



**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. David McDowell
#77534

Investigation Case: #22-03

**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. David McDowell

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of David McDowell (the “Registrant”) with respect to a complaint initiated by [REDACTED] [REDACTED] (the “Complainant”) dated February 14, 2022 (the “Complaint”).

A. The 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, c E-11 (*EGPA*) with respect to the following allegation outlined in the Complaint:

Whether the Registrant engaged in unprofessional conduct by virtue of his arrest on January 12, 2022, for possession of child pornography. The Registrant subsequently pled guilty to one count of Possession of Child Pornography under section 163.1(4) of the Criminal Code and was sentenced to four years incarceration.

B. Agreed Statement of Facts

As a result of the investigation, it is agreed by and between the Investigative Committee (“IC”) and the Registrant that:

(i) Background

1. The Registrant graduated from the University of Alberta in 1974 with a bachelor of science degree in chemical engineering.
2. The Registrant obtained his masters in chemical engineering at the University of Alberta in 1976.

3. The Registrant was a member of APEGA in good standing from May 27, 2003, until his resignation, effective June 10, 2021.
4. The Registrant returned his professional engineer stamp to APEGA on August 30, 2022.

(i) Facts Relating to Allegation #1:

5. The Complainant first met the Registrant in 2015 through their involvement in a medieval recreational society (“the society”) whose membership consists of both adults and youths. The Registrant was one of the society’s coordinators and taught medieval weapons training to the society’s youth members. Through their interactions, the Complainant became aware that the Registrant was an APEGA professional member.
6. On February 14, 2022, the Complainant filed a conduct complaint with APEGA after learning of the Registrant’s arrest for possession of child pornography on January 12, 2022. Based on the volume and content of materials seized by police¹, the APEGA IC drew the inference that the alleged criminal offence occurred during the time the Registrant was under license and prior to his resignation from APEGA on June 10, 2021.
7. The APEGA IC’s jurisdiction as it relates to resigned/cancelled Registrants is outlined under section 43(3) of the *EGP Act* which states:

“A complaint respecting the conduct of a professional member, licensee, permit holder or certificate holder whose registration was cancelled pursuant to this Act may, notwithstanding the cancellation, be dealt with within 2 years following the date of cancellation of the registration as is if the cancellation had not occurred.”
8. The Complaint was referred to the APEGA IC in accordance with section 43 of the *EGP Act*, and an Investigation Panel (“Panel”) was appointed to investigate in accordance with section 47 of the *EGP Act*.
9. On May 31, 2022, the IC adjourned the preliminary investigation, at the request of the Registrant, pursuant to section 43 of the *EGP Act General Regulation*, pending the outcome of the Registrant’s criminal proceedings.
10. On February 6, 2023, the Registrant pleaded guilty to one count of Possession of Child Pornography contrary to section 163.1(4) of the Criminal Code and was sentenced to four years’ incarceration. Based on the quantity of evidence seized and comments made by the Honourable Provincial Court Judge R.E. Tibbitt in the Sentencing Decision dated March 6, 2023, the APEGA IC again drew the

¹ CTV News Edmonton, February 11, 2022.

inference that the offence occurred during a time when the Registrant was under licence prior to his resignation from APEGA on June 10, 2021.²

C. Conduct

11. The Registrant freely and voluntarily admits that at all relevant times the Registrant was an APEGA professional member and was thus bound by the *EGP Act* and the APEGA Code of Ethics.

12. The Registrant acknowledges and admits that the conduct described above constitutes unprofessional conduct as defined in section 44(1) of the *EGP Act*. Section 44(1) of the *EGP 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.

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

- 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.*
- 2. Professional engineers and geoscientists shall undertake only work that they are competent to perform by virtue of their training and experience.*
- 3. Professional engineers and geoscientists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*

² R v McDowell, 2023ABPC (CanLII)

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.*

13. The Registrant further acknowledges that the conduct described above breaches section 44(1) (b) and (c) of the *EGP Act* and Rule of Conduct #5.

D. Recommended Orders

14. 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:

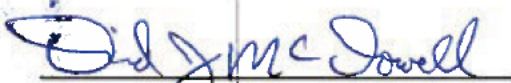
- a. The Registrant shall be reprimanded for their conduct and this order shall serve as the reprimand.
- b. Noting that the Registrant cancelled their APEGA registration on June 10, 2021; the Registrant shall not apply for reinstatement of licence as a professional member, licensee, permit holder, or restricted practitioner with APEGA until the sentence for their criminal conviction has been fully served and discharged. The Registrant shall not be eligible for IPMA (Inter-Provincial Mobility), regardless of registration status in another jurisdiction. If the Registrant elects to apply for reinstatement of licensure with APEGA, the Registrant shall be bound by APEGA's reinstatement process under the current or future legislation:
<https://www.apega.ca/members/changes/return-to-practice#reinstate>
- c. Any application for reinstatement shall be contingent upon the Registrant providing the Director, Professional Practice, written confirmation/proof of successful completion (passing grade) of:
 - i. The National Professional Practice Examination (NPPE). The Registrant shall be responsible for all costs associated with the completing of the exam.
- d. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will name the Registrant.


I, David McDowell, acknowledge that before signing this Recommended Discipline 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 and admissions as set out above in this Recommended Discipline Order, and that I agree with the Orders that are jointly proposed.

Further to the above, I acknowledge that a copy of this Order will be disseminated to all provincial and territorial engineering and geoscience regulators in Canada.

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




David McDowell
Sherman Chan
Signed with ConsignO Cloud (2024/03/20)
Verify with verifio.com or Adobe Reader. 

28 February 2024


Witness

Sherman Chan, P.Eng.
Panel Chair
APEGA Investigative Committee

APEGA Discipline Committee
Alex Bolton

Signed with ConsignO Cloud (2024/06/14)
Verify with verifio.com or Adobe Reader. 

By: _____
Case Manager

June 14, 2024