

HONESTY, INTEGRITY AND ENGINEERING REPORTS

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THE PURPOSE OF THIS professional practice article is to provide all licence holders with clear direction on preparing engineering reports in light of recommendation 1.23 in the report of the Elliot Lake Commission of Inquiry and to emphasize the importance of acting with honesty and integrity within engineering organizations.

DUTY OF HONESTY IN CONTRACTUAL PERFORMANCE

Recently, a Supreme Court of Canada judgment, *Bhasin v. Hrynew* (<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14438/index.do>), established a duty of honesty in contractual performance: “Under this new general duty of honesty in contractual performance, parties must not lie or otherwise knowingly mislead each other about matters directly linked to the performance of the contract.” Engineering companies commonly engage in contractual relations in the form of contracts for professional services, such

as retainers. Consequently, engineers should be knowledgeable of this duty of honesty in contractual performance.

PROVIDING FALSE INFORMATION TO REGULATORY BODIES

Beyond contract law, engineering companies retained to provide services to their clients often need to provide engineering documents to regulatory authorities on behalf of their clients. These engineering documents, such as drawings and reports, are required by regulatory bodies to perform compliance reviews. What’s more, several laws, including the *Building Code, Environmental Protection, Fire Protection and Prevention, Mining, Nutrient Management, Occupational Health and Safety, Ontario Water Resources, Safe Water Drinking* and *Waste Diversion* acts contain provisions making it an offence to provide false information to these regulatory bodies. These laws apply to a wide range of engineering disciplines and cover an unlimited number of engineering documents. Consequently, the legal requirement to not provide false statements to regulators is of great relevance to engineers.

COMPLAINTS RELATING TO ACTS OF DISHONESTY

Further, acts of dishonesty related to the practice of engineering that can be proven in court, such as providing false information to a regulator, can result in a complaint against a practitioner. For example, when an engineering report was found to be misleading by the courts in *R v. Ronald Carter and Quinte-Eco Consultants Inc.*, these facts supported the allegation of disgraceful, dishonourable and unprofessional conduct in the subsequent PEO discipline hearing (*Engineering Dimensions*, November/December 2009, p. 33, www.peo.on.ca/index.php/ci_id/21935/la_id/1.htm). In that hearing’s decisions and reasons, the discipline panel stated: “The profession needs to know that acts of dishonesty on serious matters will not be tolerated and revocation is necessary to maintain public confidence in self-regulation by the profession.”

HONESTY AND INTEGRITY AS CORE VALUES

To recap so far, engineers should be aware of three key principles when preparing reports:

- There is a duty of honesty in contractual performance;
- Several laws make it an offence to provide false information to regulatory bodies and, further, these laws apply to engineering documents, such as reports; and
- A practitioner who is convicted of the above offence may be found guilty of professional misconduct if the offence is relevant to suitability to practise.

From these principles it follows that acting with honesty and integrity helps engineers and their organizations avoid problems of a contractual, legal and disciplinary nature. Engineers are advised to promote honesty and integrity as core values within their organizations.

REPORT OF ELLIOT LAKE COMMISSION OF INQUIRY

The report of the Elliot Lake Inquiry (Volume 1, chapter 14 recommendations, www.attorneygeneral.jus.gov.on.ca/inquiries/elliottlake/report/Vol1_E/ELL_Vol1_Ch14_E.pdf) released on October 15, 2014, included the following recommendation pertaining to engineering reports:

“Recommendation 1.23

The Professional Engineers of Ontario should issue a clear direction to its members that the contents of an engineering report, or draft report, including a Structural Adequacy Report, should not be altered simply because the client requests that it be changed. Rather, any alteration of an engineering report, or draft report, should be based on sound engineering principles or changed facts.”

PEO’s Professional Standards Committee (PSC) was tasked by council with reviewing this recommendation. The PSC agreed with the recommendation and approved issuing a clear directive to all licence holders on the preparation of reports by means of this article. In addition, the PSC noted that honesty and integrity are values that should apply not only to reports but also to all engineering services. Duly reminding engineers of the importance of acting with honesty and integrity when performing their services, and the consequences of not doing so, addresses this recommendation.

BEST PRACTICES IN PREPARING REPORTS

The PEO guidelines *Professional Engineering Practice* and *The Professional Engineer Acting as an Expert Witness* contain best practices for engineers preparing reports. Here is a summary of some of these best practices as they relate to communications with clients:

1. It is important to ensure that a client is not misled by an overly favourable report or by a practitioner’s failure to give proper emphasis to adverse considerations;
2. For some projects, a client may request that a practitioner provide preliminary reports at various stages. These preliminary reports serve only one purpose: to inform a client about the progress of an investigation. As the investigation is not yet complete, no conclusions of any kind should be included in the report;

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3. Before preparing a final report, a practitioner may discuss the facts and conclusions with a client to obtain appropriate guidance about what should be included;
4. A professional engineer must accept final responsibility for a report, and thus must not permit the client to exert undue influence on its final form; and
5. Expressly, professional engineers must not agree to alter their reports so as to distort their opinions to advocate for a client. Σ

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