



**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. IRVIN MARTENS, P.ENG.,

And

MARTENS ENGINEERING LTD.

APEGA
Investigative Committee
Recommended Order

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

And

In the matter of the conduct of

MR. IRVIN MARTENS, P.ENG.,

And

MARTENS ENGINEERING LTD.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of MR. IRVIN MARTENS, P.Eng., (the "Member") with respect to a complaint received by APEGA on December 16, 2014 from [REDACTED] (the "Complainant") and [REDACTED] (the "Company"). The complaint was regarding an inspection and subsequent report which attributed damages to a home as a result of the storage of shingles that were placed on a residential roof over a 4 ½ month period.

A. Complaints

1. The Member has engaged in unskilled practice in the work undertaken contrary to Section 44(1) (b) (d) of the Act and Rule of Conduct #2 of the Code. The Member provided a report that displayed a lack of judgement in the practice of engineering.
2. The Member has engaged in unprofessional conduct that displayed a lack of judgement in the work undertaken contrary to Section 44(1)(b) of the Act and Rule of Conduct #3 of the Code.
3. The Member has engaged in unprofessional conduct that displayed a lack of judgement in the carrying out of a duty contrary to Section 44(1)(a)(b) of the Act and Rule of Conduct #5 of the Code. The actions of the Member did not uphold or enhance the reputation of the profession.

B. Agreed Statement of Facts

As a result of the investigation, it is agreed by and between the Investigative Committee and Mr. Irvin Martens, P.Eng. (the "Member") that:

1. Mr. Irvin Martens, P.Eng., was a professional member of APEGA, and was bound by the Engineering and Geoscience Professions Act (the "Act") and the APEGA Code of Ethics, at all relevant times;
2. Martens Engineering Ltd., held a valid Permit to Practice and was bound by the Engineering and Geoscience Professions Act (the "Act") and the APEGA Code of Ethics at all relevant times;
3. The Member holds a Bachelor of Engineering Degree in Civil Engineering from the University of Saskatchewan (1963) and a Master of Science degree in Civil Engineering from the University of Saskatchewan (1965). The member is currently employed by his own engineering firm, Martens Engineering Ltd., located in Lethbridge, Alberta.
4. The Member inspected the interior and exterior of a home located near [REDACTED] Alberta, and provided a report dated April 16, 2013. The report detailed the estimated costs to repair the house which was, as the Member stated, "Damaged by excessive loads on the roof." The report was addressed to [REDACTED], a lawyer from [REDACTED]. [REDACTED] was representing the Homeowner of the residence in a civil litigation matter against the complainant and their company.
5. The Member has admitted to unprofessional conduct by attributing damages observed in the home to the shingles stored on the roof without completing calculations to confirm the source of the damage.
6. The Homeowner identified damages to the home. The Member inspected the damages and verified that they were in fact damages in need of repair. The Homeowner informed the Member that the home had been moved. Because of this, it was not readily clear whether the damages had been caused by the excessive loads on the roof, or by the moving of the house. The Homeowner insisted that damages were caused by the excessive loads on the roof. The Member accepted her statement to this effect without substantiation of evidence to support her claims.
7. The Member did not complete calculations necessary to determine the load capacity of the roof.

C. Conduct

The Member freely and voluntarily admits that his conduct constitutes unprofessional conduct and that the Complaint #1, set out above has been admitted and proven. The Member has therefore engaged in unprofessional conduct that contravenes a code of ethics of the profession as established under the regulations contrary to Section 44(1)(b) and (d) of the Act and Rule of Conduct #2 of the Code.

The Member's responsibility is to serve the public interest and in this case, the public interest is to both the Homeowner and the Company.

D. Section 44(1) of the Act and the Code of Ethics:

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

- (b) contravenes a code of ethics of the profession as established under the regulations;
- (d) displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, or;

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.

Rule # 2 of the APEGA Code of Ethics state:

2. *Professional engineers, geologists and geophysicists shall undertake only work that they are competent to perform by virtue of their training and experience.*

E. Orders

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

- The Member receives a letter of reprimand.
- That the details of the case be published in the PEG magazine with names after the conclusion of the Civil matter.
- The Member will complete a formal letter of apology to the complainants, to be reviewed and delivered via APEGA
- The Member shall pay a fine of \$2,000.00 to APEGA within six months of the date of this Order.
- Should the Member fail to pay the fine in the period specified, his registration is to be suspended until such time as he does pay the fine.



Panel Chair – Rex Perchard M.Eng., P.Eng.
APEGA Investigative Committee



Mr. Irvin Martens, P.Eng.

APEGA Discipline Committee

Approved this 2nd day of September, 2016

By:

Case Manager / Alex Bolton, P. Geo.