

By Charles Dupuis, attorney

A junior and a professional? Absolutely!

It is quite normal for engineers, especially junior engineers, to ponder questions relating to professional conduct. For example, does working in a federally regulated field exclude us from provincial laws applicable to engineers? Faced with quandaries of this nature, it is always recommended to get the advice of the Ordre des ingénieurs du Québec (hereafter the "Ordre"), a simple solution which would have served this junior engineer well...

FOURTEEN COUNTS

The young man in question had recently graduated when he was hired by an aeronautics company in Trois-Rivières. At the outset, the junior engineer believed that he was acting legally since his superior was "Vice President of Engineering". After having learned that his boss was not a member of the Ordre, the employee made a few inquiries in order to make sure that his status was not in dispute, but neglected to verify with the Ordre. Subsequent to his research, the junior engineer continued his work in the same conditions, confident that he was acting legally.

The assistant syndic conducted an investigation and filed a complaint which included 14 counts¹ before the Committee of discipline (now known as the Disciplinary Council). The accusations dealt with seven acts performed by the junior engineer between October 2005 and September 2006, namely having prepared:

- on two occasions, technical specifications relating to the installation and removal of windscreens and windows on a series of aircraft;
- a report relating to the structural analysis of the swivel support for factory-made rear spars installed on these aircraft;
- on two occasions, painting procedures for the aircraft's major components;
- a procedure relating to the testing and draining of the aircraft's Pilot static system;
- a technical specification relating to the suede paint process of aluminum pieces of these aircraft.

For each of these actions, the junior engineer is accused of:

1. not having acted under the immediate control and supervision of an engineer, thereby violating section 8 of the Regulation respecting other terms and conditions for the issuance of permits by the Ordre des ingénieurs du Québec;
2. having committed an act that is derogatory to the dignity of the profession by participating or contributing to the illegal practice of the profession, thereby violating section 4.01.01 a) of the Code of ethics of engineers.

JUST LIKE AN ENGINEER

The junior engineer admitted to these actions and cooperated in the investigation. Nevertheless, he opted to plead not guilty before the Committee of discipline and submitted evidence to that effect, as was his right. Among his arguments, the respondent explained that he never claimed to be an engineer and that it was never his intention to practise illegally; quite the contrary, he always paid close attention to the legality of his actions. He also submitted that according to his superior, a highly qualified individual but not an engineer, "everything was all right given that this matter was of federal jurisdiction". He further pleaded that it was up to Transport Canada to decide whether a plane could fly, not the Ordre des ingénieurs. In other words, the respondent submitted that he acted in good faith and believed that he was acting within the law.

The Ordre's assistant syndic reminded the Committee of discipline that the respondent had taken a course on professional law during his engineering studies and that he was well aware of his supervisor's professional status. The latter himself admitted that his employee did indeed perform engineering duties.

BEING A MEMBER OF AN ORDER: NOT JUST A PRIVILEGE

Faced with such allegations, what decision did the Committee of discipline render? At the outset, the Committee noted that it did not wish to take part in a debate on federal versus provincial aeronautics laws. Instead, the Committee reminded everyone that the Professional Code's main purpose was to ensure the public's protection and that professional orders are in place for that very reason. All members of the Ordre des ingénieurs are bound by obligations pursuant thereto.

The Committee stated that it is "well aware that in certain respects, the rules of professional conduct imposed upon professionals can be demanding. However, this type of regulation [...] serves as the basis for the public's protection." (Unofficial translation) It added that: "The engineering profession requires a professional conduct in which integrity and intellectual rigour come together as a whole that guarantees the public a protection without fail." (Unofficial translation)

Even though it has no doubt as to the respondent's good faith, the Committee considers that it would have been very easy for him to simply contact his professional order and inquire about his status. Consequently, the respondent's actions were indeed derogatory and contributed to the illegal practice of the profession.

The junior engineer was found guilty on all counts. He was ordered to pay a \$600 fine for the first count and reprimanded with respect to the 13 other counts, a light sentence based on the young man's clean record and the fact that he was unlikely to reoffend.

1. Rémi Alarent, Eng., in his quality of assistant syndic for the OIQ, v. François Brousseau, Junior Eng.; CDOIQ, 22-07-0346.

THE RESPONDENT CONTRAVENED TO THE FOLLOWING TWO SECTIONS

Candidates or junior engineers shall not perform professional activities reserved by law for engineers except under the immediate control and supervision of an engineer.

Regulation respecting other terms and conditions for the issuance of permits by the Ordre des ingénieurs du Québec, section 8.

In addition to those referred to in sections 57 and 58 of the Professional Code, the following acts are derogatory to the dignity of the profession:

(a) participating or contributing to the illegal practice of the profession; [...]

Code of ethics of engineers, section 4.01.01 a)