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Discipline Committee of the Association of Professional Engineers of Ontario

In the matter of a hearing under the Professional Engineers Act R.S.O. 1990

Chapter P.28.

And in the matter of an application by

John J. Kadlec

For reinstatement of his licence in the Association of Professional Engineers of
Ontario

Decision and Reasons

The Discipline Committee of the association met in the offices of the association on Thursday, August 26, 1999, to hear the application of John J. Kadlec (hereinafter referred to as Kadlec) for reinstatement of his licence.

Michael E. Royce of Lenczner Slaght Royce Smith Griffin appeared as legal counsel for the association. Kadlec was not represented by counsel.

The hearing arose as a result of the revocation of Kadlec's licence ordered by a previous Discipline Committee decision on September 30, 1994. Kadlec had applied for reinstatement.

Mr. Royce filed as exhibits the Decision and Reasons of the previous two discipline hearings, dated March 16, 1994 and September 30, 1994, along with a Practice Inspection Report of John J. Kadlec by E.L. Mercer, P.Eng., dated April 2, 1994. As a result of the first hearing Kadlec's licence was suspended and an engineering practice inspection was ordered. After the practice inspection and the second hearing,

Kadlec's licence was revoked and the Certificate of Authorization of Beta Engineering Consultants Limited was revoked.

In giving evidence on his own behalf, in support of his application for reinstatement, Kadlec relied on the evidence of three witnesses.

The first witness for Kadlec was Mr. Nassy Bilkovski, Architect, Planner and Landscape Architect, owner of Nassy Bilkovski Inc. Mr. Bilkovski reported that he had known Kadlec for over 25 years and they were both honour students in Prague. He stated that he had worked with Kadlec on many large condominium projects and he described Kadlec as a competent structural engineer in all cases. In fact, he believed that Kadlec had been punished severely by the association for his mistakes, which he attributed to Kadlec's lack of supervision of subordinates, who made some mistakes. He reported that the revocation of Kadlec's licence has resulted in the loss of his business, his house and his employment. Mr. Bilkovski stated that Kadlec had never designed a building that was unsafe and no one was physically or financial-

ly affected adversely by his works. Thus, Mr. Bilkovski stated that Kadlec was a competent structural engineer and that his licence should be reinstated.

Mr. Lad Rak, P.Eng., was the second witness to appear on Kadlec's behalf. Mr. Rak, who is a consulting engineer specializing in foundations, indicated that he grew up with Kadlec. The consultant reported that he had worked on many projects, simple to complicated with Kadlec, and he would not hesitate to recommend that Kadlec be reinstated by the association. He noted that Kadlec had great experience and that he was innovative, competent, and was able to solve problems. Currently Mr. Rak is working with Kadlec on a unique Condo and Townhouse development near the Summerhill Subway Station in Toronto. He reported that Kadlec, who is now employed by Stanley H. Cooper, P.Eng., is the designer of the complex. Mr. Rak would gladly provide written reports on projects that he had undertaken with Kadlec since 1994. He concluded that the association should reinstate Mr. Kadlec.

Mr. Stanley H. Cooper, P.Eng., was the third witness to testify on behalf of Mr. Kadlec. Mr. Cooper, who owns a structural consulting firm, reported that he had known Kadlec's firm, Beta Engineering Consultants Ltd., since the 1970s when they competed for projects. Mr. Cooper said that he was surprised that Kadlec got into problems with the association since he regarded Kadlec's work as excellent.

Mr. Cooper admitted that many consultants were caught by surprise when the masonry code changed. He noted that a lot of consultants were not aware of the change, which would result in under design.

Mr. Cooper reported that he hired Kadlec three years ago because he recognized him as an excellent engineer. Apparently, Mr. Cooper employed Kadlec on many difficult, complex structural projects and reportedly he was satisfied with Kadlec's results, as were their clients. A favourable change in Kadlec's attitude was reported by Mr. Cooper, since his employment with the firm. He noted that Kadlec was more conciliatory, a team player and sought out the opinion of other employees. Previously, Kadlec had been used to working on his own. Thus, he believed that Kadlec was

more mature now and was ready to start up his own practice again. Since Kadlec does not have a stamp, Mr. Cooper said that all Kadlec's work is reviewed and stamped by Mr. Cooper. He also reported that Kadlec's experience with his firm has made him a better business person since he now knows Cooper's system. Mr. Cooper reported that Kadlec was not only an excellent concrete and steel designer, he also had expert field experience.

In giving evidence on his own behalf, Kadlec reported that he has successfully completed over 800 projects, large and small, since he opened his own engineering practice in 1976. He reported that as a result of the associations' actions in 1994, he lost his business, his house and his financial resources. As a result, he could not afford a lawyer for his defence. He was thankful that Mr. Cooper had helped him enter the engineering world again. Kadlec stated that he knows that he is a good designer and realizes that he made mistakes in the past that were mainly due to the lack of supervision of his staff.

Thus, he believed that he has learned from his mistakes and now requested that his licence be restored. He stated that if he received his licence again, he would not start his own company, but would stay with Mr. Cooper.

In regard to his financial situation, Kadlec indicated that he did not declare bankruptcy and that there is \$50,000 in liens against his projects, which he has been unable to collect. He reported that he does not have the financial resources to pay the \$25,000 costs levied against him by the association for its Engineering Practice Inspection of Beta Engineering Consultants Ltd.

Kadlec stated that he had applied for reinstatement over two years ago. He just wanted reinstatement as a professional engineer, not renewal of his Certificate of Authorization.

Mr. Royce, who did not call any witnesses on behalf of the association, stated that the Discipline Committee is permitted to impose terms and conditions on the reinstatement of a licence. He suggested that if the licence is reinstated, some type of supervision should be required for Kadlec.

After hearing the submissions from Kadlec and Mr. Royce with respect to the

disposition of this matter, the Panel retired to consider the evidence and exhibits.

In reviewing the evidence and exhibits filed, the Panel has made its decision for the following reasons:

- 1. The Panel accepted the evidence of Mr. Stanley Cooper, P.Eng., regarding the competence of the applicant and his work experience since 1996.**
- 2. In the opinion of the Panel, Kadlec should practice in a supervised environment.**
- 3. The Panel is concerned that Mr. Kadlec has not dealt with penalties levied by the previous Discipline Panel.**

By virtue of the powers vested in it by Section 28 of the Professional Engineers Act, the Panel ordered that the licence of Kadlec to practise be reinstated subject to the following conditions:

- i. Kadlec is directed to take and successfully pass the Professional Practice Examination (PPE) of the association;**
- ii. Kadlec is to file a plan, subject to the approval of the Registrar, for payment of the costs previously awarded against him; and**
- iii. No Certificate of Authorization be issued to him.**
- iv. The Decision and Reasons of the Committee be published in full with names in the official journal of the association.**

Dated at Toronto this 5th day of November, 1999

Tom Smith, P.Eng., Chairman

FOR AND ON BEHALF OF THE COMMITTEE

Bill Fredenburg, P.Eng.

David Kempster, P.Eng.

Nick Monsour, P.Eng.

David Smith, P.Eng.