particular, paragraph 20(e) of the Fresh Notice of Hearing.

Penalty

Counsel for the association advised the panel that a Joint Resolution on Penalty ("JRP") had been agreed upon and that the JRP addressed the five relevant principles of protection of public, maintenance of the reputation of the profession, general deterrence, specific deterrence and rehabilitation. Counsel for the association submitted that the actions of the member and WHCI had the potential for extremely serious consequences to the health and safety of the public in each of the two circumstances.

Counsel for the association further submitted that the member had been a professional engineer for 39 years and has an unblemished record with the association. The member had cooperated throughout the investigation and prosecution. He engaged counsel experienced in engineering matters and admitted at the earliest opportunity to the allegations of misconduct. His cooperation was a significant factor in mitigation of penalty; thereby reducing cost to investigate, prosecute and hear through a single-member panel.

Counsel for the association submitted that while the facts are serious and have the potential for grave consequences to the pub-

lic and reputation of the profession, the cooperation in reaching the JRP was commendable. The penalty was considered to be within an appropriate range. The penalty under the JRP includes a portion of the total cost of the process and this is an acknowledgment of responsibility by the member.

Counsel for the member and WHCI indicated agreement with the submission. While a full hearing had originally been scheduled, the parties met and were able to resolve the joint statement of fact captured in the Fresh Notice of Hearing and agree on the joint submission to be heard before a single-member panel.

Independent legal counsel for the panel noted the established precedent for panels to consider and accept a JRP. A consideration supporting acceptance was that the JRP was entered into with the assistance of experienced counsel.

Penalty Decision

The panel deliberated, accepted the JRP, and accordingly ordered:

1. **that the member shall be reprimanded and the fact of the reprimand shall be recorded on the register;**
2. **that a summary of the findings and penalty shall be reported with names in Gazette;**
3. **that the member shall write and pass the Professional Practice Examinations, Parts A and B ("PPE"), within 12 months of the date of this hearing;**
4. **that the member shall write and pass the 98-Civ-B1 (Advanced Structural Analysis) and 98-Civ-B2 (Advanced Structural Design) ("Technical Examinations") within 18 months of the date of this hearing;**
5. **that the licence of the member shall be suspended for a period of two months and such suspension to commence on Thursday, the first day of December 2005;**

6. **in the event the member does not write and pass the PPE within 12 months of the date of this hearing, his licence and the Certificate of Authorization of WHCI shall be suspended;**
7. **in the event the member does not write and pass the Technical Examinations within 18 months of the date of this hearing, his licence and the Certificate of Authorization of WHCI shall be suspended;**
8. **in the event the member does not write and pass the PPE and Technical Examinations within 24 months of the date of the hearing, the licence of the member and Certificate of Authorization of WHCI shall be revoked;**
9. **the designation of Consulting Engineer of the member shall be revoked; and**
10. **the member shall pay the costs of the proceeding in the sum of \$5,000 within three months of the date of the hearing.**

Reasons for Penalty

The panel concluded that the penalty proposed was reasonable and in the public interest. The member cooperated with the association and, by agreeing with the facts and proposed penalty, accepted responsibility for his actions and avoided unnecessary expense for the association. The panel considered the penalty to be reasonable and publishing with names would be a general deterrent to practitioners.

The member and WHCI waived their right of appeal and following the hearing the panel administered an oral reprimand.

The written Decision and Reasons in this matter were dated December 2, 2005, and were signed by the Chair of the panel, David Robinson, P.Eng.

This matter came on for hearing with the consent of the parties before a single-member panel of the Discipline Committee on Wednesday, November 23, 2005 at the Association of Professional Engineers of Ontario (“association”) at Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. Eric Desbiens, P.Eng., appeared on his own behalf.

Agreed Facts and Allegations

The allegations against Eric Desbiens, P.Eng., (“Desbiens”) were contained in a Fresh Notice of Hearing dated November 8, 2005. Both the member and counsel for the association advised the panel that agreement had been reached on the facts and that the facts, as set out in the Fresh Notice of Hearing, were accepted as accurate by the member. The relevant facts and allegations are summarized as follows:

1. Desbiens was at all material times a member of the Association of Professional Engineers of Ontario.
2. On or about July 16, 2003, the Ministry of Transportation of Ontario (MTO) awarded a contract (“Contract”) to Miller Paving Northern Limited (“Miller”) for the removal of the Blanche River Bridge and replacement with a Bailey bridge. At all material times, Desbiens was the general manager of Miller and the engineer responsible for its work on the project.
3. It was a requirement of the contract that Miller was to submit a structure removal procedure, stamped by a professional engineer, prior to the commencement of the work. The procedure was to be designed to comply with contract requirements for no debris in the watercourse or construction activity on the watercourse banks.
4. On or about September 23, 2003, Miller submitted a procedure for the removal of the subject bridge to MTO. The written procedure for the temporary structure and removal of the bridge was signed and sealed by Desbiens. The submitted procedure

Summary of 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:

Eric Desbiens, P.Eng.

a member of the Association of Professional Engineers of Ontario.

5. On or about September 26, 2003, MTO advised Miller in an instruction notice that there was insufficient information in the removal procedure to provide comments. The instruction notice also noted that Miller must ensure the stability of the bridge truss and the removal system throughout the operation and that there would be no environmental impacts from the removal.
6. On or about October 2, 2003, Miller removed the subject bridge. A temporary structure spanned the river and was installed beside the subject bridge. Two cranes placed the steel bridge truss onto the temporary structure. As the truss was being dragged across the temporary structure onto the top of the riverbank, the temporary structure failed and collapsed into the river below. The temporary structure was later pulled from the river.
7. On or about May 3, 2004, MTO invited Desbiens to comment on the failure of the temporary structure and provide copies of drawings and design calculations for the temporary structure. Desbiens did not provide a written response. Desbiens took the position that he was not required to respond, as he was a contractor and not a consultant. There was no specific contractual provision obligating Desbiens to respond.
8. It is alleged that Eric J. Desbiens, P.Eng.:
 - (a) designed a temporary structure that was structurally inadequate for its intended use;
 - (b) failed to comply with applicable codes and requirements for the design of the temporary structure;
 - (c) allowed the use of a structural design which he knew or should have known was not adequate and which failed under the intended use;
 - (d) breached section 12 of the *Professional Engineers Act* by providing professional engineering services to the public without a Certificate of Authorization; and
 - (e) acted in an unprofessional manner.
9. It is alleged that Eric J. Desbiens, P.Eng., is guilty of professional misconduct as defined in the *Professional Engineers Act*. “Professional misconduct” is defined in section 28(2)(b) as:
“The member or holder has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.”
10. The sections of Regulation 941 made under the said Act and relevant to this misconduct are: