

Date: March 17, 2016

Case No.: 15-007-SO

**IN THE MATTER OF THE ENGINEERING
AND GEOSCIENCE PROFESSIONS ACT
AND
IN THE MATTER OF THE CONDUCT OF
[PROFESSIONAL MEMBER A], P.ENG.**

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Professional Member A], P.Eng., (the “Member”) with respect to a letter of complaint written to APEGA by [Professional Member B], P.Eng., regarding the foundation design and use of drawings for [Project C] (the “Project”) located in [Municipality D], Alberta.

A. COMPLAINTS

1. The Member has engaged in unprofessional conduct that was detrimental to the best interests of the public and placed the public’s welfare at risk, contrary to Section 44(1) (a) of the *Engineering and Geoscience Professions Act* (“Act”) and Rule of Conduct #1 of the *APEGA Code of Ethics* (“Code”). The Member jeopardized the safety and welfare of individuals who would frequent the [Building Name Redacted] as it has an inadequate foundation design.
2. The Member has engaged in unskilled practice that displayed a lack of skill in the work undertaken contrary to Section 44(13) (e) of the Act and Rule of Conduct #2 of the Code. The Member was not competent (did not have the training and experience) to undertake the Project’s foundation stabilization system.
3. The Member has engaged in unprofessional conduct that displayed a lack of judgement in maintaining the integrity and honesty of the profession contrary to Section 44(1) (b) of the Act and Rule of Conduct #3 of the Code. The Member failed to secure permission from [Professional Member B] to utilize and modify his drawings.
4. 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) (b) of the Act and Rule of Conduct #5 of the Code. The Member did not engage [Professional Member

B] regarding changes that were being made to his original design and proceeded without any discussion with [Professional Member B] thereby failing to address his concerns as a professional.

B. AGREED STATEMENT OF FACTS

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

1. The Member was a professional member of APEGA, and was thus bound by the APEGA Code of Ethics, at all relevant times.
2. The Member holds a Bachelor of Science in Structural Engineering from [Institute Redacted] (1964) and has completed the APEGGA PExams in Civil Engineering (1993). The member is currently the CEO of his own engineering firm, [Company E].
3. [Company E] held a valid Permit to Practice at all relevant times.
4. The Project’s foundation design, submitted to [Municipality D], was originally designed by [Professional Member B] and later modified by the Member.
5. The duties of the professional Member, when taking over the Project from another, were not fulfilled. The Member did not secure permission to utilize, modify or make changes to the original foundation design created by [Professional Member B].
6. The Member has fully cooperated with the APEGA investigation and:
 - a. Admitted that another engineer completed the original foundation design and that the Member did not receive authorization or inform the other engineer regarding modifications and changes that were going to be made.
 - b. Demonstrated his extensive background and experience in this field.
 - c. Had previously been involved in a similar project located in the same area at an earlier time.
 - d. Provided a foundation design (for [Project C]) that is adequate and does not pose a risk to the public.

C. CONDUCT

The Member freely and voluntarily admits that his conduct constitutes unprofessional conduct and that the Complaints (#3

& #4) set out above are 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) of the Act and Rules of Conduct #3 and #5 of the Code.

With regards to the complaints (#1 & #2) set out above, the Member has demonstrated competence as it relates to the foundation design and therefore the conduct does not contravene Section 44(1) (e) of the Act or Rules of Conduct #1 or #2 of the Code.

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

- (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 judgment in the practice of the profession, or;
- (e) displays a lack of knowledge of 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.

Rules # 3 and #5 of the APEGA Code of Ethics state:

- 3. *Professional engineers, geologists and geophysicists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*
- 5. *Professional engineers, geologists and geophysicists shall uphold and enhance the honor, dignity and reputation of their professions and thus the ability of the professions to serve the public interest.*

E. ORDERS

On the recommendations of the Investigative Committee, and by agreement of [Professional Member A], P.Eng., with those recommendations, following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders:

- That [Professional Member A] shall receive a letter of reprimand.
- That [Professional Member A] write a letter of apology to [Professional Member B]. The letter should indicate that [Professional Member A], as a professional courtesy, should have contacted [Professional Member B] prior to the use and/or modifications of the Project's drawings.
- That the case be published in the PEG without names.

ROY SUDIPTO, P.ENG.,

PANEL CHAIR, APEGA INVESTIGATIVE COMMITTEE

[PROFESSIONAL MEMBER A], P.ENG.

APEGA Discipline Committee

Approved this 17th day of March, 2016

By Case Manager Timothy Cartmell, P.Eng.