

Date: February 17, 2017 Case No.: 16-021-RDO

**IN THE MATTER OF THE ENGINEERING,
AND GEOSCIENCE PROFESSIONS ACT,
AND
IN THE MATTER OF THE CONDUCT OF
HENK BRENKMAN, P.ENG.,
AND BRENKMAN & COMPANY LTD.**

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of Mr. Henk Brenkman, P.Eng., (“the Member”) with respect to a letter of complaint received on April 27, 2015, regarding the design of a custom-built Hydro Vac Truck. The Complainant alleged the Member had engaged in work he was not competent to undertake and engaged in unprofessional conduct.

A. COMPLAINT

1. The Member has engaged in unprofessional conduct and unskilled practice, contravening Section 44(1) of the *Engineering and Geoscience Professions Act*.

B. AGREED STATEMENT OF FACTS

Upon conclusion of the investigation, it is agreed by and between the Investigative Committee and Mr. Henk Brenkman, P.Eng., that:

- a. Mr. Henk Brenkman, P.Eng., was a Professional Member of APEGA, and was thus bound by the *APEGA Code of Ethics* at all relevant times.
- b. Brenkman & Company Ltd. held a valid Permit to Practice at all relevant times.
- c. The Member holds a Bachelor of Engineering in Mechanical Engineering from the University of Pretoria (1994), a Bachelor of Engineering (H) in Mechanical Engineering from the University of Pretoria (1999), and an MBA in Business Administration from Brigham Young University (2003).
- d. The complaint was based on services provided

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by the Member to the Complainant regarding the mechanical design for a Hydro Vac Truck beginning in September 2014.

- e. A notice of investigation was provided to the Member on July 30, 2015, which included the allegations of unprofessional conduct and unskilled practice.
- f. Upon conclusion of the investigation the Investigative Committee determined there was insufficient evidence of unskilled practice.
- g. The investigation determined that poor communication and an overall lack of cooperation between the Member and the Complainant resulted in the termination of the contract and was detrimental to the relationship.
- h. Brenkman & Company did not have a Professional Practice Management Plan (PPMP) in place, as required for APEGA Permit Holders, at the time the Member's services were engaged.
- i. The Member has fully cooperated with the APEGA investigation and admitted that he did not have a valid PPMP in place as required at the time his services were engaged by the Complainant.

C. CONDUCT

The Member freely and voluntarily admits that he has engaged in unprofessional conduct that displayed a lack of judgment in the carrying out of a duty contrary to Section 44(1)(b) of the *Engineering and Geoscience Professions Act* and Rule of Conduct #4 of the Code. The Member displayed a lack of skill or judgment in complying with applicable regulations by not having in place a Professional Practice Management Plan as required by Section 48(1)(d) of the Regulations.

With regards to the other allegations submitted by the Complainant, the Investigative Committee determined there was insufficient evidence that the Member contravened any other sections of the Act or Rules of Conduct of the Code.

D. SECTION 44(1) OF THE ACT AND THE CODE OF ETHICS

Section 44(1) of the Act states:

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 dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.

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

- 1** *Professional engineers, geologists and geophysicists 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, geologists and geophysicists shall undertake only work that they are competent to perform by virtue of their training and experience.*
- 3** *Professional engineers, geologists and geophysicists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*
- 4** *Professional engineers, geologists and geophysicists shall comply with applicable statutes, regulations and bylaws in their professional practices.*
- 5** *Professional engineers, geologists and geophysicists shall uphold and enhance the honour, dignity and reputation of their professions and thus the ability of the professions to serve the public interest.*

E. RECOMMENDED ORDERS

On the recommendations of the Investigative Committee, and by agreement of Mr. Henk Brenkman P.Eng., with that recommendation, following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:

1. The Member receives a letter of reprimand and a copy to be retained on his APEGA file.
2. The Member is to submit, to the Investigator of this case, a revised version of his Professional Practice Management Plan. As part of the PPMP, the Member is to include:

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- a. An appropriate section regarding policies and procedures in terms of implementing and tracking changes throughout the various stages of the design process.
 - b. An appropriate section for dealing with client disputes and conflicts that, using examples from this complaint, could address the disputes and conflicts encountered with the Complainant.
 - c. Be completed and submitted within 30 days of the Case Manager's approval of this Recommended Order.
 - d. Be deemed appropriate by the Investigative Panel.
 - e. If the PPMP is not submitted or deemed deficient, the Member and the Member's Permit to Practice will be suspended until such time it has been appropriately completed.
3. That the details of the case be published in *The PEG* magazine with names.

MR. HENK BRENKMAN, *P.ENG.*

GREG MEYERS, *P.ENG.*

Panel Chair, APEGA Investigative Committee

APEGA Discipline Committee

Approved this 17th day of February 2017

By Case Manager Robert Swift, P.Eng.