Recommended Orders

Date: August 30, 2018 Case No.: 18-002 RDO

IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT, AND IN THE MATTER OF THE CONDUCT OF [PROFESSIONAL MEMBER A], P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Professional Member A], P.Eng., (the "Member") with respect to a complaint initiated by [Complainant B], (the "Complainant"), who submitted the complaint on August 21, 2017.

A. BACKGROUND

The Complainant filed a complaint against the Member, alleging the Member did not report misconduct of another Professional Engineer (the "Other Professional Engineer") to APEGA, therefore engaging in professional misconduct.

The Complainant stated that she had a verbal agreement with the Other Professional Engineer to apply his electronic stamp and signature to documents and send the documents to a home builder without the Other Professional Engineer having reviewed the documents. The Complainant further stated that the Member knew of this arrangement. The Other Professional Engineer is a close relative of the Member and the Complainant.

B. THE COMPLAINT

The Investigative Committee conducted an investigation into whether the Member breached the *APEGA Guideline for Ethical Practice* (the "Guideline") by failing to notify APEGA of improper authentication of documents procedures by another Professional Engineer.

C. AGREED STATEMENT OF FACTS

1. The Member was a professional member of APEGA.
2. The Complainant had a verbal agreement with the Other Professional Engineer to authenticate documents on his behalf.
3. The Member became aware of the arrangement between the Complainant and the Other Professional Engineer beginning in 2010. The arrangement between the Complainant and the Other Professional Engineer to authenticate documents continued until August 2017.
4. The Member knew that the Complainant was applying the Other Professional Engineer's electronic stamp and signature to two different types of documents, which were then sent to an Edmonton-area homebuilder without the Other Professional Engineer's review. Both types of documents had an electronic image of the Professional Engineer's stamp and signature.
5. The documents in question were:
   a. *Manufactured Stone and Brick used in Exterior Wall Cladding System*; and
   b. Cover letters confirming that [Company C] (the "Company") will produce drawings such as stairwell opening detail, lateral bracing detail and tall wall detail.
6. The use of manufactured stone and brick in residential construction is not covered under the *Alberta Building Code* as an exterior finish. The City of Edmonton requires the *Manufactured Stone and Brick used in Exterior Wall Cladding System* document to be authenticated by a Professional Engineer.

7. The Member attempted to mitigate the risk of improper authentication by installing the digital signature software approved by APEGA, Notarius, onto the Complainant's and the Other Professional Engineer's computer. The Complainant refused to use Notarius and the Other Professional Engineer refused to mandate that the Complainant use Notarius.
8. The Member believed there was nothing more he could do to correct the situation between the Complainant and the Other Professional Engineer and did not consider reporting the conduct to APEGA.

D. CONDUCT

9. The Member freely and voluntarily admits that he breached the *Guideline for Ethical Practice* by not reporting the Other Professional Member's conduct to APEGA.
10. The Member acknowledges that the conduct described above constitutes unprofessional conduct as defined in Section 44(1) of the *Engineering and Geoscience Professions Act.*
11. The Member also acknowledges that the conduct described above contravenes Rule of Conduct #1, #3 and #5 of the Code of Ethics:

    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.*

    3. *Professional engineers and geoscientists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*

    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.*

12. The Member further acknowledges that he breached the Guideline, which states:

    "If a member determines, or has reasonable and probable grounds to believe that the professional conduct or the technical competence of another professional member is in serious question, he or she has a clear and definite duty to inform APEGA accordingly."

E. RECOMMENDED ORDERS

13. 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 to be maintained permanently on the Member's APEGA file.
    2. The Member will pay a fine of $1,000 within 90 days from the date this order is approved by the Discipline Committee Case Manager. If the fine is not paid within 90 days from the date this order is approved, the Member shall be suspended from the practice of engineering.
    3. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not name the Member or the Company.

Signed,

[PROFESSIONAL MEMBER A], *P.ENG.*

ALLAN YUCOCO, *P.L. (ENG.)*
Panel Chair, APEGA Investigative Committee

TOM GREENWOOD-MADSEN, *P.ENG.*
Case Manager, APEGA Discipline Committee

Date: August 30, 2018