



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.

Date: December 3, 2020

Discipline Case Number: 20-011

**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 A] 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 allegations of unprofessional conduct and/or unskilled practice pursuant to Section 44(1) of the *Engineering and Geoscience Professions Act* (the “Act”).

A. THE COMPLAINT

This investigation related to allegations that the Member engaged in unprofessional conduct and/or unskilled practice of the profession with respect to failing to meet the requirements of the Responsible Member declaration.

The Investigative Committee investigated the following allegations outlined in the Complaint:

1. Whether [a Company] (the “Company”) failed to have in place and follow a Professional Practice Management Plan (“PPMP”) that is appropriate to its professional practice, as required under section 48(1)(d) of the *Engineering and Geoscience Professions General Regulation* (the “General Regulation”) and reiterated in the APEGA Practice Guideline for Professional Management Plans V.1.4 February 2013.
2. Whether the Member failed to meet the requirements of the Responsible Member declaration.



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B. AGREED STATEMENT OF FACTS

(i) Background:

1. The Member graduated in 1982 with a diploma in electronics and communications engineering, from the Polytechnic Institute of Bucharest.
2. He has been a member of APEGA since 2007. He has experience in electrical power systems. He has been working full-time for the Company for 13 years and is currently one of their responsible members.
3. As approved by Council, the Practice Review Board (the "Review Board") proactively reviews the practices of professional members and permit holders.
4. If allegations of unprofessional conduct or unskilled practice are believed to be discovered by the Review Board, it may refer the matter to the Investigative Committee, which will conduct a detailed investigation against a member and/or permit holder.
5. On October 16, 2017, a PR Questionnaire (the "Questionnaire") was signed by the Member and indicated the Company's Chief Officer of Operations (the "COO") was made aware of information provided by the Member in the Questionnaire. The Questionnaire indicated that the Company had provided the APEGA Professional Practice Advisor (the "Practice Advisor") with a copy of their most current and signed PPMP.
6. On October 23, 2017, the COO emailed the Practice Advisor the following: "We haven't got a document entitled the PPMP". And later states, "[t]he process documents that we have in place from the Company were in place before this was required by APEGA and therefore, we didn't create a specific document called our PPMP."
7. The COO later provided several documents to the Practice Advisor that he believed made up the Company's PPMP. It was identified that these documents were insufficient and lacked the necessary detail as required by the profession and were below what is acceptable as a PPMP.
8. APEGA's Professional Practice Department completed the initial practice review and concluded that the Company was not abiding by the Act, the General Regulation, or the Professional Practice Standards and Guidelines. Specifically, the conclusions of the initial practice review were that the Company does not have a



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professional practice foundation that aligns with APEGA's PPMP expectations.

9. Subsection 48(1)(d) of the General Regulation requires a permit holder to have in place and follow a PPMP that is appropriate to its professional practice. The Company was issued their "Permit to Practice" on July 20, 1998. The COO signed a declaration that indicated he has the authority to maintain the organization in which the practice of the profession is conducted (i.e. the Company) in accordance with the Act and its regulations, specifically Parts 1, 4 and 7 of the General Regulation. S. 48(1)(d) of the General Regulation falls within Part 7.
10. In May 2018, the Review Board received a briefing note from APEGA's Director, Professional Practice with the conclusions of their initial practice review of the Company.
11. On July 12, 2018, the Review Board approved the motion that recommended to refer the Company to the Investigative Committee for an alleged unprofessional conduct and unskilled practice investigation.
12. On November 23, 2018, the Director, Professional Practice referred a complaint to APEGA Investigations on behalf of the Review Board.

(ii) Facts Relating to Allegation #1:

Whether the Company failed to have in place and follow a PPMP that is appropriate to its professional practice, as required under section 48(1)(d) of the General Regulation and reiterated in the APEGA Practice Guideline for Professional Management Plans V.1.4 February 2013.

13. Subsection 48(1)(d) of the General Regulation requires a permit holder to have in place and follow a PPMP that is appropriate to its professional practice. The Company was issued their Permit to Practice on July 20, 1998. The COO signed a declaration that indicated he has authority to maintain the organization in which the practice of the profession is conducted (i.e. the Company) in accordance with the Act and its regulations, specifically Parts 1, 4 and 7 of the General Regulation. S. 48(1)(d) of the General Regulation falls within Part 7.
14. The COO's email dated Oct. 23, 2017, acknowledges that the Company does not have a specific document called the PPMP.
15. The Member signed a declaration that he communicated to the COO regarding the requirements of the PPMP, however 'Gaps' exist in the Company's documents vis-à-vis APEGA's PPMP.



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16. The Member understood he was adequately educated regarding the requirements of the PPMP.

(iii) Facts Relating to Allegation #2:

Whether the Member failed to meet the requirements of the Responsible Member declaration.

17. Part of the Practice Advisor's role is to develop and deliver the PPMP policy and seminar content. The Investigative Committee acknowledges the Practice Advisor, as an SME (Subject Matter Expert), who will represent APEGA during the hearing.

C. CONDUCT

18. The Member freely and voluntarily admits that at all relevant times he was a Professional Member of APEGA and was thus bound by the Act, its regulations, and the *APEGA Code of Ethics*.
19. The Member acknowledges that the conduct described above constitutes unprofessional conduct and/or unskilled practice as defined in Section 44(1) of the Act:

Section 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 lack of skill or judgment in the practice of the profession, or*
- e. displays a lack of knowledge of 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.



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20. The Member acknowledges that the conduct described in Allegations 1 and 2 is conduct that displays a lack of judgment in the carrying out of any duty or obligation undertaking in the practice of the profession.

21. Section 48(1) of the General Regulation requires:

48(1) The Council may issue to a partnership, corporation or other entity a permit to practice engineering or geoscience in its own name if

(d) the professional member or licensee certifies to the satisfaction of the Council the partnership, corporation or other entity has in place and will follow a professional management plan that is appropriate to its professional practice.

22. Further, the conduct described in Allegation 1 and 2 breaches of Rule of Conduct 4 of the APEGA Code of Ethics, which states:

4. Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.

D. RECOMMENDED ORDERS

23. 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:

- a. The Member will receive a letter of reprimand, a copy of which will be maintained permanently in the Member's APEGA registration file and be considered at any future date by APEGA.
- b. The Member shall provide written confirmation to the Director, Enforcement, within thirty days of being notified that the Recommended Discipline Order (the "RDO") has been approved, that he has reviewed APEGA's Guidelines for Ethical Practice (v2.2, February 2013), Practice Standard for Concepts of Professionalism (September 2004) and Practice Standard for Authenticating Professional Work Products (July 2019), and that he will comply with the requirements therein.
- c. The Member shall successfully complete one of the specified University-level courses in professional ethics (the "Course") within one year from the date this RDO is approved.
- d. The Member may apply to the Director, Enforcement for an extension prior



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to the one year deadline. If the Course is not successfully completed within one year or after the agreed to extension, the Member shall be suspended from the practice of engineering until the above noted course is successfully completed.

- e. The Member will ensure that the Company submits a PPMP to the Director, Enforcement to be approved by the Practice Review Board within one year of being notified that the RDO has been approved.
 - f. The Member may apply to the Director, Enforcement for an extension prior to the one year deadline. If the above noted PPMP is not successfully completed within one year or after the agreed to extension, the Member and the Company shall be suspended from the practice of engineering until the PPMP is successfully completed.
 - g. The Member shall be considered to be a member in good standing while completing the above noted sanctions.
24. 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 Member and the Investigative Committee understand that the decision to publish with or without names is discretionary. Publication without name is appropriate given the specific facts in his 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.

SIDDHARTA DASGUPTA, P. Eng.
Panel Chair, APEGA Investigative Committee

DIANA PURDY, P.Geol.
Case Manager, APEGA Discipline Committee
Date: December 3, 2020