



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.

Registrant: #██████████
Investigation Case #2023-07

AND

IN THE MATTER OF THE CONDUCT OF

████████████████████

Permit Holder: #██████████
Investigation Case: #2023-07

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
[REDACTED]

and

In the Matter of the conduct of
[REDACTED]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [REDACTED] P. Eng., (the Registrant) and [REDACTED] (The Permit Holder) with respect to a complaint initiated by [REDACTED] (the Complainant) dated March 21, 2023 (the Complaint).

A. The Complaint

The Complainant filed a Complaint alleging the Registrant and Permit Holder engaged in unprofessional conduct/unskilled practice, as defined at section 44(1) of the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11 (*EGP Act*) in relation to structural engineering services provided to [REDACTED] [REDACTED] for the design of two tall walls (TW's) for a residential property in Lethbridge, AB, in June of 2022. [REDACTED] retained the Complainant to conduct an independent review/assessment of the Registrant/Permit Holder's stamped drawings.

The Investigative Committee's investigation focused on the following allegations which can be summarized as follows.

Whether the Registrant and/or Permit Holder engaged in unskilled practice in that:

1. The initial design, and subsequent re-stamped drawing was severely under designed based on the environmental loads present in Lethbridge, AB.
2. The design wind loading listed on the Permit Holders drawings appear to be accurate, but application of the wind loading to the wall did not appear to be correct.

3. The Permit Holder failed to identify how the wind loading should be applied to the wall given that the opening supported a large accordion-style door.
4. When the issues were brought up with the Permit Holder by [REDACTED] the calculations and emails provided were significantly lower than the design loading clearly stated on the Permit Holder's own drawings.
5. Emails from the Registrant stated that "*Based on my calculations, this should still pass (although is at almost 100% capacity)*". However, after review by [REDACTED], it was found that they were significantly undersized for both strength and deflection due to improperly imputed loads for both the location of the home and function/use of the wall, even though the wind loading stated on the drawings were correct.

B. Agreed Statement of Facts

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

(i) Background:

1. The Registrant has been an APEGA Professional Member in good standing since November 19, 2007. The Registrant is a Civil Engineer who specializes in structural and was a Responsible Member (RM) for the Permit Holder at the relevant time. Their primary scope is the provision of structural engineering services, including TWs, to home builders. The Registrant/Permit Holder have over 17 years of experience in TW design.
2. The Registrant obtained a Bachelor of Science degree in Civil Engineering in 2002.
3. The Permit Holder has been an APEGA Permit Holder in good standing since March 4, 2009.
4. The Registrant and the Permit Holder, accordingly, were bound by the *Engineering and Geoscience Professions Act* and the APEGA Code of Ethics during the relevant time.
5. The Registrant and Permit Holder cooperated with the investigation.
6. The Complainant has been an APEGA Professional Member in good standing since October 7, 2013.

(ii) Facts Relating to Allegation 1 through 5:

7. The company █████ specializes in “the design, manufacturing and transportation of custom roof trusses, floor systems and wall panels for every size of residential, commercial and agricultural projects”. The allegations arose when a contractor alerted █████ about TW concerns during construction of a new residence in Lethbridge, AB (the Property) in January of 2022.
8. The Registrant/Permit Holder worked with █████ for approximately three (3) years prior to this complaint, completing over 100 TW designs for █████ with no significant issues.
9. In March 2022, █████ contacted the Registrant/Permit Holder to design six (6) TWs for the property. The TWs were constructed as designed and the contractor subsequently advised █████ that two (2) of the six (6) TWs (noted as ‘TW1’ and ‘TW2’) were deflecting. █████ communicated this concern to the Registrant/Permit Holder and requested that the issues be fixed/resolved so construction could continue.
10. Over the next few months there was communications between █████ and the Registrant/Permit Holder. The Registrant/Permit Holder re-checked their initial design, insisted their design was correct and provided █████ a potential solution to construct ‘C Channels’ onto the built-up posts to reduce the deflection. █████ was not satisfied with the proposed remedy and elected to seek an independent engineering design review of TW1 and TW2.
11. In June of 2022, █████ hired █████ to examine the Registrant/Permit Holder’s design and assist in rectifying the wall deficiencies.
12. On June 23, 2022, █████ notified the Registrant/Permit Holder via a professional courtesy letter that █████ was conducting a review of their work.
13. On September 2, 2022, █████ provided their TW review to █████ with their findings and recommendations:
 - a. █████ found incorrect wind loads/errors in calculations involving deflection on the initial design $(1.76-0.9) * 0.66\text{kPa} * 0.9 = 1.58 \text{ Kpa} = 33 \text{ psf}$; ‘not’ 13.7 psf which the Registrant/Permit Holder used).
 - i. *“The design wind loading listed on the Registrants/Permit Holders drawings appeared to be accurate, but application of the wind loading to the wall was not correct. The Registrant/Permit Holder failed to identify how the wind loading should be applied to the wall given that the opening supported a large accordion-style door.”*

- b. █████ found when the Registrant/Permit Holder re-checked and re-calculated their design when the deflection was brought to their attention by █████, the Registrant/Permit Holder erred in calculating the same incorrect wind loads.
- c. Regarding TW1, █████ found *“Based on the results, aside from TW1 Sill, TW1 has failed to meet both the structural and serviceability requirements as set out in the NBC and CSA O86. Therefore, it is recommended that TW1 be reinforced or replaced to meet the requirements of CSA O86 and the NBC”*.
- d. Regarding TW2, █████ found *“Based on the results, with the exception of TW2 SILL, TW2 has failed to meet both the structural and serviceability requirements as set out in the NBC and CSA O86. Therefore, it is recommended that TW2 be reinforced or replaced to meet the requirements of CSA O86 and the NBC”*.

14. On March 13, 2023, the Registrant/Permit Holder received a copy of the █████ report.

15. The Registrant/Permit Holder accepted █████ finding and admitted they had erred by using the incorrect wind load calculation on the initial design of TW1 and TW2; further they neglected to note/correct this mistake when they first became aware of the TW1 and TW2 deflection concern.

16. The error was not consistent with the Registrant/Permit Holders experience and expertise; the Registrant/Permit Holder however, accepted responsibility.

17. The Registrant/Permit Holder admit that they displayed a lack of judgement in the practice of the profession.

C. Conduct

18. The Registrant/Permit Holder freely and voluntarily admit that at all relevant times they were a professional member/permit holder of APEGA, and thereby bound by the *Engineering and Geoscience Professions Act* and the APEGA Code of Ethics.

19. The Registrant/Permit Holder acknowledge that the conduct described above constitutes unskilled practice as defined in Section 44(1) of the 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.

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.
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 honor, dignity, and reputation of their professions and thus the ability of the professions to serve the public interest.

20. The Registrant/Permit Holder acknowledge that the conduct described above displays a lack of judgment in the practice of the profession contrary to section 44(1)(d) of the Act.

21. Further, the Registrant/Permit Holder acknowledge that the conduct described above constitutes a breach of Rule of Conduct 1.

D. Recommended Orders With Respect to the Registrant and Permit Holder:

22. On the recommendation of the Investigative Committee, and by agreement of the Registrant and Permit Holder with that recommendation, and following

a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:

- a. The Registrant/Permit Holder shall be reprimanded for their conduct and this order shall serve as the reprimand.
- b. The Registrant/Permit Holder shall each pay a fine in the amount of \$500.00. The fines are debts owing to APEGA and shall be paid within six (6) months of the date this order is approved by the Discipline Committee Case Manager.
- c. The Registrant/Permit Holder Designate shall each provide the Director, Enforcement, with six (6) months of the date this order is approved by the Discipline Committee Case Manager, written confirmation that they have reviewed the following APEGA publication and that the Registrant/Permit Holder will comply with the requirements therein:
 - i. Review of APEGA Professional Practice Standard 'Relying on the work of others and outsourcing', May 2021 edition.
- d. The Registrant and Permit Holder Designate both shall provide the Director, Enforcement, within twelve (12) months of the date this order is approved by the Discipline Committee Case Manager, written confirmation/proof of successful completion of the following training:
 - i. The APEGA 'Ethical Practice Self-Directed Learning Module', available on myAPEGA.
- e. If there are extenuating circumstances, the Registrant/Permit Holder may apply to the Director, Enforcement, for an extension prior to the noted deadlines. If such an application is made, the Registrant/Permit Holder shall provide the Director, Enforcement, the reason for the request, a proposal to vary the schedule, and any other documentation requested by the Director, Enforcement.
- f. If the Registrant/Permit Holder fail to provide the Director, Enforcement with proof that they have completed the requirements noted above in Paragraphs 22 (b), (c) and (d) within the timelines specified, the Registrant and Permit Holder shall be suspended from the practice of engineering until the requirements are met. If the requirements with respect to Paragraphs 22 (c) and (d) are not completed within six (6) months of the suspension date, the Registrant and Permit Holder shall be cancelled.
- g. Although the Investigative Committee and the Registrant and Permit Holder understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies the

Registrant and 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:

- i. The Panel's finding that this was an isolated incident.
- ii. The Panel's finding that the Registrant/Permit Holder are experienced and skilled in tall wall design.
- iii. The Panel's finding that there exists no risk to public safety going forward.


I, [REDACTED], P. Eng., confirm that I have authority to bind [REDACTED]
I, [REDACTED], P. Eng., 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 and my identity will be disseminated to all provincial and territorial engineering and geoscience regulators in Canada.

Further to the above, I acknowledge that I have reviewed APEGA's "Good Standing Policy". I understand that [REDACTED] and I will not be considered to be members "in good standing" until [REDACTED] and I have fully complied with the Orders set out above. I understand that good standing status may affect membership rights or benefits, or the ability to volunteer with APEGA in any capacity.

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

[REDACTED]
[REDACTED] P. Eng. / [REDACTED]

Roxanne Pierre, P.Eng. 
Signed with ConsignO Cloud (2023/11/28)
Verify with verifio.com or Adobe Reader.

Roxanne Pierre, P. Eng. (Panel Chair)
APEGA Investigative Committee

APEGA Discipline Committee
Niki Weinrauch 
Signed with ConsignO Cloud (2024/01/24)
Verify with verifio.com or Adobe Reader.

Jan 24, 2024

Case Manager