

COMPILED BY BRUCE MATTHEWS, P.ENG.

This matter came on for hearing before a single-member panel of the Discipline Committee on October 4, 2005, at the offices of the Association of Professional Engineers of Ontario at Toronto. The association was represented by Neil Perrier of Perrier Law Professional Corporation. David W. Seberras, P.Eng., (“Seberras”) and Seberras Professional Services Ltd. (“SPSL”) were represented by Andrew Heal of Blaney McMurtry LLP.

Agreed Facts and Allegations

The relevant facts and the allegations against Seberras and SPSL were contained in the Fresh Notice of Hearing dated September 23, 2005. Counsel for the association advised the panel that agreement had been reached by the parties and that the facts in the Fresh Notice of Hearing could be treated as an Agreed Statement of Facts. The facts and allegations are summarized as follows:

1. Seberras was at all material times a member of the Association of Professional Engineers of Ontario.
2. In or about 1999, Progressive Building Systems Inc. (“PBS”) retained Seberras for the design of an inground water tank. The water tank was approximately 203 feet long by 30 feet wide by 8 feet high. Initially, there were 12 equal sections in the tank, each approximately 34 feet by 15 feet, changed later to two sections (Revision D). The top of the tank was to have a precast concrete slab (later changed to steel deck with concrete topping) that was to serve as the floor of Clark’s Mini Warehouse (“CMW”) at 7079 Wellington in the Township of Guelph/Eramosa. Donald Russell Clark, owner of CMW, retained Diamond Forming (“DF”) for the construction of the water tank.

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:

David W. Seberras, P.Eng.

a member of the Association of Professional Engineers of Ontario, and **Seberras Professional Services Ltd.**, a holder of a Certificate of Authorization.

3. Seberras was not paid to prepare engineering drawings to record DF’s intended design and construction, but prepared such drawings nonetheless.
4. In or about March 2001, Elizabeth Waywell of Flynn & Sorbara, the solicitor for Clark, retained C.C. Tatham & Associates Ltd. (“CCT”) to review the engineering drawings of the tank.
5. By letters dated March 9 and June 1, 2001, Alan Woolnough, a limited licence holder, and Alan Lavender, P.Eng., both of CCT, reported their engineering review of the design drawings provided by Seberras and SPSL. The purpose of the report was to comment on the issues involving whether the structure could hold water. CCT concluded that if the base slab and walls were constructed as drawn and noted on the drawings, there should be minimal loss of water through the walls and/or the joint at the interface of the base of the walls and the foundation slab. CCT further noted that the water stop at the base of the perimeter wall as being typical, but that a specific detail would have been helpful, and that a contractor experienced with building water-retaining structures would have found the drawings adequate.
6. On March 16, 2001, DF retained Gerald Schorn, P.Eng., (“Schorn”) of Schorn Consultants Inc., to undertake a structural review of the as-constructed water tank in the context of a civil litigation. The review was based on the engineering drawings prepared by Seberras. Schorn also performed a visual review of the structure.
7. On April 17, 2001, Schorn issued a signed and sealed report entitled *Water Reservoir Construction Engineering Report*. Schorn provided his findings in Section 2 of his report. The following items were among the major findings:
 - (a) It was not clear that the structure was intended to be a water-storage tank;
 - (b) Basic information, such as the loading and reinforcing steel strength, was missing from the drawings;
 - (c) Reinforcing steel specified for reinforcement as per section BB did not meet the minimum reinforcing steel requirements of CSA Standard A23.3;
 - (d) The 12-inch thick wall with one layer of reinforcement violated the minimum requirements of CSA A23.3, Clause 14.3.4;
 - (e) It was found that the specified reinforcing steel was inadequate for crack control;

- (f) No expansion joints were specified in the floor slab for proper expansion of the wall structure.
8. The Association of Professional Engineers of Ontario retained Kleinfeldt Consultants Limited (“KCL”) to review and report on the design details of the water-storage tank. In its report dated December 14, 2004, KCL provided the following comments:
- (a) According to CSA Standard A23.3-94 *Design of Concrete Structures*, Clause 1.1.4, tanks and reservoirs are classified as “special structures” to which stringent service requirements apply and, therefore, should be designed and constructed with great care. With respect to the “special structures,” the provisions of the CSA standard shall govern insofar as they are applicable and some requirements may not be sufficient for structures designed to be watertight. Water-storage tanks belong to the category of structures for which minimal cracking is a paramount requisite. As a reference, the US Standard ACI-350R is quoted. ACI-350R provides the requirements to meet this criterion. The ACI-350R Standard has been used as a reference in Canada by designers of water-storage tanks.
- (b) Revision C (Drawings 1336-P1 and P2) is incomplete. Many dimensions are not specified. The thickness of the exterior wall of the tank is not clearly specified. The section of the interior wall of the tank is not shown.
- (c) Revision D (Drawings 1336-P1 and P2) provides more information and incorporates some changes. The interior wall arrangement was changed. Section C-C shows details of the interior, and knee walls are added. The exterior wall is specified as one foot thick and the horizontal reinforcement is changed from 5-15M to 7-15M. Wire-mesh reinforcing for the slab-on-grade is specified.
- (d) In general, the final design drawings (Revision D) produced by Seberras do not provide sufficient details and information (11 specific examples were identified in the KCL report).
9. In summary, it appeared that David W. Seberras, P.Eng.:
- (a) provided a water-retention structural design that did not meet the minimum requirements of the *Ontario Building Code*;
- (b) provided a water-retention structural design that did not meet the minimum reinforcing steel requirements of CSA Standard A23.3-94 *Design of Concrete Structures*;
- (c) failed to specify expansion joints in the floor slab for proper expansion of the wall structure;
- (d) failed to maintain the standards that a reasonable and prudent practitioner would maintain in carrying out the design project; and
- (e) acted in an unprofessional manner.
10. By reason of the facts aforesaid, it is alleged that Seberras is guilty of professional misconduct as defined in section 28(2)(b) of the *Professional Engineers Act*, R.S.O. 1990, Chapter P.28.
11. “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.”
12. The sections of Regulation 941 made under the said Act and relevant to this misconduct are:
- (a) *Section 72(2)(a)*: negligence;
- (b) *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; and
- (c) *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

Seberras admitted the allegations of professional misconduct contained in the Fresh Notice of Hearing. The panel conducted a plea inquiry and was satisfied that the plea was voluntary, informed and unequivocal.

Decision

The panel deliberated and found that the member committed acts of professional misconduct as alleged in paragraph 19 of the Fresh Notice of Hearing, as defined in sections 72(2)(a), 72(2)(d) and 72(2)(j) of Regulation 941 of the *Professional Engineers Act*, R.S.O. 1990, c. P.28.

Reasons for Decision

The panel accepted Seberras’ plea and the agreed facts, which substantiated the findings of professional misconduct.

Penalty

Counsel for the association advised the panel that a Joint Submission as to Penalty (“JSP”) had been agreed upon, which addressed all issues except the form of publication. Counsel for the association submitted that publication in Gazette should be with Seberras’ name and any identifying references. Counsel for Seberras submitted that publication should be without his name or any identifying references, as the public interest would be served in this case by this and the panel only needs sufficient reasons not to publish.

Penalty Decision

The panel deliberated and accepted the JSP with one change, namely that the costs were reduced from \$3,000 to \$2,000. Further, the panel concluded that publication with names and identifying references was warranted in the circumstances of this case.

Accordingly, the panel ordered:

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