

SUMMARY OF THE DECISION AND REASONS

In the matter of the Association vs. Iradj Shahabi-Sirjani, P.Eng., and Sirjani Engineering Inc.

In the matter of a hearing under the *Professional Engineers Act*, R.S.O. 1990, c. P.28 and in the matter of a complaint regarding the conduct of Iradj Shahabi-Sirjani, P.Eng., a member of the Association of Professional Engineers of Ontario, and Sirjani Engineering Inc., a holder of a Certificate of Authorization issued by the Association of Professional Engineers of Ontario.

This matter came on for hearing before a panel of the Discipline Committee on May 28, 2012 at the Association of Professional Engineers of Ontario (the association) offices in Toronto, Ontario. All parties were present. The counsel for the association was Leah Price. The member and the holder were self represented. David P. Jacobs acted as the legal counsel to the panel.

BACKGROUND

The hearing arose as a result of provision of engineering services by the member and the holder (Shahabi-Sirjani) to an architectural firm (client) relating to the structural design of two industrial/commercial buildings for the purpose of building permit application, tender and construction, based on drawings provided by the client.

The panel received an Agreed Statement of Facts, signed by the parties. Following is the summary of the Agreed Statement of Facts.

The agreement to provide engineering services by Shahabi-Sirjani was signed on August 19, 2008. In early October 2008, the client advised via phone that the work might have to be stopped. Two invoices in the aggregate amount of \$22,740 based on 95 per cent completion of work were issued by Shahabi-Sirjani on October 6, 2008, followed by an email on October 9, 2008 that the invoices be paid within 14 days. Another email was sent the following day, threatening legal action and liens against

the buildings, if the payment was not made within two days. The client confirmed that the owners would honour payments for the work completed. The client made two payments on October 21, 2008 and another one on October 30, 2008, leaving an outstanding amount of \$11,250.

In an email dated November 9, 2008, the client disputed the contention of Shahabi-Sirjani that the work was 95 per cent complete and listed a number of deficiencies and stated that the drawings were not ready for building permit submission. The client estimated that the work on Building A was 50 per cent complete and Building B was 60 per cent complete. This resulted in an angry email response from Shahabi-Sirjani, which included comments of a derogatory nature and racial insults.

The parties subsequently engaged in consensual arbitration by the PEO Fees Mediation Committee. In a decision dated about October or November 2009, the Fees Mediation Committee ordered the client to pay an additional \$10,204 to Shahabi-Sirjani.

On March 19, 2010, the client requested Shahabi-Sirjani to provide three copies of the structural drawings, signed, sealed and marked "issued for permit, tender and construction" no later than March 26, 2010, along with a commitment to pay the outstanding balance of the fee upon receipt of signed and sealed drawings.

On March 26, 2010, Shahabi-Sirjani responded via email that included vexatious and derogatory comments of a personal nature against the client.

The drawings, as submitted to the client, were reviewed by an expert retained by PEO. The expert found a number of structural details were incorrect or missing and that the drawings were not ready for building permit submission. These drawings had not been signed or sealed. An engineer retained by then counsel for Shahabi-Sirjani agreed

with the comments made by PEO's expert as accurate, as applied to a set of drawings issued for tender or construction.

It was noted that Shahabi-Sirjani was the subject of a prior complaint with similar issues regarding his conduct with the clients. This had resulted in a "Letter of Advice" dated March 31, 2010 from the association, with reminder of ethical obligations of professional engineers and a recommendation that the member and the holder take positive steps to ensure that all written and oral communication reflect a professional level of courtesy, respect and consideration.

PLEA BY THE MEMBER AND THE HOLDER

The member admitted the allegations as set out in the Agreed Statement of Facts on behalf of himself and the holder. The panel was satisfied that the member's and holder's admissions were voluntary, informed and unequivocal.

The panel therefore accepted the plea from the member and the holder.

DECISION

The panel reviewed the Agreed Statement of Facts in detail and determined that such facts made a case that Mr. Iradj Shahabi-Sirjani and Sirjani Engineering Inc. were guilty of professional misconduct as defined in subsection 28(2)(b) of the *Professional Engineers Act* and Regulation 941, specifically as follows:

- a) Subsection 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, or unprofessional.
- b) Subsection 72(2)(n): harassment, which is defined in section 72(1): "harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known as unwelcome and that might reasonably be regarded as interfering in a professional engineering relationship."

REASONS FOR DECISION

The panel determined that the member's and holder's behaviour and actions in the course of a financial dispute with his client were unprofessional and disgraceful. The extremely aggressive

language and vituperative content of the emails plus the frequency of phone calls amounted to harassment of the client. Such conduct was inappropriate and unacceptable even given the fact that the Fees Mediation Committee had ruled in favour of the member and the holder. Furthermore, the panel noted that there was agreement between the parties that there were deficiencies in the work performed.

All of the above led the panel to concur with the parties that the member's and holder's actions were not acceptable in a professional relationship and fell within the meaning of misconduct under sections 72(2)(j) and 72(2)(n) of the regulation.

PENALTY

The panel received a Joint Submission as to Penalty (JSP) from the association and the member and the holder. The panel accepted that the penalty set out in the JSP was appropriate and ordered as follows:

- (a) Iradj Shahabi-Sirjani and SEI shall be reprimanded and the fact of the reprimand shall be recorded on the register for a period of one year;
- (b) The finding and order of the Discipline Committee shall be published in summary form under s. 28(4)(i) of the *Professional Engineers Act*, with the publication of the names of the member and holder;
- (c) Within one year of the decision of the Discipline Committee, Shahabi-Sirjani shall successfully complete the professional practice examination (PPE), failing which Shahabi-Sirjani's licence shall be suspended until such time as he successfully passes the PPE; and
- (d) There shall be no order with respect to costs.

REASONS FOR PENALTY DECISION

The panel viewed the misconduct of the member and holder as serious.

The panel was very concerned about the contents of the emails and in particular took note of the improper racial and personal references therein. These amounted to inexcusable and disreputable behaviour that could not be tolerated by the profession.

The panel noted that the member (and holder) expressed remorse for his actions and advised the panel that he is considering taking an anger management course. The panel considers that this action and some professional help may assist in the rehabilitation of the member and holder as a valuable professional serving the public.

The panel was satisfied that the penalty provisions were appropriate in view of the circumstances relating to this matter and that the penalty provisions met the criteria for general as well as specific deterrence.

ORAL REPRIMAND

The member and holder waived all rights to appeal pursuant to section 31 of the *Professional Engineers Act*, RSO 1990, c. P. 28, and an oral reprimand of the member and holder was conducted by the panel on May 28, 2012.

A written Decision and Reasons was signed on June 26, 2012, followed by a corrigendum issued on July 12, 2012. Both documents were signed by Virendra Sahni, P.Eng., as chair of this discipline panel on behalf of members of the discipline panel: Ishwar Bhatia, P.Eng., Les Mitelman, P.Eng., Martha Stauch, LGA, and Chris Taylor, P.Eng.