



Professional misconduct: It doesn't just happen to others!

HERE IS A REVIEW OF SOME RECENT DECISIONS RENDERED BY THE DISCIPLINARY COUNCIL

Remember that disciplinary sanctions are meant to protect the public, dissuade professionals from repeating offences and set an example for other members of the profession.

I KNOW WHAT I'M DOING...I THINK

The Disciplinary Council received a complaint about an engineer that claimed he had made mistakes in a construction project involving a 3-story building with 30 dwelling units. More specifically, it alleged that he:

- failed to perform the required calculations for the carrying capacity of the building;
- failed to perform the required seismic calculations;
- provided conflicting or diverging opinions as well as accommodating opinions;
- issued an incomplete final report that was not based on sufficient factual knowledge;
- failed to keep a proper register of clients and the related mandates.

As an aggravating factor, the Disciplinary Council considered the fact that this was the engineer's first residential project and that his professional conduct jeopardized the safety of the occupants. However, as a mitigating factor, it considered the fact that the engineer was sick when the offences were committed and that he admitted his guilt. It temporarily struck the engineer from the roll for three concurrent 2-month periods, fined him \$2,000 and ordered him to pay costs in the amount of \$1,650.

File number 22-14-0472

YOU WILL GET YOUR GRANT!

In this matter, the engineer in question was a junior engineer when the offences were committed.

In 2012, the respondent was hired to provide necessary services to a farm owner so that the farm could obtain a grant under the Prime-Vert program, which awards grants for projects that improve agricultural production methods and make them more environmentally-friendly.

THE ENGINEER ACKNOWLEDGED THAT HE DID NOT MAKE ANY CALCULATIONS PLANS AND SPECIFICATIONS, OR PERFORM ANY SOIL STUDY.

The evidence showed that the junior engineer:

- did not supervise any of the work performed on the property;
- visited the premises and noticed that the work that had been performed did not comply with the plans and specifications or the MAPAQ requirements;
- still provided a certificate of compliance for the work as well as photos that supposedly showed the work that had been done in the project.

The evidence also showed that about one month later, the owner received a letter from the MAPAQ informing him that he would not receive a grant because the inspected site did not match the certificate or the photos provided by the junior engineer.

During the syndic's inquiry and at his request, the respondent provided the syndic with the photos that supposedly showed the work that had been performed in the project.

In an interview with the syndic, the respondent continued to claim that he had supervised the work and defended the truthfulness of the photos he had submitted to the syndic and the MAPAQ.

The syndic showed the respondent the photos that he himself took of the premises and the respondent eventually admitted that his photos were taken at another site and that he did not supervise the work performed at the farm site.

As a result, the respondent was found guilty of:

- failing to take into account the consequences of the work on the environment and the property of every person (section 2.01, Code of Ethics);
- engaging in dishonest and dubious practices by signing and submitting to the MAPAQ a compliance form and photos that he knew were false and that did not comply with the plans and specifications or the supervision requirement;

- hindering the syndic's work by providing photos that he knew were false and by making false statements during the interview with the syndic.

The Disciplinary Council found that the engineer had committed an additional serious offence in that his professional signature was supposed to make it possible for public funds to be awarded to the project in the form of a grant.

The respondent was therefore struck from the roll for the equivalent of four months and ordered to pay costs in the amount of \$1,260.

File number 22-15-0487

DON'T WORRY, THE SITE IS SAFE

The respondent was an engineer who was hired to check the shoring of trenches at archeological digs and issue a certificate of compliance for their installation.

When the respondent visited the site, the shoring had already been partially executed even though an engineer had not designed the excavations or their protection systems.

During this visit, the respondent instructed workers to add sheets of plywood, timbering and a steel beam and shore up the walls of the excavation up to the asphalt. He described the soil as "silty clay" and indicated a safety factor of 1.5. He recorded his comments on the "Certificate/Design" form and signed and sealed the document. He also prepared a certificate of compliance for the excavations, in which he noted that safety measures were in place and that the site was safe.

When the digs were finished, a wall of the trench collapsed and crushed a worker who was dismantling the shoring. The worker died from his injuries.

The engineer acknowledged that he did not make any calculations, plans and specifications or perform any soil study. He also admitted that he was not familiar with the safety code for the construction industry (SCCI) or with the "municipal affairs" division of the Association paritaire pour la santé et la sécurité du travail (APSAM). He confirmed that he had provided only verbal instructions on how to disassemble the shoring.

THE RESPONDENT FAILED TO ANSWER THE QUESTIONS OF THE SYNDIC'S DULY AUTHORIZED INVESTIGATORS.

The Disciplinary Council pointed out that certificates of compliance are engineering acts at the very core of an engineer's professional duties. It was particularly concerned because, as it pointed out, the respondent's main task was to issue these certificates for the excavations. The council concluded that the engineer had been lax and careless when issuing an official document certifying that the site was safe for people.

The respondent was therefore temporarily struck from the roll for two concurrent 5-month periods and ordered to pay costs in the amount of \$2,425.

File number 22-15-0482

I WILL NOT TALK TO THE SYNDIC

In this matter, the evidence showed that the respondent failed to answer the questions of the syndic's duly authorized investigators during the disciplinary inquiry.

The syndic then filed a motion to temporarily strike the respondent from the OIQ's roll, specifically alleging that:

- the respondent's behaviour hindered the work of the syndic, who is responsible for ensuring the protection of the public;
- these were serious actions that undermined the very foundation of the disciplinary process and the principal function of the profession.

As a result, the Disciplinary Council temporarily struck the respondent from the roll until service of a decision that dismisses the main complaint or imposes a penalty, as applicable. The respondent was also ordered to pay costs in the amount of \$1,462.

To learn more about the professional conduct expected of engineers, we suggest that you read the OIQ's professional practice guide on its Web site (<http://gpp.oiq.qc.ca/>). The full text of the decisions cited is also available on the OIQ's site, under "Recourses and decisions." (<http://www.oiq.qc.ca/en/recourses/decisions/Pages/disciplinarydecisions.aspx>)