

Gazette

THE DEPARTMENT OF THE REGISTRAR, PEO

Discipline Committee of the Association of Professional Engineers of Ontario In the matter of a complaint regarding the conduct of

John L. Monkman, P.Eng.

a member of the Association of Professional Engineers of Ontario

Decision and Reasons-Stipulated Order

The Complaints Committee, in accordance with Section 24 of the Professional Engineers Act (Act), referred the above-noted matter to be dealt with by way of a Stipulated Order.

In accordance with the Stipulated Order process, Jag Mohan, P.Eng., a member of the Discipline Committee (Discipline Committee member) of the Association of Professional Engineers of Ontario (PEO) was selected to represent the Discipline Committee. After reviewing the complaint and other related information, he met with John Monkman, P.Eng. (member), on July 3, 1998, to allow an opportunity for the member to offer an explanation and/or defense for his actions and conduct.

The complaint alleged that Monkman offered and provided professional engineering services for three projects in the Ottawa area, while not a holder of a

Certificate of Authorization (C of A). These projects comprised two barns and one riding arena. With respect to the barn projects, Monkman sealed drawings prepared by Empire Builders, which may have been included as part of a building permit application. With respect to the riding arena project, the local township chief building official noted deficiencies after construction of the arena was completed, and advised the owner that the services of a professional engineer were required to review and accept the structure, in order for the owner to continue to use the structure. Monkman was retained to inspect the arena and provide general review of the design changes.

In the meeting with Monkman, Mohan reminded Monkman that this was his opportunity to offer an explanation and/or defence for his actions and conduct, and

that if he disagreed and did not accept the Stipulated Order, the matter would proceed to a full Discipline Hearing before a Discipline Panel of the Discipline Committee.

In providing an explanation, the member stated that:

- (1) The services that he had provided were professional engineering services;
- (2) He is now aware that a C of A is required in order to provide professional engineering services to the public, but has no desire to offer professional engineering services to the public, and will avoid getting a C of A;
- (3) The penalties for offering professional engineering services to the public without a C of A were intimidating, and were a factor in his not wishing to practice professional engineering;
- (4) He did not intend to harm PEO, did not intend to misrepresent himself or

his services to his clients, and did not solicit clients. He provided his services to family and friends;

(5) He advises all his clients that he does not carry professional liability insurance;

(6) He belongs to a community group, and believes that he was obliged to provide these social services. His remuneration for these services was minimal;

(7) He believes that the township employs technicians and/or technologists, that the township is not aware of the requirement that a professional engineer be a holder of a C of A, and that it may not be important to the township to ensure that the individual holds a C of A. His clients also were not aware of his need for a C of A in order to offer professional engineering services to the public;

(8) He is a capable professional engineer who knows his limitations, and would hire other

professional engineers, if required;

(9) He no longer uses his seal, and has ceased providing professional engineering services. This presents a dilemma, as the township has requested that he act as an expert witness. When he does, he will be acting as an expert witness as "John Monkman, BASc", not "John Monkman, P.Eng.";

(10) His community is a farming one, and he is not involved with any design/build projects. Most of his projects are housing related, which does not require sealing or pole barns; and

(11) He does not provide general review of construction and, if he does, it is only for friends.

The Discipline Committee member considered the available information and the explanations from Monkman, and found the following information to be significant:

(1) Monkman resides in a rural community in which the local authorities having jurisdiction did not appear to be aware of the requirement that a professional engineer hold

a C of A in order to offer professional engineering services to the public;

(2) Monkman, a PEO member, also was not aware of the requirement for a C of A, and admitted to being ignorant of this requirement;

(3) The local authorities having jurisdiction appear to value Monkman's engineering capabilities;

(4) Monkman was aware of the matter of professional liability, as he advised his clients that he did not carry professional liability insurance;

(5) His projects were mostly farming buildings (pole barns) and housing; and

(6) He was cooperative and provided information openly and willingly.

Based upon the foregoing, the parties have agreed that there was a basis for concluding that there were breaches of professional misconduct, and have agreed in the Stipulated Order to the following:

That Monkman is guilty of professional misconduct in that he breached sections of Ontario Regulation 941,

specifically:

Section 72 (2)(a): Negligence, in that the member acted in a manner and made omissions in the carrying out of work that constituted a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances.

The member failed to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances.

Section 72(2)(g): Breach of the Professional Engineers Act or Regulation 941 other than an action that is solely a breach of the Code of Ethics.

The member provided professional engineering services to the public while not the holder of a Certificate of Authorization.

The following Order has been offered by the Discipline Committee member and has been agreed to by the parties:

1. That the licence of John 1. Monkman, P.Eng., be suspended for a period of six months.

2, That the imposition of the suspension be suspended provided that, within a period of 12 months of this Order, Monkman attend and pass the Professional Practice Examination (PPE).

3. That the Decision and Reasons Stipulated Order, be published in full in the official journal of the association, without reference to names, but with dates and location.

4. If at the end of the 12 months, Monkman has not attended and passed the PPE, that the six-month suspension of Monkman's licence commence and that the Decision and Reasons-Stipulated Order, be published in full in the official journal of the association with reference to dates, location and Monkman's name only (not the name of the projects).

Dated this 28th day of July
1998 Jag Mohan, P.Eng.
(Discipline Committee member)

Note from Department of Legal and Professional Affairs

John Monkman did not sit the Professional Practice Examination as required by the Stipulated Order, with the result that his licence was suspended for six months, effective July 28, 1999.