



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

████████████████████ P.Eng.

AND

IN THE MATTER OF THE CONDUCT OF

████████████████████

Registrant No. ██████████

Permit No. ██████████

IC File: 23-25

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Professions Act*

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The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of ██████████ P.Eng. (the Registrant) and ██████████ (the Permit Holder) with respect to a complaint initiated by ██████████ (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, c E-11 (*EGP Act*) with respect to the Registrant's professional work on a warehouse building project in Grande Prairie, Alberta, in 2015 and 2016.

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

Whether the Registrant and/or the Registrant's company, the Permit Holder, acted in an unprofessional and/or unskilled manner in their roles as the mechanical and electrical engineer of record relative to the ██████████ building project (the project).

B. Agreed Statement of Facts

(i) Background:

1. The Registrant holds a bachelor of engineering degree in electrical engineering from Lakehead University (2010).
2. The Registrant is the president and chief executive officer of ██████████ a Grande Prairie-based engineering consulting firm.
3. The Registrant has been a member of APEGA since 2014. The Registrant's company has been an APEGA Permit Holder since 2014.
4. The Registrant is registered in several provinces and in the U.S.
5. The Registrant and Permit Holder cooperated with the investigation.

(ii) Facts Relating to the Allegation:

Whether the Registrant and /or the Registrant's company, the Permit Holder, acted in an unprofessional and /or unskilled manner in their roles as the mechanical and electrical engineer of record relative to the [REDACTED] building project (the project).

6. The APEGA investigation has relied upon incomplete documents and professional work products due to the Registrant and Permit Holder losing documents because of a ransomware attack and the County of Grande Prairie, the Authority Having Jurisdiction (AHJ), losing documents because of a computer network outage. As such, some dates noted below are approximations.
7. In 2015, the Registrant and Permit Holder were retained by H2O Plumbing and Heating Ltd. (H2O), a now-defunct Grande Prairie-based business, to act in the role of the electrical and mechanical engineer of record for a combined office and tank truck servicing shop being constructed in the County of Grande Prairie.
8. H2O was under contract to a general contractor (now deceased) based out of Whitecourt, Alberta.
9. In the spring of 2016, the Registrant and Permit Holder became involved in a payment dispute with the general contractor. As a result of this dispute, the Registrant and Permit Holder advised H2O and the general contractor that he would cease working on the project as the mechanical engineer of record, but agreed to remain in the role of the electrical engineer of record.
10. Sometime in 2016 the general contractor approached another professional engineer, who was already working on the project as the coordinating registered professional and the registered professional assuming responsibility for architecture, geotechnical engineering, and structural engineering, to also assume responsibility for the mechanical engineering components on the project.
11. The other professional engineer agreed to the general contractor's request to assume the role of mechanical engineer of record for the project.
12. The other professional engineer told APEGA that the general contractor provided him with a copy of the mechanical designs for the project. These designs had been authenticated and issued for construction by the Registrant and Permit Holder in July 2015.
13. The other professional engineer placed his own professional stamp and signature on each page of the mechanical design package.
14. The other professional engineer did not consult with or obtain permission from the Registrant /Permit Holder to use the mechanical designs.

15. Sometime in early May 2016, the County of Grande Prairie, the Authority Having Jurisdiction (AHJ), alerted the Registrant /Permit Holder that it was now in receipt of two sets of authenticated mechanical designs for the project: one set authenticated by the Registrant /Permit Holder and one set authenticated by the other professional engineer.
16. Sometime in early May 2016, the Registrant /Permit Holder called the other professional engineer inquiring as to the unauthorized use of his mechanical designs. The other professional engineer expressed regret to the Registrant / Permit Holder. The Registrant /Permit Holder expressed his displeasure towards the other professional engineer, but tacitly allowed the other professional engineer to use the mechanical designs in fulfilment of his role of mechanical engineer of record.
17. At no point during the project did the Registrant /Permit Holder notify the AHJ that he was no longer the mechanical engineer of record for the project.
18. The Registrant /Permit Holder did not report the conduct of the other professional engineer to APEGA.
19. The Registrant /Permit Holder admits that the conduct described above constitutes unprofessional conduct.

C. Conduct by the Registrant and Permit Holder

20. The Registrant and Permit Holder freely and voluntarily admit that at all relevant times the Registrant and Permit Holder were professional members of APEGA and were thus bound by the *EGP Act* and the *APEGA Code of Ethics*.
21. The Registrant and Permit Holder acknowledge and admit 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.

22. The Registrant and Permit Holder acknowledge 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 profession generally.
23. The Registrant and Permit Holder admit that their conduct was also contrary to Rule of Conduct 4 of the *APEGA Code of Ethics*, which states:
 4. Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.
24. The Registrant and Permit Holder admit that their conduct was also contrary to APEGA's *Guideline for Ethical Practice* (February 2013), which states, in part:

Section 4.5.3: If a member determines or has reasonable and probable grounds to believe that the professional conduct or the technical competence of another professional is in serious question, he or she has a clear and definite duty to inform APEGA accordingly.
25. The Registrant and Permit Holder also admit that their conduct was contrary to the following section of the Alberta Building Code (2006), in effect at the time of the project in question:

Article 2.2.12.2: The owner and registered professional of record shall notify the authority having jurisdiction should the registered professional of record cease to be retained at any time during the construction of the project.

D. Recommended Orders

26. On the recommendation of the Investigative Committee, and by agreement of the Registrant and Permit Holder, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
 - a. The Registrant and Permit Holder shall be reprimanded for their conduct and this Order shall serve as the reprimand.
 - b. The Registrant and Permit Holder shall provide written confirmation to the Discipline Manager within six months of being notified that the Recommended Order has been approved by the Discipline Committee Case Manager, that they have:
 - i. reviewed the APEGA publication, '*Ethical Practice Guideline* (August 2022)';

- ii. reviewed the content of the APEGA Professional Development presentation, 'Your Obligation to Report';
- iii. reviewed the content of the Engineers & Geosciences British Columbia presentation, 'Ethics in Practice: Professional Conduct Between Submitting Professionals and Authorities Having Jurisdiction.'

And that the Registrant and Permit Holder will comply with the requirements therein.

- c. The Registrant and Permit Holder shall provide the Discipline Manager within twelve (12) months of the date this order is approved by the Discipline Committee Case Manager, written confirmation /proof of successful completion (passing grade) of the following course offered online through EPIC Education Program Innovations Center (EPIC):
 - Ethics and Integrity in Construction offered in June 2024.

If the above noted course is no longer available on approval of this Order, at the discretion of the Discipline Manager another post-secondary course in ethics may be substituted. The Registrant and Permit Holder shall be responsible for all costs associated with completing the course.

- d. If there are extenuating circumstances, the Registrant and Permit Holder may apply in writing to the Discipline Manager for an extension prior to the deadlines noted above. The approval for extending a deadline is at the discretion of the Discipline Manager. If such an application is made, the Registrant and Permit Holder shall provide the Discipline Manager the reason for the request, a proposal to vary the deadline, and any other documentation requested by the Discipline Manager.
- e. If the Registrant and Permit Holder fail to provide the Discipline Manager with proof that they have completed the requirements noted above within the timelines specified or any extended timeline granted, the Registrant and Permit Holder shall be suspended from the practice of engineering for a minimum of 30 days. If the requirements are not completed within 6 months of the suspension date, the Registrant and Permit Holder shall be cancelled. In the event the Registrant and Permit Holder are cancelled, they will be bound by APEGA's reinstatement policy.

- f. Although the Investigative Committee and the Registrant and the Permit Holder understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies the Registrant and the Permit Holder 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, namely, the Registrant and Permit Holder's actions did not compromise public safety.

I, [REDACTED] 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 D 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.

Further to the above, I acknowledge that a copy of this Order and my identity shall be provided to the APEGA Practice Review Board.

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

[REDACTED]

P.Eng.

Jim Murphy, P.Eng.

Signed with ConSignO Cloud (2024/03/27)
Verify with verifio.com or Adobe Reader.



Mr. Jim Murphy, P.Eng. (Panel Chair)
APEGA Investigative Committee

APEGA Discipline Committee

Approved this 13 day of May, 2024.

John Van der Put

Bv:

Signed with ConSignO Cloud (2024/05/13)
Verify with verifio.com or Adobe Reader.



Case Manager