



BPC 2002

Perit Anthony Mangion

Professional Conduct Decision

04/04/2025

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**Kamra
tal-Periti**

Investigation

The Council of the Kamra tal-Periti, upon learning of media reports about the incident that occurred on 2nd March 2020 leading to the tragic demise of Ms Miriam Pace in Triq Joseph Scolaro Hamrun, immediately opened an investigation to establish whether a perit had acted in a manner which violated the parameters set by the Periti Act, Cap. 390, Article 15 (a), and Subsidiary Legislation 390.01 regulation 5, including:

- a) Dishonesty, misconduct, or gross negligence in the exercise of his profession;
- b) Conduct discreditable to the profession;
- c) Failure to comply with regulations with respect to professional standards or practices.

The Council began its investigation by firstly reviewing all publicly available official documentation accessible on the Planning Authority's online planning portal, including the permit drawings, the site management responsibility summary form at Red 173d, the demolition method statement at Red 173f, and the excavation method statement at Red 173g.

It was noted that the site technical officer (STO) of the project was Perit Anthony Mangion (the Respondent) and that a magisterial inquiry had been opened to gather all the evidence and investigate the incident.

On 3rd February 2021, the Council of the Kamra tal-Periti wrote to the Office of the Attorney General (AG) requesting a copy of the magisterial inquiry so it may proceed with the Council could proceed with its investigations. The request was rejected by the AG on 8th February 2021 as the magisterial inquiry documentation had been meanwhile filed into the acts of the criminal case.

The Council filed an application with the Court of Magistrates on 26th February 2021 stating:

“Illi l-esponent għan-nom tal-Kamra tal-Perit ikkomunika mal-Avukat Ġenerali permezz ta' ittra datata 3 ta' Frar 2021 sabiex jingħata aċċess għall-inkjesta għar-raġuni hawn fuq imfissra iżda l-

Avukat Ġenerali wieġeb li l-inkjesta indikata ġiet esebita fil-kawza u għaldaqstant hija parti integrali mill-Atti tal-Kumpilazzjoni u b'hekk ma ingħatax aċċess lill-esponent.

“Illi l-esponent jifhem li n-natura ta’ inkjesta hija waħda sensittivita iżda ta’ rilevanza nazzjonali u ta’ rilevanza għall-Kamra tal-Periti li qegħda tagħmel l-investigazzjoni tagħha abbażi tal-Att dwar il-Periti, Kap 390. Għalhekk l-esponent qiegħed jintavola dan ir-rikors sabiex titlob l-Qorti ittih l-aċċess meħtieġa.

“Għaldaqstant l-esponent għan-nom tal-Kamra tal-Perti jitlob lil din l-Onorabbli Qorti sabiex tagħti aċċess għall-inkjesta imsemmija lill-membri tal-Kunsill tal-Kamra tal-Periti u dan sabiex jiehdu informazzjoni rilevanti mill-istess inkjesta u dana taħt kull provvediment li din l-Qorti jidhirlha xierqa u opportuna.”

The AG objected to the Council’s afore-mentioned application on 1st March 2021, stating the following:

“Illi l-esponent ġie notifikat bir-rikors promotur nhar is-sitta u għoxrin (26) ta’ Frar tas-sena elfejn u wieħed u għoxrin (2021) bi tmienja u erbgħin siegħa żmien għal risposta.

“Illi permezz tar-rikors promotur, ir-rikorrent il-Perit Andre Pizzuto għan-nom tal-Kamra tal-Periti qiegħed jitlob lil din l-Onorabbli Qorti sabiex jingħata aċċess għall-inkjesta magisterjali, li tinsab eżebita fl-atti tal-kumpilazzjoni fl-ismijiet fuq premissi. Illi r-rikorrent qiegħed jibbaża t-talba tiegħu fuq il-ħtieġa li l-membri tal-Kunsill tal-Kamra tal-Periti jiehdu informazzjoni rilevanti mill-

istess inkjesta u dan ai fini tal-investigazzjoni li qeghda tiġi kondotta ai termini tal-Att dwar il-Periti, Kapitolu 390 tal-Liġijiet ta' Malta.

“Illi l-esponent jirrelewa fl-ewwel lok li ai termini tal-Artkolu 518 tal-Kodiċi Kriminali, Kapitolu 9 tal-Liġijiet ta' Malta, l-atti u d-dokumenti ta' ġustizzja kriminal ma jistgħu jintwerew lil hadd, lanqas ma jistgħu jingħataw kopji tagħhom, mingħajr permess speċjali tal-Qorti, hlief lill-Avukat Ġenerali, lill-partijiet fil-kawża jew lill-avukat jew prokuratur legali li jkun awtorizzat mill-istess partijiet. Illi għaldaqstant il-kopji mitluba mir-rikorrent f'dan il-każ jistgħu jingħataw biss bil-permess speċjali ta' din l-Onorabbli Qorti.

“Illi fit-tieni lok, l-esponent jirrelewa li r-rikorrent qiegħed jagħmel it-talba tiegħu hekk kif dedotta fir-rikors promotur, sabiex il-membri tal-Kunsill tal-Kamra tal-Periti jieħdu l-informazzjoni rilevanti mill-istess inkjesta. Illi madana kollu l-esponent ifakkar li l-inkjesta maġisterjali in kwistjoni appart li hija ta' natura sensittiva hekk kif indikat mill-istess rikorrent, hija inkesta ferm voluminuża li tikkontjeni r-relazzjonijiet ta' diversi esperti fosthom esperti mediċi, id-depożizzjoni ta' terzi persuni, anke pajżana, stqarrijiet mogħtija lill-Pulizija, kif ukoll informazzjoni oħra li appart min-natura ferm sensittiva tagħha tikkonċerna mhux bixx lil-Periti Roderick Camilleri u Anthony Mangion, iżda ukoll liż-żewġ imputati l-oħra li ma humiex Periti, u li l-każ tagħhom għadu ukoll *sub judice*.

“Illi għaldaqstant in vista tar-raġunijiet suesposti, l-esponent jogħezzjona għat-talba tar-rikorrent hekk kif dedotta fir-rikors promotur.”

In its decree of 11th March 2021, the Court of Magistrates rejected the Council's application.

Almost four months later, the Council took note of the judgement of Magistrate Joseph Mifsud of 1st July 2021, finding the Respondent guilty on all four criminal charges brought against him, namely:

“1. B’nuqqas ta’ hsieb, bi traskuragni, jew b’nuqqas ta’ hila fl-arti jew professjoni tagghom, jew b’nuqqas ta’ tharis ta’ regolamenti, ikkagunaw il-mewt ta’ Maria Assunta Pace, detentrici tal-karta tal-identita’ Maltija bin-numru 0167165M.

“2. U aktar talli fl-istess data, hin, lok u cirkostanzi, u fil-gimghat ta’ qabel, b’nuqqas ta’ hsieb, bi traskuragni jew b’nuqqas ta’ hila fl-arti jew professjoni tagghom jew b’nuqqas ta’ tharis ta’ regolamenti, ikkagunaw hsarat jew hassru jew gharrqu diversi proprjetajiet u/jew oggetti ohra ghad-dannu ta’ Carmelo Pace, Maria Assunta Pace, Carmel Pace, David Zerafa, Rosaria Zerafa, John Sammut, Grace Sammut, Joseph Sammut, il-kumpanija maghrufa bhala ‘Edu Centre Limited’, u/jew diversi persuni ohra.”

The Council wrote to the AG on 21st July 2021 asking whether the judgement was final or whether an appeal had been filed. In its reply of 27th July 2021, the AG declined to provide this information stating that it was not public information.

The Council wrote again to the AG on 25th August 2021, stating the following:

“Nirreferi għar-risposta tiegħek ddatata 27 ta’ Lulju, 2021, għall-ittra tiegħi.

“Artiklu 518 tal-Kodiċi Kriminali jgħid hekk:

518. L-atti u d-dokumenti tal-qorti ta' ġustizzja kriminali ma jistgħu jintwerew lil hadd, lanqas ma jistgħu jingħataw kopji tagħhom, mingħajr permess speċjali tal-qorti, flief lill-Avukat Ġenerali, lill-partijiet fil-kawża jew lill-avukat jew prokuratur legali li jkun awtorizzat mill-istess partijiet; imma dawk l-atti kollha li jkunu nqraw fil-qorti bil-miftuħ, jista' jarahom kull min irid u jistgħu jingħataw kopji tagħhom, bil-ħlas tad-dritt soltu:

Iżda proċessi verbali u kull xieħda u dokumenti mdaħħlin magħhom għandhom jintwerew, u kopji tagħhom jingħataw, biss fid-diskrezzjoni tal-Avukat Ġenerali u bil-ħlas ta' dawk id-drittijiet li jistgħu jiġu stabbiliti mill-Ministru responsabbli għall-ġustizzja skont l-artikolu 695” [ENFASI MIŻJUDA]

“Huwa ċar għaldaqstant illi l-Uffiċċju tiegħek għandu s-setgħa diskrezzjona li juri u jagħti kopji tal-proċessi verbali u tax-xieħda u dokumenti li jinsabu fihom.

“B'riferenza għall-aħħar linja fl-ittra tiegħek, nixtieq niġbidlek l-attenzjoni li l-Kamra tal-Periti mhix “il-pubbliku” – iżda hija organu rikonoxxut mil-liġi u mogħti poteri investigattivi u kważi-ġudizzjarji skond l-Att dwar il-Periti, Kap 390. Għalhekk, il-Kamra tal-Periti ma tistax titqiegħed fl-istess keffa tal-pubbliku in ġenerali.

“F'każ li t-talbiet għal informazzjoni fl-ittra tiegħi tal-21 ta' Lulju 2021, kif ukoll fl-ittra mibgħuta mill-avukat tagħna fit-3 ta' Frar, 2021, jibqgħu ma jiġux milqugħa, il-Kamra tal-Periti ma jkollhiex alternattiva flief li tasal għall-konklużjoni li l-Avukat Ġenerali mhix tikkoopera fl-iżvolġiment ta' proċeduri investigattivi skond il-Liġijiet ta' Malta.”

In its reply of 18th October 2021, the AG stated that the Kamra tal-Periti should make its request to the Criminal Appeals Court.

The Council, based on legal advice, decided to pause its investigation to await the outcome of the appeal proceedings before filing further applications with the Courts.

The Council took note of the judgement of the Criminal Court of Appeal presided by Justice Aaron Bugeja dated 28th July 2022, wherein it confirmed the convictions on all four criminal charges brought against the Respondent, partially altering the penalty.

On 2nd August 2022, the Council requested once again access to the *procès-verbal* pursuant to the first proviso of Article 518 of the Criminal Code so the Council of the Kamra tal-Periti could proceed with the disciplinary processes being undertaken in accordance with regulation 5 of Subsidiary Legislation 390.01.

The AG responded on 3rd August 2022, inviting the Council to file an application for the requested documentation with the Criminal Appeals Court.

The Council filed an application with the Criminal Appeals Court on the same date, namely 3rd August 2022, stating the following:

“Illi l-esponent huwa l-President tal-Kamra tal-Periti u qed iressaq dan ir-rikors in rappreżentanza tal -istess Kamra.

“Illi l-Kamra, skont il-funzjonijiet u s-setgħat mogħtija lilha bil-liġi, senjatament Att dwar il-Periti, Kap 390 u l-Legislazzjoni Sussidjarja 390.01, qiegħda twettaq investigazzjoni u proċess ta’ dixxiplina fil-konfront tal-periti akkużati f’dawn il-proċeduri, liema investigazzjoni u proċess ta’ dixxiplina kienu qed jistennew l-eżitu tal-appelli kriminali fuq ċitati.

“Illi wara li ġew deċiżi l-appelli nhar it-28 ta’ Lulju, 2022, l-esponenti nomine talab permezz ta’ email lill-Uffiċċju tal-Avukat Ġenerali sabiex jingħata aċċess b’urġenbza għall-proċès-verbal tal-inkjesta maġisterjali, skont l-Artiklu 518(1) tal-Kodiċi Kriminali, u dan sabiex il-Kamra tal-Periti tkun tista’ twettaq dmirha skont il-liġi u tissokta bil-proċeduri ta’ dixxiplina.

“Illi l-Uffiċċju tal-Avukat Ġenerali wieġeb li l-inkjesta indikata ġiet esebita fl-appelli fuq imsemmija u għalhekk hija biss il-Qorti li tista’ tagħti aċċess għall-proċes verbal tal-inkjesta.

“Illi minhabba li n-natura ta’ tali inkjesta hija ta’ rilevanza nazzjonali u ta’ rilevanza għall-Kamra tal-Periti li qegħda tagħmel l-investigazzjoni tagħha skont il-liġi, qed jiġi intavolat dan ir-rikors.

“Għaldaqstant l-esponent għan-nom tal-Kamra tal-Periti jitlob lil din l-Onorabbli Qorti sabiex tagħti aċċess għall-proċes verbal tal-inkjesta imsemmija kif ukoll, jekk ikun il-każ, għal dokumenti oħra li jiffurmaw parti mill-proċess tal-appell, lill-membri tal-Kunsill tal-Kamra tal-Periti u dan sabiex

jieħdu informazzjoni rilevanti mill-istess inkjesta u dana taħt kull provvediment li din l-Qorti jidhirlha xierqa u opportuna.”

The Criminal Appeals Court presided by Justice Aaron Bugeja decreed in favour of the Council’s application on 25th August 2022 on the following grounds:

- 1. Din il-kawza hija *res judicata* fil-konfront ta` Roderick Camilleri u Anthony Mangion;**
- 2. It-talba qed issir minn Enti li hija fdata mil-Ligi bil-harsien tad-dixxiplina fir-rigward ta` Periti;**
- 3. Stante li kwalunkwe procedura li tista` tkun mehuda mir-rikorrent bl-ebda mod ma tista` tolqot il-proceduri pendenti kontra terzi persuni, stante li dawn m’humix Periti;**
- 4. Li fi kwalunkwe kaz il-meriti tal-vertenzi rispettivi huma differenti; l-kawza pendenti bl-ebda mod ma tista` tintrabat mal-meritu tal-proceduri msemmija mir-rikorrenti; u fi kwalnumkwe kaz ir-rikorrenti tista` tistharreg il-vertenza biss dwar il-Periti li kienu suggetti għall-proceduri konkluzi definittivament quddiem din il-Qorti; u l-ezitu tal-istharrig tar-rikorrenti huwa guridikament distint u separat minn dak li jrid isir fir-rigward tar-terzi li għad iridu jghaddu guri;**
- 5. Hemm il-htiega li biex ir-rikorrenti tkun tista` taqdi sewwa d-dmirijiet statutorji tagħha jkollha l-istampa kollha cara bl-evidenza kollha – dik favur u dik kontra Roderick Camilleri u Anthony Mangion;**

On 26th August 2022, the Respondent appealed the decree authorising the release of the *procès-verbal* to the Council of the Kamra tal-Periti. In its reconsideration, the Criminal Court of Appeal decreed on 5th September 2022 that the appeal should be rejected and that the Council should have access to all the documents it had requested, on the following grounds:

“Stante li l-Kamra tal-Periti:

- (a) għandha rwol statutorju x'taqdi fl-ambitu deontoloġiku tal-professjoni tal-Periti li jmur lil hinn mill-aspetti ta' natura penali decizi mill-Qorti tal-Maġistrati (Malta) u riveduti minn din il-Qorti; u**
- (b) liema rwol jista jeħtieġ stħarriġ t'aspetti oħra tal-imġieba tal-Periti CAMILLERI u MANGION li l-ġudikat penali ma daħalx fihom in kwantu mhux il-forum kompetenti; u li**
- (c) meta tiġi biex tevalwa din l-imġieba tal-Periti CAMILLERI u MANGION b'mod sħiħ u komprensiv fil-parametri ta' dak li tippermettilha l-Liġi, il-Kamra għandu jkollha vizibilita sħiħa tal-fatti kollha f'dan il-każ : kemm kontra daqs-kemm dawk favur l-istess Periti, nonche l-kuntest li fihom dawn il-fatti seħħew.”**

The *procès-verbal* was collected from the Court Registrar on 23rd September 2022.

The Council reviewed all the documentation and on 26th September 2022 determined that there were sufficient grounds on a *prima-facie* basis to proceed with formal conduct hearings in the presence of the Respondent, and to provide the same Respondent with the right to exculpate himself in line with the Periti Act, Cap. 390, and subsidiary legislation.

Evidence

The Council of the Kamra tal-Periti held five conduct hearings during which the Respondent, Professor Alex Torpiano, Perit Roderick Camilleri, Dr Arthur Azzopardi, Dr Mario Buttigieg, Mr Jesmond Muscat, and Mr Keith Cutajar testified under oath.

The hearings were held on 10/10/2022, 27/03/2023, 29/01/2024, 27/05/2024, and 24/06/2024.

Minutes and transcriptions of the hearings were prepared and circulated to the parties.

The Respondent sought permission from the Criminal Court of Appeal to retrieve a copy of the criminal case file and present it to the Council of the Kamra tal-Periti. This request was granted by the Court.

The delay between the second and third hearing was due to the Court Registrar delaying the execution of the Court decree to make the documents available to the Respondent.

Below is a summary of the evidence material to the professional conduct procedures pursuant to the Periti Act:

1. First-hand testimony of Respondent

The Respondent testified under oath before the Council on the merits of this case for the very first time. It was noted that he previously exercised his right to remain silent and not incriminate himself as provided by the ECHR and the Constitution.

The testimony given to the Council was very valuable to understand the following points:

1. Was he being involved by the project team?
2. Was he aware of the timelines, milestone, decisions, and details of the project?
3. Was he aware of his role as STO?

2. Involvement in project

The Respondent testified to have been engaged as STO in January 2020. His original testimony was that he was engaged by Perit Roderick Camilleri, but corrected himself in a subsequent hearing claiming he was engaged by Mr Malcolm Mallia.

“MCD: Meta qegħdin ngħidu għamilt dan ix-xogħol, meta mort l-ewwel darba biex tara is-site, qed nifhem sew, hemmhekk kienu diġà saru xi xogħlijiet?

AM: : Iva

MCD: Iġifieri inti mort l-ewwel darba biex tara x’hemm u xm’hemmx u diġà sibt il-ħaddiema għamlu xi xogħlijiet

AM : Iva, iva, iva ”¹

When asked how many times he had inspected the property since being engaged, the Respondent stated:

"AM: Tlett darbiet bir-rapporti żgur, possibly more, il-għaliex ġieli niftakar darba mort u kien magħluq u ma għamilt l-ebda rapport, sa fejn naf jien ma għamiltx rapport ma niftakarx eżatt, imma jekk inkun barra u nkun għaddej minn hdejn xi site li jkolli inkarigu minnha, ħafna drabi kont nieqaf naqra, nieqaf daqsxejn iġifieri, mhux naqra read iġifieri nieqaf għal ffit minuti, nitawwal ġieli jekk ma ikun hemm xejn għaddej nitawwal naqa mill-karozza biss u ngħid hawnhekk mhu qed isir xejn u nibqa għaddej, no reports, iġifieri out of interest għax jien naqra fitt u inħobb insegwih ix-xogħol minn dejjem hekk kont

¹ Transcript of Conduct Hearing held on 10/10/2022 – 1.25.00 – 1.26.59 (MCD = Matias Camilleri de Marco, AM = Anthony Mangion)

...

AP: Iġifieri jista' jkun li kien hemm, tlett darbiet żgur mort, jista' jkun li kien hemm xi drabi oħra?

AM: Rajna x'hemm tlett darbiet żgur għax għamilt tlett rapporti, bir-rapporti, mort iżjed

AP: Iġifieri tlett darbiet

AM: Mort iżjed

AP: Iġifieri jista' jkun mort drabi oħra imma ma stajtx taċċedi għas-site qed nifhmek sew?

AM: Tlett drabi oħra

AP: U ma stajtx tidhol għax sibtu magħluq jew ma kienx hemm

AM: Kien bil-grada, hawn magħluq”²

This is a clear indication that the Respondent was not an integrated member of the project team, and had little to no communication with the contractor given that he would inspect the property at random, without any coordination with the contractor. Indeed, there were times when the Respondent found the site shut without him knowing of this beforehand.

3. Awareness of timelines, milestones, decisions, and project details

When questioned about the date of commencement of the project, the Respondent stated:

"AM: Issa d-data, jiena li nista' ngħid huwa hekk għax qed ngħidlek again, mhux qiegħed ġol-uffiċċju tiegħi u rrid noqgħod infittex biex nirrispondi dawn id-domandi però jidhirlu kien ... sometime in February xi haġa meta jiena jiġifieri wara li ġejt aċċettat u ftehmna biex nagħmel ix-xogħol, jiena out of interest and at no charge out of interest, mort nara s-site fejn hi sewwa biex nara biss xejn iżjed u ma ġara xejn iġifieri

² Transcript of Conduct Hearing held on 10/10/2022 – 1.27.00 – 1.28.59 (AP = Andre Pizzuto, AM = Anthony Mangion)

...

AP: Meta kien dan?

AM: Heq if I were to kważi biex ngħid hekk guess, i would say early February, però ma nistax ngħid b'ċertezza,

AP: Wara li ffirmajt il-commencement notice jew qabel?

...

AM: Le definitely wara

AP: Wara, orrajt

AM: ma nistax immur nara xi haġa, għadni ma ffirmajthiex ma nafx għax forsi ma tinftiemx hux

AP: Il-method statement meta ġie għandek?

...

AM: Naf li kienet imtella' fuq l-eApps

...

AP: dakinhar li ffirmajt is-site management responsibility form, kont qrajtu l-method statement?

AM: Le dak il-ħin le

AP: Le

AM: dak il-ħin le

AP: Qrajtu wara?

AM: Imma minn fuq l-eApps minn fuq l-eApps imbagħad aktar tard rajtu u issa jistax ikun, meta ngħid aktar tard seta' kien granet ta' iġifieri mhux xi nofs siegħa wara bilfors

AP: Inti qbilt mal-

AM: Però eżatt ma nistax niftakar

AP: Inti qbilt mal-kontenut tiegħu?

...

AM: Heq kif kien miktub, heq l-ewwel haġa li kien hemm miktub qbilt, qbilt miegħu eħe issa ma ninsewx illi dak mhux jien ktibtu

...

AM: dak huwa xi haġa li jiena rrid insewgi mhux ktibtu jien.”³

Questioned on his site visits, the Respondent recounts an episode with an Enemalta official:

AM: Haġa haġa li naf, haġa li naf hija li mort darba ... darba ... nissoponi li naħseb ... Frar jew għall-aħħar ta' Frar però again nista' nsibha nista' nintraċċa d-data fejn mort kien is-Sibt għax niftakar li kien is-Sibt u ttawwalt, ma kienx qed isir xogħol, il-gradha magħluqa, rajt xi nies hemmhekk u għidtilhom isma' għidtilhom intom għax qed narahom iduru hawn hdejn is-site, għidtilhom skużawni għidtilhom intom involuti fuq is-site hawn għidtilhom qed tagħmlu xi haġa għidtilhom għax jiena l-STO hawn u qed nara msomma però llum ma hawn xejn. Qaluli le aħna qaluli tal-enemalta fil-fatt imbagħad dawwart wiċċi imbagħad nara l- x'għidulu vann hawn x'inhu tal-enemalta u qaluli nhar it-tnejn li ġej, iġifieri mis-sibt u huma qaluli, qaluli Monday li ġej ġejjin naqalghu għax ma' dawn iż-żewġt ikmamar li qed ngħid li kien għad baqa' fuq xulxin, kien għad hemm electrical post imwaħħal mal-ħajt minn dawn it-tip mhux fuq arblu minn dawn li mwaħħlin mal-ħajt, naturalment mhux se jaqbad u jiġbed il-kamra bl-elettriku għadu hemm allura dawn qaluli Monday niġi, niġu inefħuh u tkunu liberi, għidtlu msomma mhux jiena għax jiena STO, jkun libera s-site illi jista' jkomplu ha

³ Transcript of Conduct Hearing held on 10/10/2022 – 1.13.00 – 1.17.59 (AP = Andre Pizzuto, AM = Anthony Mangion)

jitwaqqgħu dawn iż-żewġt ikmamar, mhux kbar ħafna, li kien għad baqa'. Jiena ċempilt il-Perit Roderick għidtlu, apparentement kien diġà intiż minnha l-biċċa xogħol u qalli hawn biex speċi jaf biha, infatti imbagħad kellhom jiltaqgħu kellhom jagħmlu xi meeting ukoll man-nies tal-vittma u mal-vittma illi dawka to me kien għadu at negotiation jew ta' x'taqbad tgħidilha stage illi jiena ma ġejtx, jekk trid tgħidilha hekk, mistieden li nattendi, iġifieri dak kellhom huma u għalija from that point on, for what I knew, issa din personali, for what I knew ix-xogħol kien wieqaf. Minn dak l-istadju 'l quddiem għalija x-xogħol kien wieqaf. Jigifieri I should not even have gone there without being informed u peress li kien wieqaf jiena ma qadtx immur kull jumejn la wieqaf, jiena kont qiegħed nistenna xi ħadd jgħidli isma aħna ftehmna u se nagħmlu hekk hekk u hekk jew se nemendaw il-method statements illi mhux il-każ ma ġewx emendati però xi ħadd jgħidli li x-xogħol se jkompli imbagħad nerġgħu naqbduha minn hemm.

4. Awareness of role of STO

Asked about his relationship with the contractor, the Respondent testified as follows:

"AP: Mela, x'relazzjoni kellek ma' Ludwig Dimech?

AM: Issa Ludwig Dimech, Ludwig Dimech jiena għall-bidu fuq din is-site kont ngħid li ma nafx min hu u qatt ma rajtu, orrajt ma kontx nista' ngħid li nafu però imbagħad having seen him il-qorti, kont narah dejjem, hawn iġifieri għax konna nitilgħu l-erbġha li aħna fil-bidu flimkien, imbagħad (...) tgħidilhiex eżatt meta, għidt iva dak il-wiċċ nafu jiena, u dak il-wiċċ kont nafu fuq site oħra tal-istess żviluppaturi, site Tigné tas-Sliema, fejn darba kont għax kont għax kont STO fuqha ukoll, inżilt fuq il-post, ħallejt il-karozza fil-ġenb hawn imsomma whatever u nżilt fuq il-post u ftakart li hu kien però ma nistax ngħid li kont nafu jew kont inkellmu ħafna jew naf minu sewwa

AP: Iġifieri fuq, iġifieri fuq dan il-

AM: però kont iltqajt miegħu, wara faqqgħet il-memorja li jien kont rajtu qabel

AP: Orrajt imma fuq dan il-proġett, qatt kellimtu lilu?

AM: Fuq dan il-proġett le qatt ma' ltqajt miegħu u kellimtu le u lanqas hu ma kkuntattjani

AP: Sewwa

AM: Qabad jien beda miexi pero hu lili qatt ma kkuntattjani, mal-periti iva kont nitkellem kemm-il darba imma mal-kuntratturi le xejn qatt

AP: I r-rwol tal-STO ... kif tifhmu inti, x'inhu r-rwol tiegħu?

...

AP: Meta ffirmajt is-site management responsibility form u inti ffirmajt li ha toqgħod STO, dak il-mument u anke qabel għax inti qed tgħid li kont tagħmilha qabel anke l-istess

AM: Kelli affarijiet oħra

AP: il-fehma tiegħek x'kellek tagħmel inti dak il-mument x'kien ir-rwol tiegħek, x'suppost kont qed tagħmel f'dak l-istadju?

AM: Le l-andament tax-xogħol kif għamilt kif attakkajtu x-xogħol, jiena diġà rrispondejt forsi nagħti naqra iżjed fid-dettall. Issa jiena diġà kont intiż minn qabel peress li kelli xi proġetti oħra illi jiena kif nifhimha jiena personali, ir-rwol tal-STO kien illi l-kuntrattur jimxi mal-method statements, issa f'dan il-każ kien demolition fl-istadju ta' demolition u excavation, issa excavation meta beda jwaqqa' l-bini meta waqqa' l-bini jiġifieri dawn ma nafx mingħalija għabba xi materjal dakinhar ukoll stess meta, dan l-Albaniż għax jekk ikollu ħafna materjal żejjed hemm għalxejn ġebel, ma għandux bżonnu l-iehor, jidhirli, pero I stand to be corrected fuqu, to the best of my knowledge għabba xi materjal got-trakk li kien qiegħed fit-triq din id-darba mhux fuq is-site. Issa r-rwol tal-STO huwa għax allura

dak jiġi qisu excavation sewwa demolition, issa r-rwol tal-STO huwa li jara illi l-method statements li hemm tlieta, issa l-construction għadu sal-lum ma beda xejn l-STO jara illi l-kuntrattur jeżegwi dak li kien hemm miktub fil-method statements...

AM: Għax jien STO, nikkwalifika mill-ewwel STO għax jien perit, hemm periti hemm STOs li huma electrical engineers believe it or not sewwa, iġifieri that does not make sense to me u argumentajt fuqu hafna dan il-punt. Issa mela jiena bħala STO dan qatt ma ġara mid-dehra ma nafx x'għamel għax qabad u qala', kien hemm il-ħamrija neħħiha u niddubita kienx min kien jaf qabad u mar u qabad il-ħamrija li kien hemm u neħħiha u la avżani u la xejn u la se jibda jmur iwaqqa' ma avżani xejn

AP: Meta tgħid javżani, lil min qed jgħid?

AM: Il-kuntrattur l-obbligu li għandu l-kuntrattur li javża ... javża lid-developers, lis-sidien u javża lill-STOs, jgħidlek isma jiena għada jew pit għada jew il-ġimgħa diehla, fit-tali data sejjer ħa nibda nwaqqa', naqra ħamrija ħa nneħħija eċċ eċċ, issa baqalna iżjed x'ngħidu fuqha imma għalissa għalija żgur li ma mexiex strettament mal-instructions li kellu fil- hawn dawn x'ngħidulhom fil-method statements, jiena nifhem imma din mhux se nixidha jiena illi l-perit qallu għax il-perit dejjem insista fuqha din il-biċċa xogħol imma dika d-domanda jekk mexiex ma li qal il-perit iva jew le dika mhux komputu tiegħu li nirrispondiha jiena, dik irid jirrispondiha l-perit sewwa

When asked to confirm how many project he was handling concurrently at the time, the Respondent stated:

"AP: Kemm kellek proġetti għaddejnin minn tiegħek dak iż-żmien?

...

AM: Naħseb nista' ngħidlek ftit li xejn ta' ftit li xejn għax imbagħad concurrently magħhom

AP: Imma meta tgħid ftit li xejn igifieri wiehed, tnejn, għaxra kemm hu ftit li xejn?

AM: Le l-għaliex inti qed tgħidli proġetti imma imma

AP: Xogħol għaddej (...), xogħol għaddejj

AM: kien hemm xogħol xogħol illi pereżempju xogħlijiet ta' x'għidulhom dawn land registry mhux qed ngħid

AP: Le mhux dak it-tip ta' xogħol

AM: Le allura le nista' ngħid ma kellix imbagħad forsi xi alteration żgħira 'l hemm u 'l hawn f'xi flat hekk, la nista'

AP: Bħala STO, bħala xogħol ta' STO

AM: Eħe

AP: Dak il-mument li ġara l-incident, kemm kellek sites?

AM: Kemm kelli sites, tal-STO e?

AP: Tal-STO biss issa qed nitkellmu

AM: Ma nafx forsi forsi forsi ħa ngħid bl-amment se ngħid forsi 7 8 x'imkien 'l hemm

AP: 7 8 ”⁴

Summoned to verify this statement, former Building & Construction Authority CEO Mr Jesmond Muscat stated the following:

⁴ Transcript of Conduct Hearing held on 10/10/2022 – 1.13.00 – 1.53.59 (AP = Andre Pizzuto, AM = Anthony Mangion)

“AP: Mela, Sur Muscat, aħna konna tlabnik tippreżenta dokumenti fejn jidher isem il-Perit Anthony Mangion, fis-Site Management Responsibility Form bejn Lulju tal-2019 u Marzu – bidu ta’ Marzu tal-2020. Mela, tista’ tgħidilna jekk intix ħa tippreżentahom dawn id-dokumenti?

JM: Dawn id-dokumenti mhux ħa nippreżentahom, mhux għax ma rridx nippreżentahom, imma għax is-sistema li għandna ma tħallinix insibhom dawn id-dokumenti. Però, in due course, u anke bghatt lilek, ppruvajt nitkellem mal-Planning Authority, li għandhom sistema aħjar minn tagħna, biex nippruvaw infittxu dokumenti fejn l-imsemmi perit ma kienx STO biss, imma forsi kien perit, ukoll, minħabba l-fatt li ġieli perit ikun STO ukoll.”⁵

The Council was thus unable to verify how many site the Respondent was handling as an STO on 2nd March 2020, the date of the collapse of the building.

5. Video footage of incident leading to the collapse

The Council also heard the testimony of various witnesses and viewed the footage of the collapse from various angles. The footage shows an excavator with a pneumatic drill attachment extended towards the party-wall moments before the collapse occurred. The causal link between the drill bit striking the party wall and the collapse of the building is undeniable and without question. The use of the excavator in this manner is the direct cause of the building collapsing.

This is corroborated by the testimony of court expert witness Mr Mario Buttigieg, who testified extensively on the markings found on the base of the wall being consistent with the striking of the drill bit.

The Council found particularly concerning that video evidence seen by Mr Mario Buttigieg which he claimed illustrated directly the site with no walls or barriers between the camera and the site was not placed in evidence in Court did not form part of the evidence in the magisterial

⁵ Transcript of Conduct Hearing held on 27/03/2023 – 0.00 – 0.59 (AP = Andre Pizzuto, JM = Jesmond Muscat)

inquiry nor was it presented by the prosecution, and as a result was not available for the Council to review.

Further compounding the Council's concern was the witness statement of Dr Arthur Azzopardi about the video footage he presented in evidence before the Council.

“AA: Fil-hard drive, fuq istruzzjonijiet tal-Kamra tal-Periti, assistejt lill-istess Kamra biex ngħaddi kopja elettronika tal-filmati kollha li jinsabu fil-kawża deċiża mill-Qorti tal-Appell Kriminali Pulizija Vs. Perit Tony Mangion u Perit Roderick Camilleri, ilgħaliex ir-registratur tal-qorti kien għaddielkom biss kopja elettronika tal-atti, u ma kienx għaddielkom ukoll il-kopja tal-filmati – minn hemmhekk, fl-eżerċizzju biex aħna nippreparaw għal – għas-seduta ta’ lllum, ovvjament ergājna dorna għall-filmati, kellimt ukoll lis-Sur Buttigieg dwar l-iskop tax-xhieda tiegħu għas-seduta ta’ lllum, fejn, l-istess – il-PL Mario Buttigieg irreferejt għalih bħala “Perit” għax l-esperti tal-Qorti ngħidulhom “Periti,” jiġifieri mhux perit-arkitett bħalkom – fejn infurmani u attirali l-attenzjoni għal dawn il-filmati – filmati li bħala avukati tad-difiża, qatt ma konna rajnihom qabel.

“Minn hemmhekk kellimna lill-espert tal-Qorti dwar l-eżistenza ta’ dawn il-filmati, li għal-ewwel anki hu tħawwad, ilgħaliex kien qed jiftakarhom, però ma setgħax isibhom. Minn hemmhekk, il-PL tiegħi Mark Sultana attenda fl-uffiċċju tal-espert tal-informatika Keith Cutajar, fejn wara search li għamel fuq id-database tiegħu tal-filmati tal-każ tas-Sinjura Miriam Pace, skopra li kien hemm dawn il-filmati, però ma jaħdmux AVG media players, dawn jaħdmu bi programm – Pot Player, PlayPot, xi haġa hekk – u meta prova jara għandux filmati ssejvjati li jaħdmu b’din l-app, effettivament sab dawn il-filmati li qed nitkellmu dwarhom. Minn hemm, l-istess Keith Cutajar – u ovvjament, wara li vverifika hu stess il-Qorti, sab illi l-Qorti kienu qegħdin dawn iż-żewġ filmati, però, ovvjament, ħadd

ma kellu s-software biex jiftaħhom, għamilna l-kopja tagħhom, imbagħad dawk lilek, Perit Pizzuto, għaddejtomlok speċifikament, fuq USB, proprju minħabba s-seduta ta' llum.”⁶

Nevertheless, the Council was able to draw its own conclusions on the evidence that was presented.

⁶ Transcript of Conduct Hearing held on 29/01/2024 – 13.00 – 14.59 (AA = Dr Arthur Azzopardi)

Decision

The Council of the Kamra tal-Periti reviewed all the evidence, deliberated on the merits of the case during Council Meeting 24.38 held on 18th November 2024. The following Members were present:

Perit André Pizzuto (President);
Perit Matias Camilleri de Marco (Vice President);
Perit Ivynne Gixti (Honorary Treasurer)
Perit Nicholas Mallia (Honorary Secretary);
Perit Prof. Rebecca Dalli Gonzi;
Perit Sebastian Grima;
Perit Philip Farrugia;
Perit Joeaby Vassallo.

During this meeting, the Council deliberated on the following merits:

Merit 1:

Failure to comply with regulations with respect to professional standards or practices – failure to enforce method statement.

The Council noted that the Respondent adopted a very passive stance when occupying the position of STO. Indeed, he believed that his role was to take note of observations he casually makes on site while carrying out random site visits. This is not at all what the legislator intended for the role of STO.

While various Councils and General Meetings of the Kamra tal-Periti have expressed their strong disagreement with the very concept of the STO as it shifts responsibility and liability away from contractors, this does not mean that the Council will not uphold high standards of professionalism from any periti occupying the role.

Indeed, the role of STO is to actively direct the works to ensure compliance with the method statement. Such an active role necessitates a more physical and logistical presence on site.

The very fact that the Respondent had never met the contractor is a clear indication that he was failing to fulfil his primary duty of enforcing the method statements.

The evidence clearly demonstrated that the method statements were not being followed at the moment the collapse occurred.

The Council found the Respondent in breach by six (6) votes to one (1), with one abstention.

This vote carried given that it exceeded the minimum 2/3 threshold required for a guilty verdict.

Merit 2:

Failure to comply with regulations with respect to professional standards or practices – failure to be present on site when decisions were being taken.

The Council noted that the key members of the project team, namely the developer, perit-in-charge, and developer, were not keeping the Respondent abreast of the project. It was apparent that he was appointed solely to satisfy a bureaucratic requirement, rather than because his services were truly needed on site.

The Council did not find the Respondent in breach of this merit by six (6) votes to one (1), with one (1) abstention.

The vote on this merit failed.

Merit 3:

Failure to comply with regulations with respect to professional standards or practices – failure to participate in the drafting of the method statement.

The Council noted that the method statement had been drafted and that works on site had commenced before his professional engagement. The Council noted that the involvement of the STO and the contractor as envisaged in the regulations is not practicable given that the method statements, together with other project documentation, are normally attached to contracts of work. This section of the regulations is yet another clear example of how flawed the current regulatory framework is – drafted without knowledge of the industry and its best practices.

The Council found that the Respondent was not in breach of this merit by six (6) votes to one (1), with one (1) abstention.

Having taken into account the above considerations and the fact that the respondent has a clean professional conduct record, the Council has determined that the warrant of the Respondent, Perit Anthony Mangion, be suspended for a period of fourteen (14) months from the date of publication of this penalty in the Government Gazette.

A handwritten signature in blue ink, appearing to read 'Perit Andre Pizzuto', is written over the typed name and title.

Perit Andre Pizzuto
President