



APEGA Recommended Discipline Order

APEGA members and permit holders are required to practise engineering and geoscience skillfully, ethically, and professionally. They must meet all prescribed requirements and follow all applicable legislation and regulations, such as the [Engineering and Geoscience Professions Act, General Regulation, Code of Ethics, and APEGA bylaws](#). Investigation and enforcement—followed by, when necessary, judgment based on a fair hearing of the facts—are requirements of ours in service to the public interest. For more information, please visit www.apega.ca/enforcement/discipline-decisions.

Date: June 2, 2022

Discipline Case Number: 22-006

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT
AND
IN THE MATTER OF THE CONDUCT OF [AN APEGA MEMBER]**

Pursuant to the Engineering and Geoscience Professions Act,
being Chapter E-11 of the Revised Statutes of Alberta 2000
Regarding the Conduct of an APEGA member

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Name Withheld] (the “Registrant”) with respect to a complaint initiated by [Name Withheld] (the “Complainant”) dated September 19, 2019.

A. THE COMPLAINT

This complaint pertains to an allegation that the Registrant engaged in unprofessional conduct and / or unskilled practice with respect to failing to deliver record drawings related to the installation of a project on a building in Edmonton, Alberta.

The Investigative Committee conducted an investigation with respect to the following allegation outlined in the Complaint:

Allegation #1

Whether the Registrant failed to provide record drawings after repeated requests by the Complainant and only provided a draft version of the drawings.

B. AGREED STATEMENT OF FACTS

As a result of the investigation, it is agreed by and between the Investigative Committee and the Registrant that:



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(i) Background:

1. The Registrant graduated from the University of Alberta in 1975 with a Bachelor of Science degree in Electrical Engineering. The Registrant has been a member of APEGA in good standing since 1979.
2. The Registrant has had no prior findings of unprofessional conduct or unskilled practice.
3. The Registrant cooperated with the investigation.

(ii) Facts Relating to Allegation #1:

4. The Complainant is the principal architect with the firm [Complainant firm]. In 2016 the Complainant was awarded a contract with a client to design a workspace model at the Client's building in Edmonton, Alberta.
5. The Client expanded the project to also include a showcase project in a field in which the Registrant held uncommon technical expertise. In August 2016, the Complainant awarded a contract to [Name Withheld] ("Engineering Firm") to provide the structural and electrical engineering design for the showcase project. The Registrant is the President and Responsible Member on record for the Engineering Firm as well as its sole employee. The Registrant was retained due to his reputation as being one of the few experienced in the technology being utilized. The Registrant described the showcase project as his first and largest design-bid-build project, the largest project of its type in Edmonton and likely the first ever design-bid-build project of its type in Alberta at that time.
6. The project was a fast-track project, starting with the design in March 2016 and occupancy for the final floor in January 2018. The Complainant first advised the Registrant of the Client's request for record drawings on March 8, 2019. The Registrant stated he was out of town and was given an extension until April 23, 2019, which was further extended at the request of the Registrant to May 3, 2019, due to other competing priorities.
7. The Subconsultant Agreement between the Complainant and Registrant (named on the agreement as the Consultant) was signed on August 8, 2016, and included the following provision under Section 2.1.4 of the agreement, "Consultant's Responsibilities" which states the following:



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“2.1.4 The Consultant shall provide, at the Consultant’s expense, progress copies of drawings, reports, specifications and other necessary information to [Complainant Firm] and other consultants for coordination and review. The Consultant shall coordinate all aspects of This Part of the Project, and the Consultant shall also become familiar with all aspects of the Project designed by [Complainant Firm] and other consultants as necessary for the proper coordination of This Part of the Project.”

8. The May 3, 2019, deadline passed, and the Complainant learned in email from the Registrant dated May 16, 2019, that he had fallen ill but was also facing deadlines on finalizing drawings for two school projects, thus causing further delays.
9. Between June 3 - June 7, 2019, then again from June 12 - June 17, 2019, the Registrant was hospitalized with serious life-threatening issues. The Complainant was empathetic of the Registrant’s health issues and even offered to take over completing the record drawings, however the Registrant declined. The Complainant stated there was pressure from the Client who warned they may have to terminate the contract. The Complainant reminded the Registrant of his contractual obligation and gave him until June 26, 2019, or he would lodge a complaint to APEGA as the Client would not approve further extensions.
10. On January 28, 2020, the Registrant emailed the Complainant apologizing as the drawings were still incomplete. The Registrant acknowledged that the building project was a learning curve for him and expressed his frustration in not completing his work on the project. The Registrant provided the Complainant with a list of outstanding tasks on the drawings but also stated he was trying to finalize a bid proposal for a separate project, thus causing further delays.
11. On July 8, 2020, the Registrant delivered draft copies of the record drawings to the Complainant but emphasized these were not to be considered final drawings.
12. These same draft copies have been delivered by the Complainant to the Client to meet the Client’s request of having drawings available for their records and maintenance; however, to date the Complainant has not received finalized record drawings from the Registrant.
13. The Registrant does not deny the allegation but stated that his ongoing health issues, conflicting work priorities and disputes with electrical inspectors on a separate but related design project were all contributing factors in delaying the completion of his work on the project.



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C. CONDUCT BY THE REGISTRANT AND THE COMPANY

14. The Registrant freely and voluntarily admits that at all relevant times the Registrant was an APEGA Professional Member and was thus bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
15. The Registrant acknowledges that the conduct described above constitutes unskilled practice as defined in Section 44(1) of the *Act*.

Section 44(1) of the *Act* States:

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 a lack of skill or judgment in the practice of the profession or;*
- (e) *displays a lack of knowledge 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 dishonorable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.

16. With respect to the allegation, the Registrant displayed a lack of judgment in the carrying out of his duty or obligation to produce record drawings to the Complainant.

D. RECOMMENDED ORDERS

17. On the recommendation of the Investigative Committee, and by agreement of the Registrant with that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:



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- a. The Registrant shall provide the Director, Enforcement, within six months of the date that this order is approved by the Discipline Committee Case Manager, proof of successful completion (passing grade) of a course in project management, to be determined by the Director, Enforcement, such as the *Introduction to Project Management* course offered by The Project Management Institute ("PMI") [Introduction to Project Management \(pmi.org\)](http://pmi.org).
 - b. The course noted in Par. 17(a) shall be completed at the Registrant's expense. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement for an extension prior to the deadline. If the noted course is no longer available on approval of this order, at the discretion of the Director, Enforcement, another course specializing in project management may be substituted. If the Registrant fails to provide the Director, Enforcement with proof that he has successfully completed the noted course within the timeline specified, the Registrant shall be suspended from the practice of engineering for 6 months or until the requirements are met. Further, failure to pass the courses within 12 months of the date this order is approved shall result in the cancellation of the Registrant's APEGA membership.
 - c. The Registrant shall pay a fine in the amount of \$500.00 pursuant to Section 64(1)(b) of the Act. The fine is a debt owing to APEGA and shall be paid within 90 days of the date this Order is approved by the Discipline Committee Case Manager. Failure to pay the fine by the noted deadline will result in the Registrant being suspended from the practice of engineering until the fine is paid. Further, failure to pay the fine within 12 months of the date this order is approved shall result in the cancellation of the Registrant's APEGA membership. The Registrant may apply to the Director of Enforcement for an extension prior to the deadline. If such an application is made, the Registrant shall provide the Director, Enforcement, the reason for the request, a proposal to vary the payment schedule, and any other documentation requested by the Director, Enforcement.
 - d. The Registrant shall be reprimanded for his conduct and this order shall serve as the reprimand.
18. Although the Investigative Committee and the Registrant understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in manner that identifies the Registrant by name, the parties understand that the decision to publish with or without name is discretionary. The parties submit that publication without name is appropriate given the specific facts in this case, including the following:



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- a. The Registrant has been a member of APEGA for 42 years and has had no findings of unprofessional conduct or unskilled practice prior to this complaint.
- b. The Registrant fully cooperated with the investigation and acknowledged the shortcoming of his actions.
- i. Publication of the Registrant's name is not required in this instance to protect the public interest (no public safety concerns).

IN WITNESS WHEREOF the undersigned agrees with the Agreed Statement of Facts and Acknowledgement of Unskilled Practice in its entirety.

Signed,

[REGISTRANT]

MR. IAN BUTTERWORTH, P.Eng.
Panel Chair, APEGA Investigative Committee

MR. TIM MORAN, P.Eng.
Case Manager, APEGA Discipline Committee

Date: June 2, 2022