

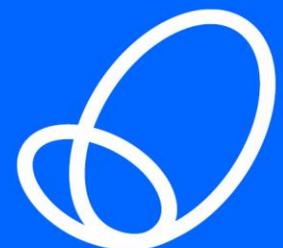
DISCIPLINARY COMMITTEE DECISION REGARDING THE COMPLAINT ABOUT PAVOL CSIBA MENG NZ

In accordance with:

Institution of Professional Engineers Rules
Institution of Professional Engineers Disciplinary Regulations

Jeff Jones FEngNZ
Paul Campbell CPEng FEngNZ
Dirk Pons CPEng FEngNZ IntPE(NZ)
Penny Mudford, Mediator
Hamish Wilson, nominated by Consumer New Zealand

28 November 2018



engineering
new zealand
Institute of Engineering Professionals

CONTENTS

BACKGROUND	1
Complaint	1
Investigating Committee	1
Disciplinary Committee	1
INFORMATION GATHERED	2
Engagement	2
Site visit	2
Signing the Report	2
High Court minute	3
The Hearing	3
Submissions to the Disciplinary Committee	4
DISCUSSION	4
The Disciplinary Committee's role	4
The legal test	5
Decision of the Disciplinary Committee	7
ORDERS	7
Relevant law	7
Submissions for Mr Csiba	8
Discussion	8
Summary of orders	10

BACKGROUND

COMPLAINT

1. On 2 February 2017, the complainant complained to Engineering New Zealand¹ about Mr Pavol Csiba. Mr Csiba was employed by an engineering firm as a Senior Engineer from 2014 to February 2017. He is currently a Member of Engineering New Zealand.²
2. The complaint relates to a structural reinstatement report (the Report) issued by Mr Csiba for the Property. The complaint also extends to Mr Csiba's actions while acting as an expert witness for the property owner in a High Court claim.
3. Specifically, the complainant is concerned that:
 - a. Mr Csiba's Report said he had visited the Property when he had not, and
 - b. Mr Csiba signed the Report and later said he had not read the Report.

INVESTIGATING COMMITTEE

4. Following an initial investigation, the matter was referred to an Investigating Committee for formal investigation. On 12 February 2018, the Investigating Committee referred the matter to a Disciplinary Committee for consideration.

DISCIPLINARY COMMITTEE

5. The Disciplinary Committee heard the matter on 25 June 2018.
6. The Disciplinary Committee members are:
 - Jeff Jones FEngNZ
 - Paul Campbell CPEng FEngNZ
 - Dirk Pons CPEng FEngNZ IntPE(NZ)
 - Penny Mudford, Mediator
 - Hamish Wilson, nominated by Consumer New Zealand
7. In addition to the Disciplinary Committee members, the following parties attended the Disciplinary Committee hearing:
 - Investigating Committee representative
 - Engineering New Zealand staff
 - Pavol Csiba MEngNZ
8. Mr Csiba's lawyer did not attend the Hearing but provided written submissions following the Hearing.
9. The complainant did not attend the Hearing and was not represented.

¹ On 1 October 2017, the Institution of Professional Engineers New Zealand Incorporated (IPENZ) changed its trading name to Engineering New Zealand. The Institution of Professional Engineers New Zealand Incorporated remains Engineering New Zealand's legal name.

² At the time Engineering New Zealand changed its name, it also created a new membership pathway. Under the new membership pathway, Mr Csiba is a Member of Engineering New Zealand. At the time of the complaint, Mr Csiba was a Graduate Member of IPENZ.

INFORMATION GATHERED

ENGAGEMENT

10. The Property was reportedly damaged in the Christchurch Earthquakes.
11. As a result of the Christchurch Earthquakes, the Property owners raised a claim with their insurer. The Property owner's lawyers engaged Mr Csiba to conduct a visual inspection and to issue a report detailing the structural damage caused by the earthquakes ("the Report").
12. The Report was issued on 7 May 2015, and it detailed damage sustained to the Property as well as recommended a repair strategy.

SITE VISIT

13. In May 2016, the Property owners initiated High Court proceedings in respect of their insurance claim for damage the Property sustained in the Christchurch Earthquakes.
14. On 11 October 2016, at the direction of the Court, an onsite meeting was held between the complainant's expert witnesses and the Property owners' expert witness, Mr Csiba. At the onsite meeting, Mr Csiba reportedly said that he had not had a chance to read the Report and had never been to site before.
15. On 14 March 2017, Mr Csiba confirmed with Engineering New Zealand that he had not visited the site prior to the onsite meeting of 11 October 2016.

SIGNING THE REPORT

16. On 7 May 2015, Mr Csiba signed and issued the Report. The Report stated:

[A law firm has] engaged me: Pavol Csiba, to: (a) complete a visual inspection (dated 13.01.2015) and prepare an Engineer's Report to determine the damage.
17. Below Mr Csiba's signature on the Report was the declaration that he agreed to "comply with the Code of Conduct for Expert Witnesses, Schedule 4 of the High Court Rule[s]".
18. In his initial response of 14 March 2017, Mr Csiba stated that his name was put on the Report when it should have been his employer's name. He said that he did not see the mistake and acknowledged that he should have been more careful. He also noted that in his new company, he has implemented a peer reviewing process to prevent such issues from arising.
19. On 9 November 2017, Mr Csiba again confirmed that he signed the Report on behalf of his employer. He also attached submissions to the High Court made by counsel for the Property owners. These submissions stated that:

Mr Csiba has signed off the original report on behalf of his employer as opposed to as the direct writer of that report.
20. However, on 7 May 2017, Mr Csiba advised Engineering New Zealand that he had written the Report and signed it. Mr Csiba stressed that it should have been attributed to his employer. When asked why he signed the Report if it should have been attributed to his employer, Mr Csiba said he did not see the mistake before he signed the Report. This statement was followed up with a confirmation email to Mr Csiba, to which there was no response.

HIGH COURT MINUTE

21. In late 2016, the High Court issued a minute noting that the Report implicitly confirmed that Mr Csiba had undertaken a visual inspection when, in fact, he had not. As such, the Report was misleading.

22. The High Court said:

It is the responsibility of those persons [Mr Csiba and principals of his employer] to ensure that the reports that are issued are not misleading, either expressly or implicitly.

THE HEARING

The Report

23. Mr Csiba accepted that he never visited site prior to issuing the report. He noted that he advised the complainant's expert witness at the outset of their meeting on 11 October 2016 that he had not been to site before. Mr Csiba said he had never tried to hide the fact that he had not visited site prior to 11 October 2016.

24. However, Mr Csiba said the complainant's expert witness comment that Mr Csiba said he had never read the Report was not accurate. Mr Csiba stated that he meant he had not had the chance to re-read the Report before the on-site meeting on 11 October 2016.

25. Mr Csiba told the Disciplinary Committee that in preparing reports for his employer, a junior engineer would visit the site and summarise the damage and details of the brief, then Mr Csiba would review this summary and recommend a repair strategy.

26. In response to questions from the Disciplinary Committee, Mr Csiba said that while he takes responsibility for this Report, the junior who wrote the initial part of the Report mistakenly put Mr Csiba's name in the engagement rather than the company's name. Mr Csiba says that in other reports produced by his employer engineers, it was always his employer who was engaged and not Mr Csiba personally. Mr Csiba says that the misleading nature of the report came from the fact that he was mistakenly reported as being engaged to conduct a site visit personally.

Systems and processes

27. Mr Csiba said it is widespread practice in engineering companies for a junior member of staff to inspect the site whereas a senior engineer would sign the report.

28. Mr Csiba said his employer was a poorly managed company which did not organise their high workload well. Mr Csiba attributes the mistake on the Report to his employer's poor management. Mr Csiba stated that he tried to make suggestions to improve the management of his employer, including appointing a CPEng to review reports, but these suggestions were ignored.

29. Mr Csiba established the company that he was employed by and signed the Report as a "principal". The Disciplinary Committee asked Mr Csiba whether this meant he had a high degree of control over his employer's management. Mr Csiba noted that while he had established the company, he sold all his shares three months after its establishment. He also said that by "principal" he meant "senior engineer" as he was the most senior engineer on his employer's staff at the time the Report was issued.

30. Mr Csiba said he stands by the substance of the Report and that the statement, while misleading, did not adversely affect the homeowner's case in the High Court.

31. Mr Csiba said he has taken steps at his new company to ensure this does not happen again. He says he keeps clear communications with his clients, has weekly meetings with his staff and engages an

associated CPEng to review complex reports. Mr Csiba said he understands the seriousness of the issue and he has made more than enough changes to prevent any similar issues arising in the future.

SUBMISSIONS TO THE DISCIPLINARY COMMITTEE

The complainant

32. The complainant made no additional submissions to the Disciplinary Committee. Their only submissions were those given to Engineering New Zealand when they made their complaint and are incorporated into the information gathered section above, where relevant.

Mr Csiba

33. Mr Csiba's lawyer made further written submissions on behalf of Mr Csiba after the hearing.
34. Mr Csiba's lawyer reiterated that Mr Csiba was not part of his employer's management and had very little, if any, influence over the operation of it. Mr Csiba's role was very narrow. He produced engineering assessments and provided whatever ongoing services were required by the clients or their lawyers for the insurance claims.
35. Mr Csiba's lawyer noted that Mr Csiba was never engaged personally to provide engineering services on any file. The actual engagement was between his employer and a company who provides litigation funding and advocacy services to property owners pursuing earthquake claims against their insurers.
36. Mr Csiba's lawyer noted that Mr Csiba's name was on the top of a standard template used at the time the report was issued. Mr Csiba's lawyer said that, at the Hearing, when Mr Csiba said his name appeared on the report "in error", he meant that his name being on the standard template was incorrect, rather than being a one-off mistake made on this particular report.
37. Mr Csiba's lawyer reiterated that the Report is a truthful representation of Mr Csiba's professional opinion at the time and the statement did not adversely affect the homeowner's case.
38. Mr Csiba's lawyer submitted that in order to find Mr Csiba breached his obligations under clause 3 of the IPENZ Code of Ethics,³ Mr Csiba must have intended to act dishonestly or without integrity. In Mr Csiba's lawyer opinion, dishonesty requires a knowledge of what is right or appropriate and a deliberate abrogation of that. Mr Csiba's lawyer submitted that just because the statement was misleading, does not make it dishonest.

DISCUSSION

THE DISCIPLINARY COMMITTEE'S ROLE

39. Professional disciplinary processes exist to ensure that professional standards are maintained and to protect clients, the profession and the broader community. They do this by ensuring that members of the profession adhere to certain universal (or accepted) professional standards.⁴

³ Clause 3 of the IPENZ Code of Ethics (2005) says that "a member must act honestly and with objectivity and integrity in the course of his or her engineering activities."

⁴ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC).

40. Our role in this process is to consider whether Mr Csiba acted in accordance with accepted professional standards and, if not, whether there are grounds for disciplining him in accordance with the IPENZ Rules and Disciplinary Regulations.⁵
41. We have considered whether, in this case, Mr Csiba acted in accordance with accepted standards and his professional obligations as set out in the Code of Ethics. The Disciplinary Committee can make an order in relation to a member of Engineering New Zealand in accordance with Rule 10 if it finds that the member has breached their obligations in the Code of Ethics.

THE LEGAL TEST

42. In *Robinson v RA* (10 July 2015, *Appeal Ruling #21*) the Chartered Professional Engineers Council (CPEC) stated:

Whether engineering services have been performed in a negligent manner is a question of whether there has been a serious lack of care judged by the standards reasonably expected of a Chartered Professional Engineer. That standard may be informed by whether reasonable members of the public would consider such an act or omission, if acceptable to the profession, were to lower the standard of that profession in the eyes of the public.

43. It further noted “Disciplinary action should follow for behavior that falls seriously short of acceptable conduct...”
44. CPEC also noted that the standard against which to measure the performance of a Chartered Professional Engineer in relation to the Code of Ethical Conduct is no different to the test in relation to negligence, set out above at [42].
45. While *Robinson v RA* was in relation to the conduct of a Chartered Professional Engineer, it must also apply to members of Engineering New Zealand, as the IPENZ Code of Ethics as it applied in 2015 was substantively identical to the Code of Ethical Conduct in the Chartered Professional Engineers of New Zealand Rules (No 2) 2002.
46. Considering *Robinson*, the legal test for determining whether there has been a breach of the Code of Ethics is whether Mr Csiba acted reasonably and in accordance with accepted standards. This can be informed by an assessment of whether the act or omission at issue “if acceptable to the profession, were to lower the standards of that profession in the eyes of the public”. Where the behavior meets these criteria, we must then consider whether the conduct “falls seriously short of accepted conduct” before imposing a disciplinary sanction under the Rules.
47. We consider that the obligations in the Code of Ethics must be read objectively. While the absence of an element of willfulness or intention may be relevant to the seriousness of the breach, and the level of any disciplinary sanction, it does not prevent a decision maker from finding an engineer’s conduct in breach of the Code of Ethics.

Site visit

48. The first aspect of the complaint is that the Report was misleading because it implied Mr Csiba had visited the site when he had not.

⁵ The Engineering New Zealand Code of Ethical Conduct came into force in July 2016. While the relevant Codes are substantially the same, we refer to the IPENZ Code of Ethics (2005) as that was the Code in place at the time Mr Csiba issued the Report and the Code referred to by Investigating Committee. When referring to the Rules or Disciplinary Regulations, we refer to the IPENZ Rules 2015 and the accompanying Disciplinary Regulations as this was the framework in place at the relevant time.

49. The Report stated at the outset that Mr Csiba was engaged to conduct a site visit. We consider that, to the reasonable observer, this implied that Mr Csiba had visited the site and based his recommendations on that site visit. Mr Csiba has confirmed with both the Investigating Committee and the Disciplinary Committee that he did not visit the site prior to issuing the Report. Mr Csiba maintains that his name was included on the Report, as the subject of the engagement, in error.
50. As a member of Engineering New Zealand, Mr Csiba has a responsibility to ensure that the documents he signs are accurate and not misleading. Further, Mr Csiba signed the Report as a “principal” engineer as well as a member of Engineering New Zealand. This title would cause members of the public to place trust in him and the documents he signs as he has held himself out to be a senior or principal engineer of the firm who is a member of a professional body that promotes ethical and professional practice.
51. Mr Csiba’s lawyer noted the engagement was between a company who provides litigation funding and advocacy services to property owners and Mr Csiba’s employer in the context of an insurance dispute. In light of this, we consider that a reasonable engineer in Mr Csiba’s circumstances would have realized that the matter may come before a Court and would therefore have taken extra care to ensure the Report’s accuracy. Given the context, he should have also known that there was a likelihood that he would be called before the Court as an expert witness. He appeared to acknowledge this likelihood by declaring he would comply with the Code of Conduct for Expert Witnesses in the Report.
52. We are mindful that mistakes are inevitable and, as noted by the High Court, the purpose of professional disciplinary proceedings does not require a disciplinary response to the minor human errors that inevitably occur in professional practice – there is a threshold that distinguishes between this type of conduct and conduct that warrants a disciplinary response.⁶
53. However, Mr Csiba had multiple opportunities to notice the mistake and correct it but he did not. He could have corrected the error upon reviewing the Report prior or after the site meeting on 11 October 2016, or any time before the claim was referred back to the High Court after the site meeting.
54. Our findings on this aspect of the complaint are consistent with the comments made by the High Court. The High Court noted that it was Mr Csiba’s responsibility “to ensure that the reports that are issued are not misleading, either expressly or implicitly”.
55. We find that Mr Csiba has not acted in accordance with accepted standards, and he has acted dishonestly and in breach of his ethical obligations. He signed a document that implied he had visited site when he had not. This information was relied upon by members of the public as well as participants in a formal judicial process. He had an opportunity to correct his mistake and he did not. In our view, taken together, his conduct in this regard crosses the threshold of minor human error and warrants a disciplinary response. Mr Csiba’s actions, if condoned, would lower the standing of the profession in the eyes of the public.
56. Whether or not Mr Csiba intended to act dishonestly will be a matter for consideration when the Disciplinary Committee determines the appropriate disciplinary sanction.

Reading the Report

57. The second aspect of the complaint is that Mr Csiba signed the Report and later said he had not read it.
58. There has been some lack of clarity around whether Mr Csiba wrote the Report, caused by Mr Csiba’s inconsistent submissions on this point during the complaints process. However, we accept the evidence

⁶ *Martin v Director of Proceedings* [2010] NZAR 333 (HC) at [23].

given by Mr Csiba at the Hearing that he wrote a portion of the Report and a junior engineer working under his supervision wrote the other portion.

59. We also accept Mr Csiba's evidence that when he told the other expert witness at the site visit that he had not read the Report, he did not mean he had never read the Report, but rather that he had not had a chance to reread the Report.
60. Therefore, we dismiss this aspect of the complaint.
61. However, we strongly suggest that Mr Csiba reflect on his decision not to reread the Report or, according to the other expert witness, before attending a Court ordered meeting specifically to discuss those Reports and resolve conflicts between them. In our view, it is incumbent on an engineer to ensure they are adequately prepared for meetings of this nature. Being prepared is in their clients' interests, shows respect to the Court process, and is a professional courtesy to the colleagues who took the time to meet with Mr Csiba and discuss the property with him that day. If an engineer cannot adequately prepare themselves ahead of a meeting of this nature, they should postpone the meeting until such time as they can adequately prepare.
62. If Mr Csiba had reread the Report, he may have noticed the error in it and been able to clarify that he did not visit site and the engagement was with his employer not Mr Csiba. This clarification may have avoided Mr Csiba misleading the parties and the Court.

DECISION OF THE DISCIPLINARY COMMITTEE

63. The complaint about Mr Csiba has two elements, namely that he:
 - a. signed a report which said he had visited the Property when he had not, and
 - b. signed the report and later said he had not read the report.
64. Having considered all the evidence, we have decided to uphold the first aspect and dismiss the second aspect of the complaint about Mr Csiba.
65. In our view, by signing a report which said he had visited the Property when he had not, Mr Csiba breached clause 3 of the IPENZ Code of Ethics. Mr Csiba signed a misleading document which he had multiple opportunities to correct and did not. If this conduct was condoned, it would lower the standard of the profession in the eyes of the public.
66. We find that Mr Csiba's breach of the Code of Ethics is serious and warrants a disciplinary response.

ORDERS

67. There are a range of disciplinary actions available to the Committee, as set out in clause 17(3) of the Engineering New Zealand Disciplinary Regulations.
68. On 31 August 2018, we reserved our decision on penalty orders and gave the parties the opportunity to make further submissions. The complainant did not make any additional submissions and Mr Csiba's lawyer provided his submissions on behalf of Mr Csiba on 1 October 2018.

RELEVANT LAW

69. In *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* the High Court outlined a number of principles to be applied by the Tribunal in determining the appropriate penalty to impose in disciplinary proceedings. The High Court determined that a disciplinary penalty must:
 - a. protect the public (including through deterrence of other practitioners from engaging in similar conduct);

- b. set and maintain professional standards;
 - c. where appropriate, rehabilitate the practitioner back to the profession;
 - d. be comparable with penalties imposed on practitioners in similar circumstances;
 - e. reflect the seriousness of the practitioner’s conduct, in light of the range of penalties available;
 - f. be the least restrictive penalty that can reasonably be imposed in the circumstances; and
 - g. be fair, reasonable, and proportionate in the circumstances.
70. The principles in the *Roberts* case are broadly applicable to the exercise of our power to make disciplinary orders under clause 17, and they are the principles we rely on when considering the appropriate penalty orders in this case.
71. The Supreme Court in *Z v Dental Complaints Assessment Committee*⁷ states that while professional disciplinary proceedings are not intended to punish practitioners, they may have a punitive effect in practice. This is similar to the principles set out in *Roberts* in that the penalty be the least restrictive penalty and that punishment is not a necessary focus of a disciplinary penalty.

SUBMISSIONS FOR MR CSIBA

72. Mr Csiba’s lawyer cites high workload and Mr Csiba’s lack of management authority within the firm to explain why he did not fix his mistake. Engineers have a responsibility not to take on work which they are unable to adequately complete. Mr Csiba signed this report, as a professional engineer and as the only senior engineer in the firm so he must take responsibility for the error in the document he signed.
73. While Mr Csiba has participated in the disciplinary process, he has given inconsistent responses. For example, Mr Csiba was unclear whether he had written the Report or signed it. Engineering New Zealand had to go back to Mr Csiba for clarification more than once and the Investigating Committee found this inconsistency frustrating.
74. Mr Csiba’s lawyer notes that Mr Csiba was a Graduate Member. However, in his submission, Mr Csiba’s lawyer also described Mr Csiba as the “only senior engineer” at the firm. At the hearing, Mr Csiba described the level of oversight he had over junior engineers at the firm. Mr Csiba may have been a Graduate Member but it is clear he was taking on the responsibility of a senior engineer within the firm.
75. The Committee also notes that Graduate membership does not necessarily equate to junior status. Engineering New Zealand changed their membership pathway on 1 October 2017. Under the old membership pathway, GIPENZ was the only class available to members who did not choose to undertake a competence assessment for a competence-based membership class. The result was that many senior engineers would remain GIPENZ for most, if not all, of their careers. After the membership changes, engineers with GIPENZ membership became either Emerging Professionals (those with less than 5 years’ experience) or Engineering New Zealand Members (those with more than 5 years’ experience).

DISCUSSION

76. Mr Csiba’s breach of the Code of Ethics is serious. A High Court Judge noted that Mr Csiba’s report was misleading. The public should be able to trust engineers to issue accurate and clear documentation. Mr Csiba failed to act in accordance with accepted standards by issuing a misleading report and failing to

⁷ [2008] NZSC 55.

fix the error when it should have become apparent. We have found that Mr Csiba's actions, if condoned, would lower the reputation of the profession in the eyes of public and, therefore, warrants discipline.

77. In our view, Mr Csiba's actions, if condoned, would undermine the public's trust in the engineering profession and reduce public trust and confidence in Engineering New Zealand members, and our orders need to reflect our view of the seriousness of his breach of his ethical obligations.

Learning and quality improvement

78. Engineering New Zealand approaches complaints with a focus on learning, quality improvement, and appropriate accountability.
79. We are thoughtful that Mr Csiba can use this experience as an opportunity to improve his practice and learn from his mistakes. We believe that, to make these improvements, Mr Csiba should undertake further professional development, particularly around the responsibilities of being an expert witness.

Fine

80. The Disciplinary Committee may order that the engineer pay a fine to Engineering New Zealand.
81. Under the Engineering New Zealand Rules, the maximum fine which may be ordered against a member is \$5,000.
82. Mr Csiba's behavior fell well below the standard expected of a professional engineer. Further, his actions were commented on adversely in the High Court. It is important that Engineering New Zealand strongly condemns this behavior and that this condemnation is reflected in the fine ordered.
83. Mr Csiba's lawyer submitted that this complaint was at the minor end of the spectrum of seriousness because it did not have an effect from an engineering point of view. Mr Csiba's actions may not have had a technical impact but it had the tendency to lower the reputation of the profession in the eyes of the public.
84. In *RA v A*, Mr A allegedly altered a letter from Engineering New Zealand setting out his practice areas and sent the altered version to a Building Consent Authority. While the Disciplinary Committee could not prove that Mr A altered the letter, they found that he should have known that the letter was incorrect. This amounted to a breach of his obligation to act honestly and with integrity. Among other things, Mr A was fined \$1,500.
85. *RA v A* is similar to the present case. Like Mr A, Mr Csiba issued a misleading document. While we cannot establish that the error in his Report was intentional, Mr Csiba had multiple opportunities to notice the mistake and fix the mistake but did not.
86. While *RA v A* involved a Chartered Professional Engineer, rather than a Member of Engineering New Zealand, the principles are transferable. We also note the distinguishing factor that the penalties in *RA v A* were agreed between the parties by joint memorandum.
87. Considering precedent and the need to strongly condemn this type of behavior, we find that the appropriate penalty in this case is \$1,000.

Costs

88. The Disciplinary Committee can order that the engineer pay costs and expenses of, and incidental to, the inquiry by Engineering New Zealand.
89. When ordering costs, it is generally accepted that 50% of costs attributable to the investigation and disciplinary processes incurred by Engineering New Zealand is a good starting point. This sum can then be adjusted up or down depending on the circumstances.

90. The Committee is thoughtful that a part of the complaint about Mr Csiba was dismissed. The Committee upheld the allegation that Mr Csiba's report said he had visited the Property when he had not but dismissed the allegation that Mr Csiba said he had not read the Report. The Committee accepted Mr Csiba's evidence that when he said he had not read the Report, he meant he had not *re-read* the Report. Nevertheless, the Committee found that the first aspect of the complaint amounted to a breach of the Code of Ethics.
91. The Committee accepts that Mr Csiba is entitled to a reduction in costs to reflect the aspect of the complaint which was dismissed. However, we do not agree that Mr Csiba is entitled to a 50% reduction. Only one aspect of the complaint was dismissed and despite the dismissal of this aspect, the complaint was upheld. Mr Csiba is entitled to a 20% reduction in costs to account for the dismissal of one aspect of the complaint.
92. However, we also note that Mr Csiba was not entirely cooperative with the Committee's process. He was inconsistent in his responses, and this caused delays in the process. For this, the costs Mr Csiba is ordered to pay increases by 10%.

Naming

93. Public protection is at the heart of disciplinary processes. Naming of engineers' subject to a disciplinary finding supports openness, transparency, and accountability. It is the starting point and will only be inappropriate in a limited number of circumstances where the engineer's privacy outweighs the public interest.
94. Mr Csiba often acts an expert witness in Christchurch. Mr Csiba's lawyer submitted that to lift name suppression would cause Mr Csiba undue hardship as it would impede his ability to act as an expert witness, a significant part of his current practice.
95. Acting as an expert is a complex and important role which carries with it significant responsibility. The public have a right to know the record of the engineers they engage as expert witnesses. The fact that Mr Csiba works predominantly as an expert witness and he may be prevented from doing so if this decision is publicized, does not outweigh the public interest and the need for accountability. This is in line with the principles set out in *Roberts*, particularly protection of the public (including through deterrence of other practitioners from engaging in similar conduct).

SUMMARY OF ORDERS

96. We make the following orders under clause 10.5 of the Engineering New Zealand Rules.
 - a. a fine of \$1,000;
 - b. payment of \$6,000 towards the costs incurred by Engineering New Zealand in inquiring into Mr Csiba's conduct (which is approximately 40% of Engineering New Zealand's total costs of \$15,000);
 - c. an order that, under rule 10.5(d) of the Engineering New Zealand Rules, Mr Csiba must undertake further professional development in being an expert witness by 1 July 2019. If Mr Csiba does not do this by 1 July 2019, his membership will be suspended for a period of six months;

- d. Engineering New Zealand publish the Disciplinary Committee's final decision on this complaint on its website, and Mr Csiba's interim name suppression is lifted.



Jeff Jones FEngNZ

Chair on behalf of the Disciplinary Committee