

## **Board of Professional Engineers of Queensland v N**

This was a prosecution by the Board of Professional Engineers of Queensland (“**Board**”) against **N** (deidentified) in the Magistrates Court of Queensland (“**Court**”). This was the Board’s second prosecution of N.

### **Charges**

Two separate complaints were made against N which contained a total of 14 charges of carrying out professional engineering services when not registered as a registered professional engineer. In addition, there were two charges of failing to attend an interview with the investigator appointed to consider the complaints, and a further three charges of failing to supply documents to the investigator.

### **N’s Background**

N was not registered as a registered professional engineer at any time while undertaking the work the subject of the prosecution.

### **Conduct of N**

In 2007 N entered into an arrangement a registered professional engineer whereby the engineer would supervise and certify the engineering designs produced by N for various clients in exchange for a percentage of each invoiced sum. Over a period of some months, N carried out professional engineering services for a number of clients in relation to 13 properties across Brisbane. The work that N performed for these clients included designing a retaining wall, designing garages and carports, producing engineering drawings for house alterations, performing inspections of bored piers, footings, slabs, and timber framing, and producing designs for a deck. N undertook the engineering work in relation to these properties without the engineer’s knowledge, and fraudulently issued a number of Form 15 Compliance Certificates for building Design or Specification and 16 Inspection Certifications for the unsupervised work affixing the engineer’s scanned signature without the engineer’s knowledge. N took steps to conceal the unsupervised work from the engineer, and denied undertaking work without approval when questioned by the engineer. The engineer subsequently discovered a USB stick belonging to N which contained details of the unsupervised work and fraudulent documents, and subsequently made a complaint to the Board. While investigations were being made by the Board in relation to the unsupervised work, N failed to attend interviews with the Board’s investigator. N also failed to supply documents that were requested by the investigator.

### **What the Court Said**

The evidence before the Court confirmed that (1) N has never been a registered professional engineer; (2) N had engaged the engineer to supervise the work, however none of the services provided in relation to the 13 properties were supervised by the engineer; (3) the works performed by N in relation to the 13 properties were professional engineering services, because they required or were based on engineering principles and data and were not simply provided in accordance with a prescribed standard; and (4) N was given a total of three notices by the appointed investigator which advised that N was required to attend interviews on two occasions, and which required the production of documents on three occasions and despite receiving the notices N failed to attend both interviews, failed to produce the required documents, and offered no reasonable excuse for not complying with the notices.

The Court was satisfied that N had provided professional engineering services while unsupervised at the 13 properties when not registered as a registered professional engineer, and found N guilty of the 14

charges. Further, the Court was satisfied that N had failed to attend interviews with the appointed investigator on two occasions and had failed to produce documents to the investigator on three occasions. As such, the Court also found N guilty of the five charges in this respect.

### **Consequences for N**

In determining the appropriate penalty, the Court took into account a number of factors, including that: (1) N had previously been convicted of similar offences, and had full knowledge that the conduct was not permitted under the Act; (2) N had not been deterred by the fine imposed by the Court for the previous conviction; (3) there is a need to both protect the public by ensuring engineering services are provided by a registered professional engineers in a competent way, and to maintain public confidence in the integrity of the registration system; (4) as an undischarged bankrupt, N's ability to pay a large monetary penalty must be considered; and (5) the total penalty to be imposed upon N must not be crushing.

Taking the above factors into consideration, the Court ordered that N pay a large global penalty for all 19 charges, and recorded a conviction. The Court also ordered that N pay the Board's costs.