



# APEGA Recommended Discipline Order

APEGA members and permit holders are required to practise engineering and geoscience skillfully, ethically, and professionally. They must meet all prescribed requirements and follow all applicable legislation and regulations, such as the [Engineering and Geoscience Professions Act, General Regulation, Code of Ethics, and APEGA bylaws](#). Investigation and enforcement—followed by, when necessary, judgment based on a fair hearing of the facts—are requirements of ours in service to the public interest. For more information, please visit [www.apega.ca/enforcement/discipline-decisions](http://www.apega.ca/enforcement/discipline-decisions).

**Date:** September 17, 2019

**Discipline Case Number:** 19-014

**IN THE MATTER OF A RECOMMENDED DISCIPLINE ORDER OF THE ASSOCIATION OF  
PROFESSIONAL ENGINEERS AND GEOSCIENTISTS  
OF ALBERTA**

Pursuant to the Engineering and Geoscience Professions Act,  
being Chapter E-11 of the Revised Statutes of Alberta 2000  
Regarding the Conduct of [A PROFESSIONAL MEMBER] P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (“APEGA”) has investigated the conduct of a Professional Member (the “Member”) with respect to a complaint of unprofessional conduct pursuant to Section 44(1) of the Engineering and Geoscience Professions Act (the “Act”), initiated by an individual, (the “Complainant”) dated June 21, 2019 (the “Complaint”).

## A. THE COMPLAINT

This investigation related to allegations that the Member engaged in unprofessional conduct that contravenes Section 44(1)(b) of the Engineering and Geoscience Professions Act (the “Act”) and the APEGA Code of Ethics (the “Code”).

The Investigative Committee conducted an investigation with respect to the following allegations:

1. Whether the Member provided drawings to the Complainant that were inaccurate and structurally deficient.
2. Whether the Member failed to provide a written contract to the Complainant for services rendered.
3. Whether the Member did not provide an invoice or receipt to the Complainant upon receipt of payment.
4. Whether the Member charged the Complainant for an additional full fee for a second site visit and revisions to the original drawings.



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### B. AGREED STATEMENT OF FACTS

#### (a) Background:

5. At all relevant times the Member was an APEGA Professional Member and was thus bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
6. The Member graduated from the University of Manitoba in 1969 with a civil engineering degree and obtained his Master's in Engineering from the University of Concordia in 1985. The Member has over 40 years engineering experience.
7. The Complainant hired the Member off of a Kijiji advertisement to conduct a structural analysis and calculations and provide a stamped drawing detailing the removal of a main floor bearing wall. The Member said they would charge \$600+GST cash for a site inspection and preparation of stamped drawings, which was agreed to by both parties.
8. A site inspection was performed, and a hand-written contract was initialed by both parties. The contract was retained by the Member. Partial payment of \$300 was exchanged through an e-transfer. A copy of the contract was not provided to the Complainant.
9. A development permit from the City of Calgary was obtained and the contractor began his demolition work. During demolition, the contractor noticed several potential structural issues in the home. The contractor advised the Complainant of his concerns.
10. The Complainant contacted the Member and advised the contractor indicated that there were some structural errors in his stamped drawings. The Member agreed to re-visit the site, however, would only re-attend the site and issue an updated drawing for an additional \$630 cash. The complainant was falling behind on the project schedule so reluctantly agreed to pay the additional fees.
11. The Complainant later reflected on the second agreement between the two, and now felt the Member should share the costs of the second drawing and site visit and should not be charging the complainant a second full fee.
12. The Member did attend the project site a second time. The Complainant paid \$200 cash and indicated they would pay the Member the additional \$430 when they picked up the drawings.
13. Two days later, the complainant attended The Member's home to pick up the second set of drawings. The two parties could not agree on a fair price for the new drawings,



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even though they had previously agreed verbally. As a result, the Member no longer was willing to provide the Complainant with any further services. On the Complainant's drive home, they received a text from the Member stating "You are waiting (wasting) my time and not honest. Why did you agree the cost before I came back. No more service to you".

14. The complainant hired a new Engineering company, who provided adequate stamped drawings. The project was completed and passed the required City of Calgary inspections.

**(i) Facts Relating to the Allegation "1"**  
**Whether the Member provided drawings to the complainant that were inaccurate and structurally deficient.**

15. The Member relied upon the contractor to verify conditions and made assumptions that they should have verified themselves.

16. The Member's drawings that were provided to the Complainant are below the expected standard of the profession and demonstrated a lack of due diligence.

17. The Member made several erroneous assumptions rather than obtaining the necessary data and information via a fulsome field review.

**(ii) Facts Relating to the Allegation "2"**  
**Whether The Member failed to provide a written contract to the complainant for services rendered.**

18. The Member did not provide a copy of the contract to the complainant because they said the complainant could have taken a picture of the document with his phone.

**(iii) Facts Relating to the Allegation "3"**  
**Whether the Member did not provide an invoice or receipt to the complainant upon receipt of payment.**

19. The Member did not provide the Complainant with either an invoice or receipt.

**(iv) Facts Relating to the Allegation "4"**  
**Whether the Member charged the complainant for an additional full price for the second site visit and revisions to the original drawings**

20. Due to no contract being written, the complainant was unaware that changes or revisions might occur to the drawing.



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### C. CONDUCT

The Member freely and voluntarily admits that his conduct in relation to Allegations 1,2,3 and 4 constitutes unprofessional conduct and/or unskilled practice.

Section 44(1) of the *Act* states:

*44(1) Any conduct of a professional member, licensee, permit holder, certificate holder or member-in-training that in the opinion of the Discipline Committee or the Appeal Board*

- (a) is detrimental to the best interests of the public;*
- (b) contravenes a code of ethics of the profession as established under the regulations;*
- (c) harms or tends to harm the standing of the profession generally;*
- (d) displays a lack of knowledge of or a lack of skill or judgment in the practice of the profession or;*
- (e) displays a lack of knowledge or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of the profession.*

*Whether or not that conduct is disgraceful or dishonorable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.*

21. The Member also acknowledges that the conduct described above breaches Rules of Conduct 2 and 3.

The Rules of Conduct of the *APEGA Code of Ethics* state:

- 1. Professional engineers and geoscientists shall, in their areas of practice, hold paramount the health, safety and welfare of the public and have regard for the environment.*
- 2. Professional engineers and geoscientists shall undertake only work that they are competent to perform by virtue of their training and experience.*
- 3. Professional engineers and geoscientists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*
- 4. Professional engineers and geoscientists shall comply with applicable statutes,*



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*regulations and bylaws in their professional practices.*

5. *Professional engineers and geoscientists shall uphold and enhance the honour, dignity and reputation of their professions and thus the ability of the professions to serve the public interest.*

### **D. RECOMMENDED ORDERS**

22. On the recommendation of the Investigative Committee, and by agreement of the Member with that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
  - 1) The Member will receive a Letter of Reprimand, a copy of which will remain in his APEGA file for a period of one year.
  - 2) The Member shall provide a contract template to be used for his future engineering business transactions to the Investigation Panel for approval within three months of this RDO being approved by a Discipline Committee Case Manager. In the event a contract template is not provided to the Investigation Panel for approval within three months of Discipline Committee Case Manager approval, the Member's APEGA membership shall be suspended. In the event a contract template is not provided for approval during the period of suspension the Member's APEGA membership shall then be cancelled six months from the date of Discipline Committee Case Manager approval. In the event the Member is cancelled they will be bound by APEGA's reinstatement policy.
  - 3) As per Section 63 (i) *Engineering and Geoscience Professions Act*, the Member shall repay the Complainant the fees rendered for services in the amount of \$830.00 within three months of this RDO being approved by the Discipline Committee Case Manager. In the event the fees are not reimbursed within three months of Discipline Committee Case Manager approval, the Member's APEGA membership shall be suspended. In the event the fees for service are not reimbursed to the Complainant during the period of suspension, the Member's APEGA membership shall then be cancelled six months from the date of Discipline Committee Case Manager approval. In the event the Member is cancelled they will be bound by APEGA's reinstatement policy.
  - 4) The Member shall attend and successfully complete the APEGA professional development course Building Better Work Relationships within one year of this RDO being approved by the Discipline Committee Case Manager. In the event the Building Better Work Relationships course is not successfully completed with one year of Discipline Committee Case Manager approval, the Member's APEGA membership will be suspended. In the event the Member does not successfully



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complete the Building Better Work Relationships course during the period of suspension his APEGA membership shall be cancelled eighteen months from the date of Discipline Committee Case Manager approval. In the event the Member is cancelled they will be bound by APEGA's reinstatement policy.

23. Although the Investigative Committee and the Member understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies members or former members by name, the parties understand that the decision to publish with or without names is discretionary. The parties submit that publication without name is appropriate given the specific facts in this case, including the following:
- a. The Member is a member of APEGA in good standing, and had no prior findings of unprofessional conduct or unskilled practice; and
  - b. There is no evidence that the conduct of the Member put members of the public at risk or is likely, in the future, to put members of the public at risk. Publication with name, therefore, is not required to protect the public interest.

Signed,

**[PROFESSIONAL MEMBER], P. Eng.**

**ALLAN YUCOCO, P.L. (Eng.)**

Panel Chair, APEGA Investigative Committee

**DEAN MULLIN, P.Eng.**

Case Manager, APEGA Discipline Committee

Date: September 17, 2019