

DISCIPLINE DECISION Mr. Jansky Tak Choi Lau

IN THE MATTER OF the Surveyors Act, R.S.O. 1990,
Chapter S.29, as amended

AND IN THE MATTER OF Jansky Tak Choi Lau, O.L.S.

AND IN THE MATTER OF a Disciplinary Hearing
of the Discipline Committee of the Association of
Ontario Land Surveyors held in accordance with
Sections 26 and 27 of the said Act

Order and Reasons

This Panel of the Discipline Committee convened on September 12th, 2017. The Member was self-represented and was present at the hearing. The Association was represented by Mr. Izaak de Rijcke, Counsel; both Mr. de Rijcke and the Association Registrar, Mr. Bill Buck, were also present. The Panel was assisted by Independent Legal Counsel, Carol Street.

On convening, the Panel was advised that the parties proposed to proceed by way of a guilty plea to all allegations by Mr. Lau, O.L.S, followed by a Joint Submission with respect to what the parties jointly proposed was an appropriate penalty for consideration by the Panel. The Joint Submission was subsequently marked as Exhibit 9.

Some of the facts and the allegations against Mr. Lau were set out in Schedule A to the Notice of Hearing, marked as Exhibit 1 by the Panel. The Panel heard submissions from Mr. de Rijcke with respect to the facts and proposed penalty, and while the Member stated his agreement with those facts and proposed penalty, the Panel was not provided with an Agreed Statement of Facts signed by the Member.

The Panel recessed to consider whether it was prepared to accept Mr. Lau's plea of guilt to all of the allegations after which it reconvened and questioned the Member for further clarification of the facts.

The Panel gave due consideration to the facts as submitted and as clarified and advised the parties that it was prepared to accept the Member's guilty plea to paragraph's 4, 7 and 8 of the Allegations set out in Schedule A to the Notice of Hearing (Exhibit 1). On behalf of the Association, Mr. de Rijcke confirmed that it was prepared to withdraw the allegations set out in paragraphs 5 and 6 of Schedule A.

For clarity, the Panel therefore accepted the Member's plea of guilt and found him guilty of the following allegations:

4. The Member failed to comply with the *Code of Ethics* of the AOLS in that he was out of the country between May 2016 and September 2016 during which period he was not supervising the cadastral surveying services of Frontop Surveying Inc., contrary to Section 34(2)(a) of Regulation 1026 (the Standards of Practice) which is contrary to Section 33(2)(b) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended;
7. The member committed acts of professional misconduct in that he acted as an agent of a person who is not a professional member of the AOLS so as to enable him to offer professional surveying services to the public, contrary to Section 34(2)(e) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Standards of Practice* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended;
8. The member committed acts of professional misconduct in that he failed on several occasions to comply with written requests from both the AOLS Survey Review Department and the Registrar within the time specified in the requests, contrary to Section 34(2)(g) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Standards of Practice* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.

The Joint Submission (Exhibit 9) was amended to reflect the withdrawal of the allegations in paragraphs 5 and 6 of Schedule A, and to make it clear that the Member was pleading guilty to paragraphs 4, 7 and 8. The Panel considered the penalty jointly proposed by the parties and after a thorough discussion agreed that what was proposed was appropriate and in the public interest.

Pursuant to paragraph 4 of the Joint Submission the Member was reprimanded by the Panel, and pursuant to paragraph 7, the allegations set out in paragraphs 4, 7 and 8 of Schedule A as set out above, the contents of the Joint Submission as amended, and this Order and Decision shall be published in the next issue of The Ontario Professional Surveyor magazine and on the Association website. The amended Joint Submission is also attached hereto as Appendix A.

This Order may be signed in counterparts.

Terry Dietz, O.L.S.
Julia Meldrum Smith, O.L.S.
Rick Miller, O.L.S.
Douglas Hunt, O.L.S.
Patricia Meehan,
Lieutenant-Governor Appointee

APPENDIX 'A'

IN THE MATTER OF the Surveyors Act, R.S.O, 1990
Chapter S.29

AND IN THE MATTER OF Jansky Tak Choi Lau, O.L.S.,

AND IN THE MATTER OF a Disciplinary Hearing of
The Discipline Committee of the Association
of Ontario Land Surveyors held in accordance
With sections 26 and 27 of the said Act

JOINT SUBMISSION TO DISCIPLINE PANEL
ON CONSENT OF ALL PARTIES

WHEREAS the Association of Ontario Land Surveyors (“AOLS”) has commenced proceedings under the *Surveyors Act* against one of its members, namely, Jansky Tak Choi Lau, OLS, for professional misconduct;

AND WHEREAS AOLS has specified and made allegations in respect of the member which have been acknowledged and admitted by the member for purposes of making a finding of guilt on the part of the Discipline Committee.

AND WHEREAS AOLS and the member are now desirous of making a Joint Submission as to penalty and disposition by the Discipline Committee pursuant to the *Surveyors Act*;

THE PARTIES, on a consent basis, hereby agree to dispose of this matter before a panel of the Discipline Committee by way of a joint resolution on the following terms:

1. The Member represents to the Association of Ontario Land Surveyors and the Discipline Panel that, before entering into this agreement, he has been advised to obtain independent legal advice as to the consequences of signing same, that the Member has either obtained independent legal advice or he has voluntarily waived his right to obtain independent legal advice knowing the consequences of signing same and that the Member is doing so voluntarily and without undue influence or pressure from anyone.
2. The Member pleads guilty to the charges and allegations of professional misconduct against the Member (the “Charges”) as alleged, as set out in paragraphs 4, 7, 8 of Sch. A to Exhibit 1.
3. The Member’s Licence shall be suspended for a period of one year from September 12, 2017, such suspension to be deferred for a period of one year.

4. The Member shall be reprimanded and the reprimand will be recorded on the Register of the Association.
5. The Member engage in the practice of professional surveying only under the personal supervision and direction of another member.
6. The member will not be the managing Ontario Land Surveyor for any Certificate of Authorization company or a branch office of any Certificate of Authorization company for a period of three years.
7. The publication of the summary of allegations leading to this proceeding, as well as the contents of the Joint Submission, shall be published in the Ontario Professional Surveyor Magazine and posted on the Association website.
8. The Member shall pay to the Association the sum of \$10,000.00 for costs. This amount may be paid in installments but in any case will be fully due and payable no later than one year from the date of this agreement. Should the member's licence be terminated for any reason full payment of these costs will be required as a condition of the reinstatement of the member's licence. Should full payment not be received within the above period the member's licence will be cancelled.
9. The Member and the Association acknowledge and agree that this Joint Submission document has been prepared by both parties and reflects a fair disposition of this matter, under all of the circumstances. In the event the Discipline Panel does not adopt this Joint Submission document as a basis for making its determination, finding, and disposition, the parties agree that this matter will then continue on the basis of a full hearing before a Discipline Panel on a date to be fixed by the Discipline Committee and that same shall proceed on the basis of all of the allegations set out in the Notice dated 6 July 2017.

Dated this 12th day of September, 2017

SCHEDULE "A"
ALLEGATIONS OF PROFESSIONAL MISCONDUCT

CANADA)	IN THE MATTER OF the <i>Surveyors Act</i>
)	R.S.O. 1990, Chapter S.29, as revised.
)	
PROVINCE OF)	AND IN THE MATTER OF Jansky Tak Choi Lau, O.L.S.
ONTARIO)	AND IN THE MATTER OF a Disciplinary Hearing
)	of the Discipline Committee of the Association of Ontario

) **Land Surveyors held in accordance with sections 26 and 27**
) **of the said Act.**

I, WILLIAM D. BUCK, O.L.S., C.L.S., P. ENG., of the City of Markham, in the Region of York, am the Registrar of the Association of Ontario Land Surveyors.

1. The Council of the Association of Ontario Land Surveyors (AOLS) pursuant to Section 25(7)(a) of the *Surveyors Act*, by a Motion dated May 9, 2017, directed that Mr. Jansky Tak Choi Lau be referred to the Discipline Committee.
2. It is alleged that Jansky Tak Choi Lau, O.L.S. (herein referred to as “Mr. Lau”), in his personal capacity, and as the official representative for the firm Frontop Surveying Inc., Ontario Land Surveyors (Frontop) is guilty of professional misconduct within the meaning of Section 35 of Regulation 1026, R.R.O. 1990, as amended.
3. The particulars of the allegations in paragraph 2 above are as follows:

(a) On March 29, 2016 the AOLS Survey Review Department (SRD) sent Mr. Lau a letter requesting Frontop’s Plan Log, which is the first step in the Comprehensive Review process. This log was due on April 12, 2016 however Mr. Lau requested and was granted an extension to May 24, 2016. He was subsequently granted another extension to May 31, 2016, however no plan log was received by the SRD. On or about June 27, 2016 Mr. Frank Feng, P. Eng., an employee of Frontop Engineering and a Director of Frontop Surveying Inc. advised the SRD that Mr. Lau had gone to Hong Kong regarding a family issue. On June 28, 2016 Frontop placed an order for 30 Plan Submission Forms, and on September 15, 2016 Frontop placed another order, at which time SRD advised the Registrar about the situation, noting that a recent email to Mr. Lau had been re-routed from the Frontop address to his personal email address and that the Frontop Plan Log was still outstanding.

(b) On or about September 15, 2016 the Registrar emailed Mr. Lau expressing his concern that Mr. Lau had not been properly supervising Frontop’s cadastral surveys and asking him to respond to these concerns by September 19, 2016. Mr. Lau responded to the Registrar by email on September 19, 2016, stating that he would “... try to arrange to be back this week.” On or about October 6, 2016, having heard nothing from Mr. Lau the Registrar emailed him again, stating that he was going to suspend the Frontop Certificate of Authorization (C of A). Mr. Lau responded by email that day, stating that he was back in the country and hadn’t made it into the office due to a serious family issue, but that he would be in the office next week. On October 25, 2016 SRD advised the Registrar that they had still not received anything from Mr. Lau. On October 28, 2016 the Registrar emailed and mailed a letter to Mr. Lau notifying him that the Certificate of Authorization for Frontop Surveying Inc. was suspended effective immediately.

(c) On or about January 26, 2017 the Registrar received a call from Ms. Ashley McPherson, a member of the public who was concerned about a Surveyor’s Real

Property Report (SRPR) that had been prepared for her by Frontop. She related that she had tried to speak with Mr. Lau to ask him to stake out her property line but that she had been unable to reach him. After she pressed the issue with Frontop they gave her Mr. Lau's cell phone number. When she reached him on the phone he admitted that he was out of the country and would be back "next week." This directly contradicted Mr. Lau's emails to the Registrar on January 20 and 26, 2017 in which he implied that he was in the country but that he couldn't schedule a time to deliver his SRD information to the AOLS office.

(d) Based on Ms. McPherson's information and the events of the previous few months the Registrar instituted a Registrar's Investigation of Mr. Lau, and on February 9, 2017 hand delivered a letter to both Mr. Lau and Mr. Feng advising them that he was commencing an investigation under Section 30 of the *Surveyors Act*.

(e) On December 1, 2016 the Registrar received a letter from Mr. Feng informing him that Frontop had hired Mr. Djordje Petrovic, O.L.S. to be their managing OLS. On that basis, and after speaking with Mr. Petrovic, the Registrar reinstated the Frontop C of A. Less than two weeks later, on December 12, 2016 Mr. Petrovic visited the Registrar's office and informed him that his employment with Frontop had been terminated without notice that morning. As Frontop no longer appeared to have a managing OLS the Registrar advised Frontop on December 12, 2016 that their C of A was cancelled immediately.

(f) On or about February 9, 2017 the Registrar and Mr. Herman Bernardo, an employee of the AOLS Survey Review Department, visited the offices of Frontop Surveying Inc. and met with Mr. Lau in his office. During this meeting Mr. Lau admitted that he had been out of the country from May 2016 to September 2016 and that during this period he had only been checking plans that were sent to him electronically. He also admitted that the signatures on his plans had been added electronically. He stated that he had no knowledge of Ms. McPherson's SRPR, and that he had no first-hand knowledge of why Mr. Petrovic's employment had been terminated. Mr. Bernardo and the Registrar left Mr. Lau's office with several cadastral job files, however these were incomplete, containing no field notes or correspondence. In spite of repeated emailed requests to Mr. Lau (February 16, 2017, March 13, 2017, March 23, 2017, April 12, 2017) he did not submit the missing materials. Mr. Feng did send a few pages of field notes on April 18, 2017 but maintained that there was no correspondence. The Registrar received no response from Mr. Lau.

(g) The Registrar has examined 15 SRPR's issued by Frontop during the period between July 12, 2016 and September 15, 2016 that appear to have been signed by Mr. Lau and the signatures on these plans are all identical and appear to have been added electronically and do not appear to be original signatures.

4. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he was out of the country between May 2016 and September 2016 during which period he was not supervising the cadastral surveying services of Frontop

Surveying Inc., contrary to Section 34(2)(a) of Regulation 1026 (the Standards of Practice) which is contrary to Section 33(2)(b) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.

5. It is alleged that the member has committed acts of professional misconduct in that he signed projects that were not prepared under his supervision, contrary to Section 35.6 of Regulation 1026.
6. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he signed survey plans which did not comply with all relevant legislative requirements and all standards of the Association, which is contrary to Section 33(2)(f) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
7. It is alleged that the member has committed acts of professional misconduct in that he acted as an agent of a person who is not a professional member of the AOLS so as to enable him to offer professional surveying services to the public, contrary to Section 34(2)(e) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Standards of Practice* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
8. It is alleged that the member has committed acts of professional misconduct in that he failed on several occasions to comply with written requests from both the AOLS Survey Review Department and the Registrar within the time specified in the requests, contrary to Section 34(2)(g) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Standards of Practice* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.

Dated at Toronto, Ontario, this 6th day of July, 2017.