



# 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](http://www.apega.ca/enforcement/discipline-decisions).

**Date:** March 10, 2021

**Discipline Case Number:** 20-005

**IN THE MATTER OF A RECOMMENDED DISCIPLINE ORDER OF THE ASSOCIATION OF  
PROFESSIONAL ENGINEERS AND GEOSCIENTISTS  
OF ALBERTA**

Pursuant to the Engineering and Geoscience Professions Act,  
being Chapter E-11 of the Revised Statutes of Alberta 2000  
Regarding the Conduct of MR. ABU HENA MOSTOFA KAMAL, P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (“APEGA”) has investigated the conduct of Mr. Abu Hena Mostofa Kamal, P.Eng. (the “Member”) with respect to allegations of unprofessional conduct and/or unskilled practice pursuant to Section 44(1) of the *Engineering and Geoscience Professions Act* (the “Act”).

## A. THE COMPLAINT

This investigation related to an allegation that the Member engaged in unprofessional conduct and/or unskilled practice of the profession with respect to the structural engineering of a tall wall for a Calgary residential construction project.

The Investigative Committee investigated whether the Member issued deficient repair reports and designs for a tall wall, which was alleged in the Complaint.

The Investigative Committee investigated two other allegations outlined in the Complaint. The Investigative Committee determined there was insufficient evidence of unskilled practice and/or unprofessional conduct in relation to those allegations.

## B. AGREED STATEMENT OF FACTS

### (i) Background:

1. The Member graduated in 1996 with a Bachelor of Science, Civil Engineering, from the University of Bangladesh.



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2. He has been a member of APEGA since 2013. He has experience in structural design and geotechnical engineering for commercial and residential buildings.
3. The Member has been working full-time in the United States for the last four years. Since 2010 he has been working part time as a structural engineer for a consultant (the "Consultant") in Calgary.

**(ii) Facts Relating to Allegation #1:**

**Whether the Member issued deficient repair reports and designs for a tall wall.**

4. In December 2018, the Member was retained by the Consultant to provide structural engineering related to the repair of a tall wall. On December 4, 2018 and February 26, 2019, the Member issued reports to the Authority Having Jurisdiction (the "AHJ") confirming that the repairs to the Complainant's tall wall were adequate. On December 10 and 20, 2018, the Member also submitted his authenticated tall wall designs to the AHJ.
5. After obtaining copies of the Member's reports and designs from the AHJ, the Complainant (who is also a professional engineer) became suspicious of the Member's competency.
6. The Investigative Committee obtained an opinion from an Alberta-based expert in structural engineering in the area of wood design who determined the following:

"The recommended repair of the built-up jamb stud is inadequate. The jamb in question was comprised of two full height studs and one jack stud. A minimum of these two studs is required for strength at the critical section.

"The single ply 2x6 horizontal plate at the underside of the top of the wall header is under designed by a factor of 3 in bending and is deficient in connection to the adjacent jamb and top plates. This failure to identify a safe load path on a drawing created and sealed by the (Member) [is] not acceptable as a practising professional structural engineer."

"The specification of additional Simpson LP4 connections that do not improve the capacity of the tall wall also appear to demonstrate a lack of understanding of the safe structural load path involved in the tall wall."



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7. The Member acknowledges that there were errors in the designs that he provided to the AHJ, as outlined above, and that his conduct constitutes unskilled practice.

### C. CONDUCT

8. The Member freely and voluntarily admits that at all relevant times he was a Professional Member of APEGA and was bound by the Act and the APEGA *Code of Ethics*.
9. The Member acknowledges that the conduct described above constitutes unprofessional conduct and/or 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 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.*

10. The Member acknowledges that the conduct described above in Allegation 1 is conduct that is detrimental to the best interests of the public and displays a lack of knowledge or a lack of skill or judgment in the practice of the profession.
16. Further, the conduct described in Allegation 1 breaches Rules of Conduct 1 and 2 of the APEGA *Code of Ethics*, which 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.*



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2. *Professional engineers and geoscientists shall undertake only work that they are competent to perform by virtue of their training and experience.*

### D. RECOMMENDED ORDERS

17. On the recommendation of the Investigative Committee, and by agreement of the Member with that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
  - a) The Member will receive a letter of reprimand, a copy of which will be maintained for one year in the Member's APEGA registration file and be considered at any future date by APEGA.
  - b) The Member shall provide written confirmation to the Director, Enforcement, within thirty days of being notified that the Recommended Discipline Order (the "RDO") has been approved, that he has reviewed and will comply with the requirements of APEGA's Guideline for Ethical Practice (v2.2, February 2013); the Guideline for Responsibilities for Engineering Services for Building Projects (March 2009); the Practice Standard for Concepts of Professionalism (September 2004); and the Practice Standard for Authenticating Professional Work Products (July 2019).
  - c) The Member shall successfully complete a specified University-level engineering course in structural analysis and design (the "Course") within one year from the date that the RDO is approved.
  - d) The Member may apply to the Director, Enforcement for an extension prior to the one year deadline. If the Course is not successfully completed within one year or after the agreed to extension, the Member shall be suspended from the practice of engineering until the above noted course is successfully completed.
  - e) While completing the above noted sanctions the Member shall be considered to be in good standing.
  - f) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will name the Member.



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I, Mr. Abu Hena Mostofa Kamal, 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 and admissions as set out in this Recommended Order, and that I agree with the Orders that are jointly proposed.

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

Signed,

**MR. ABU HENA MOSTOFA KAMAL**, P.Eng.

**MR. ALLAN YUCOCO**, P.L. (Eng.)  
Investigation Panel Chair

**MR. FRED RITTER**, P.Eng.  
Case Manager, APEGA Discipline Committee

Date: March 10, 2021