

Decision Summaries

Date: July 20, 2017

Case No.: 16-006-FH

REGARDING THE CONDUCT OF A PROFESSIONAL MEMBER, P.ENG., AND A PERMIT HOLDER

Under the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11, a hearing into this matter was held by a Hearing Panel of the Discipline Committee on June 23, 2017. The hearing addressed the conduct of a Professional Member, P.Eng., and a Permit Holder. The Professional Member, P.Eng., was at all material times in regard to this hearing a principal and one of the Responsible Members for the Permit Holder. At all relevant times the Permit Holder held a valid Permit to Practice.

The hearing dealt with the following charges:

1. The Professional Member, P.Eng., and the Permit Holder were charged with accepting deviations from the specifications for a residential building project in Calgary, Alberta, as specified on two specific items on one drawing, without ensuring proper change controls or the documentation of proper change controls as required by the Professional Practice Management Plan for the Permit Holder.

It was alleged that the above-referenced conduct constituted unprofessional conduct as set out in section 44 of the *Engineering and Geoscience Professions Act*.

The Investigative Committee and the Professional Member and Permit Holder proceeded by way of Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Agreed Facts included that the Professional Member, P.Eng., and the Permit Holder were engaged to provide architectural and mechanical engineering services for a series of residential condominium complexes in Alberta. One of the stamped and signed drawings of the Professional Member, P.Eng., included specifications about insulation of water piping.

The mechanical contractor did not follow the specifications on the drawing concerning the insulation.

The contractor did not insulate the hot water branch piping in the parkade; substituted half-inch closed cell foam insulation for half-inch fiberglass insulation; and substituted alternative domestic hot and cold water branch piping in the parkade. Both the Professional Member, P.Eng., and the Permit Holder were aware of the alternative piping and insulation that had been used, which did comply with the *Alberta Building Code*. The Professional Member, P.Eng., and Permit Holder issued Schedules C-1 and C-2 under the *Alberta Building Code*, but neither schedule enclosed documentation of the omission of insulation or the substitutions. The Professional Member, P.Eng., and Permit Holder felt that, as long as the changes were code-compliant, the change documents were not required with the Schedules.

However, the Permit Holder's Professional Practice Management Plan (the "PPMP") provided that the Permit Holder would, for each project, create a project delivery strategy outlining change controls, and that procedures for handling change requests would be the responsibility of the Professional Member. The Hearing Panel noted that the professional engineer stamp and signature of the Professional Member, P.Eng., were on both Schedules on behalf of the Permit Holder. The Hearing Panel also examined the Permit Holder's PPMP in context with APEGA's *Practice Standard for Authenticating Professional Documents v3.0*, which addresses change controls.

The Hearing Panel accepted the Agreed Statement of Facts and accepted the admission of unprofessional conduct by the Professional Member, P.Eng., and the Permit Holder.

The parties also made a joint submission on sanction. The Hearing Panel accepted the joint submission and ordered the following:

1. Both the Professional Member, P.Eng., and Permit Holder shall receive a formal reprimand for the unprofessional conduct with the written decision of the Hearing Panel to serve as the formal reprimand.
2. The Professional Member, P.Eng., shall pay a fine in the amount of \$500 within 1 month of the Discipline Committee's written decision, failing which his

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registration shall be suspended until he pays the fine.

3. The Permit Holder will pay a fine in the amount of \$500 within 1 month of the Discipline Committee's written decision, failing which its Permit to Practice shall be suspended until it pays the fine.
4. The Permit Holder shall pay costs of the hearing in the amount of \$1,000 within 1 month of the Discipline Committee's written Decision, failing which its Permit to Practice shall be suspended until it pays the costs.
5. Details of this matter will be published in *The PEG* magazine and on the APEGA website without identifying the Professional Member, P.Eng., or Permit Holder by name. The Hearing Panel agreed that publication on a named basis would meet no goal of discipline that would be proportionate to the damage that named publication would cause.

It was the view of the Hearing Panel that these orders would protect the public, educate the membership, and uphold the standing of the profession generally. The nature of the conduct that led to findings of unprofessional conduct was relatively minor in the range

of discipline findings. There was no actual damage resulting from the conduct. Of note, the Professional Member, P.Eng., cooperated throughout the investigation and hearing process. The Professional Member, P.Eng., was also prepared to adopt a practice to ensure the proper paperwork was in place as required. Finally, neither of the parties had prior discipline findings.

The Hearing Panel communicated that, while Professional Members cannot be perfect, each must take their role in maintaining the reputation of the Profession seriously. Self-regulation is a privilege that requires each Professional Member to perform duties both concisely and efficiently.

Signed,

DAVID EVANS, P.GEOL.

Panel Chair, APEGA Discipline Committee

TIM MORAN, P.ENG.

Panel Member, APEGA Discipline Committee

MARC SABOURIN, P.ENG.

Panel Member, APEGA Discipline Committee

Date: July 20, 2017

Date: June 26, 2017

Case No.: 16-001-FH

REGARDING THE CONDUCT OF A PROFESSIONAL MEMBER, P.ENG.

Pursuant to the *Engineering and Geoscience Professions Act*, an APEGA Disciplinary Hearing was held on April 19, 2017. The hearing addressed a complaint against the conduct of a Professional Member, P.Eng. (the "Member"). The hearing proceeded by way of an Agreed Statement of Facts, Admission of Unprofessional Conduct and Joint Submission on Sanctions.

The Member was engaged to prepare plans and specifications for a municipal local improvement involving the installation of a sanitary sewer main and upgrades to the water main and to administer the tender on behalf of the municipality and to review and inspect the work being executed by the successful contractor.

The amended charge that was presented to the Hearing Panel by the parties was that:

Your management and administration of the Project failed to identify errors that resulted in certification of payments for work that had not been verified by you, and payments to a contractor by your client for that work.

In the Agreed Statement of Facts and Admission of Unprofessional Conduct the Member admitted that:

- a. the Member verified and asked the municipality to pay for 7 gasline crossings and 1,200 tonnes of crushed gravel and 200 tonnes of pitrun gravel, despite not having verified that those items had been used and required payment;
- b. while the second and final payment recommendation addressed the overpayment for the crushed gravel and pitrun gravel, it again failed to identify the overpayment for the 7 gas line crossings that were not installed but had been certified for payment;
- c. for several years the Member provided a credit of \$3,500 to the municipality in respect to the 7 gas line crossings that were not installed; and