



APEGA RECOMMENDED ORDER TO THE DISCIPLINE COMMITTEE

IN THE MATTER OF THE *ENGINEERING,
AND GEOSCIENCE PROFESSIONS ACT*

AND

IN THE MATTER OF THE CONDUCT OF

Mr. Zhao Guan, P.Eng.

Registrant No. 258499

IC File: 23-16

APEGA RECOMMENDED ORDER TO THE DISCIPLINE COMMITTEE

In the Matter of the *Engineering and Geoscience Professions Act*

and

In the Matter of the Conduct of Mr. Zhao Guan, P.Eng.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of Mr. Zhao Guan, P.Eng. (the Registrant) with respect to a complaint initiated by Mr. John Corriveau, P.Eng. (the Complainant).

A. Complaint

The Complainant filed a complaint alleging the Registrant engaged in unprofessional conduct as defined at section 44(1) of the *Engineering and Geoscience Professions Act*, RSA 2000, cE-11 (*EGP Act*) with respect to the Registrant's disciplinary matters in British Columbia.

The Investigative Committee's investigation focused on the following allegation:

Whether the Registrant, by virtue of being a professional member of APEGA, engaged in unprofessional conduct as a result of being disciplined by Engineers & Geoscientists British Columbia on April 13, 2023.

B. Agreed Statement of Facts

(i) Background:

1. The Registrant holds a Masters degree in Applied Science (Structures) from the University of British Columbia (2004).
2. At the time of the unprofessional conduct in British Columbia he was working as a geotechnical engineer for a small engineering company in Vancouver, B.C.
3. He is currently employed as a senior structural engineer for an international consulting and engineering firm.
4. He has been a member of Engineers and Geoscientists British Columbia (EGBC) since 2008, and a member of APEGA since 2018.
5. The Registrant has cooperated with the APEGA investigation.

(ii) Facts Relating to the Allegation:

Whether the Registrant, by virtue of being a professional member of APEGA, engaged in unprofessional conduct as a result of being disciplined by Engineers & Geoscientists British Columbia on April 13, 2023.

6. According to the EGBC discipline notice posted on May 18, 2023, the Registrant:

“Signed and affixed his seal to design drawings for a retaining wall in North Vancouver, B.C. The drawings were not prepared by (the Registrant) nor prepared under his direct supervision. The drawings for the retaining wall contained serious errors including that the reinforcement for the retaining wall was placed on the wrong side and there were no dimensions identifying where the reinforcement should be placed. When problems with the construction of the retaining wall were identified in late August 2018, (the Registrant) failed to notify the appropriate authorities to ensure adequate site safety.”

“(The Registrant) failed to:

- Adequately check and identify errors in the drawings for the retaining wall before signing and sealing the drawings;
- Have an independent review of the drawings completed prior to the construction of the retaining wall;
- Ensure proper installation of the retaining wall to a reasonable standard expected from a professional engineer; and
- Keep adequate records related to the retaining wall including the calculations supporting the design set out in the drawings, his recommendations regarding the reinforcement for the retaining wall, and documentation showing the rationale for changes made to the retaining wall during construction.”

“Following the three-month suspension period, all engineering work performed by (the Registrant) will be subject to direct supervision for a minimum period of one year. During the period of direct supervision, (the Registrant) must successfully complete an educational course as set out in the Consent Order. Two years after the completion of the direct supervision period, (the Registrant) must undergo a practice review conducted by the Audit and Practice Review Committee.”

7. The Registrant admits to the facts detailed in the EGBC Discipline Notice and Consent Order. Additionally, the Registrant admits that he demonstrated unprofessional conduct related to the design of the retaining wall and acted contrary to the Bylaws of EGBC.
8. A copy of the EGBC Discipline Notice and Consent Order are attached to this Order as Appendix A.

9. The Registrant further admits that the conduct described in the allegation constitutes unprofessional conduct in Alberta.

C. Voluntary Undertaking and Protection of the Public in Alberta

10. To ensure the protection of the public in Alberta, the Registrant has entered into a Voluntary Undertaking with APEGA, in which he agrees to having his practice restricted and only practice engineering under the direct supervision and control of a registered professional engineer in Alberta, until the conclusion of his supervised practice in British Columbia.
11. A copy of the Voluntary Undertaking is attached to this Order as Appendix B.

D. Conduct by the Registrant

12. The Registrant freely and voluntarily admits that at all relevant times the Registrant was a professional member of APEGA and was thus bound by the *EGP Act* and the *APEGA Code of Ethics*.
13. The Registrant acknowledges and admits that the conduct described in the allegation amounts to unprofessional conduct as defined in section 44(1) of the *EGP 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 judgement in the practice of the profession, or*
- e) *displays a lack of knowledge of or lack of skill or judgement 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.

14. The Registrant acknowledges that the conduct described above is conduct that is detrimental to the best interests of the public, contravenes the code of ethics of the profession, and harms or tends to harm the standing of the professional generally.
15. The Registrant admits that his conduct was also contrary to Rules of Conduct 3, 4 and 5 of the *APEGA Code of Ethics*, which state:

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.*

E. Recommended Orders

16. On the recommendation of the Investigative Committee, and by agreement of the Registrant, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
 - a. The Registrant shall be reprimanded for his conduct and this Order shall serve as the reprimand;
 - b. The Registrant shall provide written confirmation to APEGA's Director, Enforcement, within six months of being notified that the Recommended Order has been approved by the Discipline Committee Case Manager, that he has reviewed the following APEGA publications, and that the Registrant will comply with the requirements therein:
 - i. Ethical Practice Guideline (August 2022);
 - ii. Field Reviews of Engineering and Geoscience Work Guideline (August 2022); and,
 - iii. Relying on the Work of Others and Outsourcing Practice Standard (May 2021).
 - c. As outlined in the Voluntary Undertaking (attached to this Order as Appendix B), the Registrant's scope of practice with APEGA shall be restricted such that, the Registrant shall only practice engineering under the direct supervision and control of a registered professional engineer until the conclusion of his one-year, EGBC-mandated period of direct supervision (the restriction) which commenced on July 30, 2023. The Registrant shall provide APEGA's Director, Enforcement with written confirmation of successful completion of the one-year EGBC-mandated direct supervision;

- d. The Registrant shall provide written confirmation in the form of copies of disclosures to the Director, Enforcement, within one month of the date this Order has been approved by the Discipline Committee Case Manager, that they have disclosed they were the subject of an APEGA disciplinary procedure (provide each regulator with a copy of this Order) to all other engineering regulatory bodies to which the Registrant holds membership.
- e. The restriction will be reflected in the public APEGA Member Directory until such time as the practice restriction in British Columbia has been removed from the EGBC registry.

Additionally, at the conclusion of his EGBC-mandated period of direct supervision of his engineering practice, the APEGA Supervisor shall provide a written summary assessment in a format provided by APEGA, and attest to the Registrant's engineering competency in writing, to APEGA's Director, Enforcement.

If, on review of the APEGA Supervisor's written assessment, APEGA's Practice Review Board deems that the Registrant's engineering competency is unsatisfactory, the Registrant shall be indefinitely restricted from practicing engineering until the Registrant can demonstrate competency to APEGA. This indefinite restricted status shall be reflected in APEGA's Member Directory.

- f. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will name the Registrant.

I, Mr. Zhao Guan, P.Eng., acknowledge that before signing this Recommended Order, I consulted with legal counsel regarding my rights or that I am aware of my right to consult legal counsel and that I hereby expressly waive my right to do so. I confirm that I agree to the facts as set out above in this Recommended Order and the admissions set out in Section B, and that I agree with the Orders in Section E that are jointly proposed.

Further to the above, I acknowledge that I have reviewed APEGA's 'Good Standing Policy.' I understand that I will not be considered to be a member 'in good standing' until I have fully complied with the Orders set out above and I understand that good standing status may affect membership rights or benefits, the ability to become a Responsible Member, or the ability to volunteer with APEGA in any capacity.

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

Mr. Zhao Guan, P.Eng.

Signed with ConsignO Cloud (2023/10/23)
Verify with verifio.com or Adobe Reader.



Mr. Zhao Guan, P.Eng.

Bronwen Kelley, P.Eng.

Signed with ConsignO Cloud (2023/10/31)
Verify with verifio.com or Adobe Reader.



Ms. Bronwen Kelley, P.Eng

Investigation Panel Chair
APEGA Investigative Committee

APEGA Discipline Committee

Approved this ____ day of _____, 2024.

By: _____

Case Manager