

**IN THE MATTER OF
THE ENGINEERS AND GEOSCIENTISTS ACT
R.S.B.C. 1996, CHAPTER 116 AS AMENDED**

- and -

**IN THE MATTER OF
Jerzy Kaminski, P.Eng.**

DISCIPLINE COMMITTEE PANEL:

Ernest A. Portfors, P. Eng., Chair
Alistair Black, P. Eng.
John A. Rapson, P. Eng.

COUNSEL FOR THE ASSOCIATION:

Robert W. Hunter

COUNSEL FOR JERZY KAMINSKI:

Albert S. Wallrap

SUBSEQUENT DETERMINATION

INTRODUCTION

Subsequent to the Panel issuing their Determination in the matter of Jerzy Kaminski, P.Eng., dated August 29,2008. Mr. Kaminski's legal counsel Mr. Wallrap, made a submission to the Panel dated September 8, 2008.

In his submission, Mr. Wallrap argued that the Panel had made a number of errors in its Determination and applied for:

- a. correction of errors in the Determination;
- b. reconsideration of the Panel's findings; and/or
- c. re-opening of the matter, or alternatively, a suspension of the Determination until judicial review of jurisdictional and other procedural defects or errors has occurred.

To support his submission, Mr. Wallrap quoted from the Panel's Determination as follows:

- a. "Mr. Kaminski -----stated that he accepted the jurisdiction of the Panel."(p.2)
- b. "The City of Vancouver registered a complaint regarding Mr. Kaminski's conduct in a letter to the Association dated August 15, 2006."(p.3)

Mr. Wallrap stated that these two statements were in error. He argued that Mr. Kaminski challenged the origin, nature and lack of particulars of charges directed against Mr. Kaminski and that the original complaint was directed to the Structural Engineer of Record not Mr. Kaminski.

In his response for the Association, Mr. Hunter argued that the Panel has no inherent jurisdiction; the Panel's jurisdiction is only that set out in the *Engineers and Geoscientists Act* R.S.B.C. 1996, c.116, as amended. He also pointed out that documentation of the complaint was before the Panel by way of the Agreed Statement of Facts.

Mr. Hunter argued that the Panel should not entertain Mr. Kaminski's application.

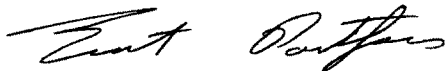
Mr. Wallrap made a final submission responding to Mr. Hunter on September 9, 2008.

ANALYSIS AND FINDINGS

The Panel agrees with Mr. Hunter's submission that the Panel's Jurisdiction is only set out in the *Engineers and Geoscientists Act* R.S.B.C. 1966, c. 116, as amended, and the Panel does not have the Jurisdiction to reconsider or re-open the matter.

The Panel further concludes that they have completely extinguished their duty and responsibility in this matter with the rendering of its Determination on August 29, 2008. Consequently, the Panel rejects Mr. Wallrap's application.

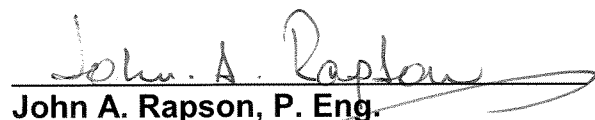
Signed on behalf of the Discipline Committee Panel this 16th day of September 2008.



Ernest A. Portfors, P. Eng., Panel Chair



Alistair Black, P. Eng.



John A. Rapson, P. Eng.