



NEWSLETTER

ISSUE 07

JULY 2014

THIS ISSUE:

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2. BOARD OF PROFESSIONAL ENGINEERS V GERALD SHIRTCLIFFE

A WORD OF CAUTION....

THERE SEEMS TO BE A MISAPPREHENSION AMONGST MANY ENGINEERS THAT BY BECOMING AN RPEQ THAT YOU EXPOSE YOURSELF TO MORE LIABILITY THAN IF YOU WERE UNREGISTERED.

The importance of registration as an RPEQ is that it entitles you to use the title RPEQ and to carry out professional engineering services unsupervised. The title RPEQ is also recognition of an engineer's qualifications and competencies but with that recognition also comes responsibilities and obligations. When Parliament enacted the *Professional Engineers Act 2002* (the Act) it recognised the risk to life and financial loss when professional engineering services are provided. These are recognised in the objects of the Act, by having a system of registration and the fact that Parliament provided significant sanctions where offences against the Act are carried out.

I am always available to assist engineers and employers to better understand the obligations imposed by the Act and my contact details are at the end of this newsletter.

My article below is about a very recent case where a Mr Shirtcliffe was prosecuted by the Board of Professional Engineers (Board) for carrying out professional engineering services when he was not an RPEQ, amongst other charges. The penalty imposed by the Magistrates Court in Brisbane was \$500,000 and \$20,000 for legal costs. The penalty of \$500,000 will be paid to Consolidated Funds, not the Board.

BOARD OF PROFESSIONAL ENGINEERS V GERALD SHIRTCLIFFE

ON 15 SEPTEMBER 2012 I READ AN ARTICLE IN THE BRISBANE TIMES TITLED 'FAKE ENGINEER AND A DEADLY BUILDING':

The article alleged that a Mr Shirtcliffe stole the identity of a professional engineer, William Fisher. It alleged that Mr Shirtcliffe used Mr Fisher's Bachelor of Engineering to become a member with Engineers Australia in 1972 as well as using the degree to obtain entry with the University of New South Wales where he undertook a Masters in Engineering.

A search of the Board's records showed that in March 2000 Mr Shirtcliffe also used the degree and name of Mr Fisher to obtain registration with the Board of Professional Engineers as an RPEQ under the name of William Fisher. Mr Shirtcliffe never changed his name by deed poll to William Fisher.



BOARD OF PROFESSIONAL ENGINEERS V GERALD SHIRTCLIFFE (CONTINUED)

I advised the Board of the article and the Board resolved on 17 September 2012 to commence an investigation. IDS Group was instructed to obtain information regarding the allegations made against Mr Shirtcliffe in the Brisbane Times. Those enquiries extended to New Zealand, England as well as Australia.

IDS Group located Mr Fisher in England who provided a statement to IDS Group saying that he held a Bachelor of Engineering in Civil and Structural Engineering from the University of Sheffield (1967) (which was the degree relied upon by Mr Shirtcliffe to obtain registration) and he could produce a copy of the degree. Mr Fisher stated that he met Mr Shirtcliffe in Pretoria when they both worked at a consulting engineers firm. Mr Fisher was employed as a graduate engineer and he said that Mr Shirtcliffe was employed as a junior technician. Mr Fisher and Mr Shirtcliffe shared a flat for 6-8 months in Pretoria. Mr Fisher returned to the UK to get married in 1969 and upon his return to Pretoria discovered that his degree from the University of Sheffield was missing and he never found it again.

Mr Fisher has never resided or worked in Australia or New Zealand but has visited both countries on holiday.

The Board cancelled Mr Shirtcliffe's registration as an RPEQ called William Fisher on 19 December 2012.

The Board has subsequently been advised that Engineers Australia cancelled Mr Shirtcliffe's registration in 2012. On 20 November 2012 The University of New South Wales revoked the degree of Master of Engineering Science in Highway Engineering awarded to William Fisher on 17 April 1974.

At the completion of the investigation the Board commenced proceedings against Mr Shirtcliffe in the Magistrates Court in March 2013 for the following breaches of the *Professional Engineers Act 2002*:

- a. 104 offences for carrying out professional services when he was not an RPEQ;
- b. 8 offences for making false or misleading statements to the Board;
- c. 17 offences for holding himself out to be an RPEQ when he was not an RPEQ;
- d. 3 offences for allowing himself to be held out as an RPEQ when he was not an RPEQ;
- e. 14 offences for using the title RPEQ when he was not entitled to use the title RPEQ.

Due to time limitations under the Act these were the only offences for which Mr Shirtcliffe could be charged but Mr Shirtcliffe did work for many years in Australia.

Mr Shirtcliffe pleaded guilty in the Magistrates Court to the offences listed above on the 16th of June 2014. A statement of facts was agreed to by Mr Shirtcliffe and the Board which was presented to and accepted by the Court.

In the agreed statement of facts Mr Shirtcliffe agreed, amongst other things, to the following:

1. That in or about 1969 Mr Shirtcliffe took or came in to the possession of the original of Mr Fisher's degree.
2. That Mr Shirtcliffe was never awarded a Bachelor's degree in engineering.
3. Mr Shirtcliffe at no time has been a registered professional engineer of Queensland pursuant to the Act.

It was noted by the Magistrate that whilst Mr Shirtcliffe was registered as an RPEQ called William Fisher that he carried out "*significant and complicated professional engineering services with respect to large coal projects, mining projects and civil infrastructure projects, ..coal handling and preparation plant, bulk earthworks, haul routes, ..construction pads, stormwater design, drainage, erosion, heavy plant, ventilation, tailings... Any deficiency in the engineering calculations... could have very serious consequences in terms of injury to persons, damage to property and... failure of the projects concerned.*"

The Magistrate also stated to Mr Shirtcliffe:

"You knew you were not entitled to be registered. You allowed yourself to be held out as a registered professional engineer and you used that title. .and in seeking to renew your registration you made false and misleading statements to the Engineer's Board... you failed to disclose that you were not awarded a Bachelor of Engineering degree that you relied upon in seeking registration."

Mr Shirtcliffe also failed to declare to the Board when he renewed his registration as an RPEQ that he had a conviction for an indictable offence and that he had been adjudicated bankrupt. Every year when RPEQ's renew their registration there is fitness to practice questions which must be completed truthfully.

Around April 2005 Mr Shirtcliffe was convicted in New Zealand on seven counts of using a document capable of being used to obtain a pecuniary advantage with intent to defraud, with each count relating to a separate IRD GST return presented to the buyer of the business.



BOARD OF PROFESSIONAL ENGINEERS V GERALD SHIRTCLIFFE (CONTINUED)

These were indictable offences and should have been declared to the Board.

Mr Shirtcliffe was adjudicated bankrupt around February 2006 and again he failed to disclose that to the Board when renewing his registration. The failure to declare the bankruptcy and the conviction were false and misleading statements made to the Board.

MEET AND GREET THE BOARD – GLADSTONE 9 THURSDAY OCTOBER 2014

In about 4 weeks' time invitations to a 'meet and greet' the Board will be sent to all RPEQ's who live in Gladstone and surrounding areas. It will be held at the Oaks Grand Hotel from 5.30pm–7.30pm on Thursday 9 October. Wine, beer and soft drink will be provided. This will be an excellent opportunity to meet the Board and we hope all Gladstone RPEQ's will be able to attend.

A NOTE FROM THE REGISTRAR...

*I hope this issue of our Newsletter has been of interest to you and if you have anything you would like to see in future newsletters please do not hesitate to contact me. I regularly undertake presentation on the Professional Engineers Act and its requirements to various organisations and to groups ranging from 5 persons to over 100. If you are interested in a presentation please contact the Registrar:
**Clare Murray on (07) 3198 0008 or
email clare.murray@bpeq.qld.gov.au.***

APPOINTMENT OF PROFESSIONALS AUSTRALIA AS AN ASSESSMENT ENTITY FROM 1 AUGUST 2014

The Minister of Housing and Public Works has appointed Professionals Australia as an assessment entity for a period of 3 years commencing 1 August in the following areas of engineering:

- Mechanical
- Electrical
- Structural
- IT &T
- Civil
- Management

Professionals Australia will be assessing non-members for RPEQ in addition to members of Professionals Australia. A link will be placed on our website later this week for those people who wish to apply to Professionals Australia for assessment.

MEET AND GREET- TOOWOOMBA THURSDAY 6 NOVEMBER

The Board has decided to hold an additional meet and greet this year and it will be held in Toowoomba on Thursday 6 November. Full details will be sent out in September but all RPEQ's in Toowoomba and surrounding areas will be invited to a function on Thursday 6 November from 5.30–7.30pm.

WE ARE MOVING!

The Board is moving to Level 15,
53 Albert Street, Brisbane from 4 August 2014.

Please note our **new** telephone numbers:

| | |
|----------------------------------|----------------|
| Reception: | (07) 3198 0000 |
| Registrar: | (07) 3198 0008 |
| Registrar's Executive Assistant: | (07) 3198 0004 |
| Assistant Registrar: | (07) 3198 0002 |
| Senior Legal Officer: | (07) 3198 0006 |

Our postal address and all email addresses will be unchanged.

T 07 3198 0000 E admin@bpeq.qld.gov.au

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Po Box 15213 CITY EAST QLD 4002

This newsletter is provided for general information only. It is not legal advice and should not be taken or relied upon as such. If you have any questions or concerns about your compliance with the Professional Engineers Act 2002 (Qld) or your general legal obligations as an engineer, you should obtain appropriate legal advice. The Board accepts no legal responsibility or liability for any loss you may suffer as a result of reliance upon the information contained in this newsletter.