



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.

Please note: This document contains offensive language

Date: July 15, 2019

Discipline Case Number: 19-015

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT
AND
IN THE MATTER OF THE CONDUCT OF [AN APEGA REGISTRANT]**

Pursuant to the Engineering and Geoscience Professions Act,
being Chapter E-11 of the Revised Statutes of Alberta 2000
Regarding the Conduct of [An APEGA Registrant]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of a Registrant (The Registrant) with respect to a complaint, initiated by the Complainant dated July 25, 2018.

The Complainant alleged that the Registrant engaged in unprofessional conduct by communicating derogatory and unprofessional language directed at the complainant.

A. THE COMPLAINT

The Complainant alleged the Registrant engaged in 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 Registrant sent, via text, unprofessional message(s) to the Complainant that contained racist and disrespectful comments.



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B. AGREED STATEMENT OF FACTS

As a result of the investigation, it is agreed by and between the Investigative Committee and the Registrant that:

(a) Background:

2. At all relevant times the Registrant was an APEGA Professional Member and was thus bound by the Engineering and Geoscience Professions Act and the APEGA Code of Ethics.
3. The Registrant has cooperated fully with all aspects of the APEGA investigation into this matter.
4. The Registrant holds a degree in Civil Engineering from Rheinisch-Westphalian Technical University and a MSc in Civil Engineering from the University of Calgary.
5. The Complainant is the owner of a development company. They contacted the Registrant to field inspect and provide an engineered structural drawing that would support a project they had been hired to complete, specifically relocating a large dated heavy manual filing cabinet system from one area of an existing office to another floor in the same building.
6. Price and approximate date for completion of the work was verbally agreed to by both parties. Later during the project, a misunderstanding of the agreement deliverables and time frame occurred between the Complainant and the Registrant.
7. The Complainant then retained a new engineer to complete the work. The Registrant believed they were still on schedule and was not at fault with the timeline discrepancy and invoiced the Complainant the agreed contract price of \$304.50, to which the Complainant paid \$200.
 - (i) **Facts Relating to the Allegation “1” Unprofessional Conduct Code of Ethics # 3**
 - (ii) **Facts Relating to the Allegation “1” Unprofessional Conduct Code of Ethics # 5**
8. During their disagreement over payment, the Complainant stated the Registrant texted them a reply “You are a liar and a thief, and your prophet teaches you to lie and steal”.



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9. The Complainant provided text messages that support their allegations.
10. The Registrant admitted to using unprofessional language towards the Complainant. The Registrant believes the language they used in the texts, may have been provoked by the Complainant who instigated the exchange of insults by suggesting the Registrant had a “German Nazi attitude”.
11. The Registrant advised the Panel that they were under tremendous stress at the time of the alleged events due to pressures at home and work.
12. The Registrant fully accepted responsibilities for their actions. The Registrant indicated they do not clearly remember the inappropriate exchange of words and attributes their memory loss on the stress they were under at the time.
13. No evidence was found or provided to support the Registrant’s recollection of the events.
14. The evidence shows that the Registrant engaged in the conduct as alleged.

C. CONDUCT

15. The Registrant freely and voluntarily admits that his conduct described above occurred and constitutes unprofessional conduct.

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.



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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.

16. The Registrant also acknowledges that the content described above breaches Rule(s) of Conduct 3 and 5.

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, 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

17. 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) Member will receive a Letter of Reprimand and a copy of which will be maintained in their registration for a period of one year.
 - 2) The Member successfully complete the on-line course "Counteracting Unconscious Bias", through the Diversity and Inclusion Certificate from Cornell University, within one year from the date the RDO is signed by the Discipline Committee Case Manager.



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- 3) Should the Registrant fail to complete Order 2, as noted above within one year from the date when the RDO is approved by the Discipline Committee Case Manager, the Registrant's registration will be suspended, and their license to practice Engineering Alberta be suspended. Should the Registrant fail successfully complete Order 2 during the period of suspension, their APEGA membership will be cancelled 18 months from the date of Discipline Committee Case Manager approval. In the event the Registrant is cancelled they will be bound by the APEGA reinstatement policy.
18. Although the Investigative Committee and the Registrant 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 Registrant 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 Registrant 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.

IN WITNESS WHEREOF the undersigned agrees with the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct in its entirety.

Signed,

The Registrant,
[PROFESSIONAL MEMBER], P. Eng.

IAN BUTTERWORTH, P. Eng.
Panel Chair, APEGA Investigative Committee

JOHN NICOLL, P. Eng.
Case Manager, APEGA Discipline Committee

Date: July 15, 2019