



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.

Date: July 6, 2021

Discipline Case Number: 21-001

**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. STEPHEN PETROVICH, P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of Mr. Stephen Petrovich, P.Eng. (Registrant) with respect to allegations of unskilled practice and unprofessional conduct pursuant to Section 44(1) of the *Engineering and Geoscience Professions Act* (EGPA).

A. THE COMPLAINT

The Deputy Registrar and Chief Regulatory Officer (CRO) of APEGA (Complainant) referred the matter to the Investigative Committee on June 18, 2020, after becoming aware that the Registrant engaged in unprofessional conduct and unskilled practice of the profession in the Province of British Columbia, contrary to s. 44(1) of the EGPA, by virtue of his admissions in an Engineering and Geoscientists of British Columbia (EGBC) Consent Order dated April 6, 2020.

The Registrant's admissions were in relation to a 2016 screw pile design for a wraparound attached deck to a home located in Edgewater, B.C.

The Investigative Committee investigated the following allegations based on the allegations/admissions in the EGBC Consent Order:

Allegation 1:

The Registrant displayed a lack of knowledge of or lack of skill or judgement in the practice of the profession, contrary to section 44(1)(d) of the EGPA, as outlined in his admission in Paragraph 3 of the EGBC Consent Order:



APEGA Recommended Discipline Order

- A. *He demonstrated incompetence, negligence, or unprofessional conduct by:*
- a) *Failing to design screw piles for new deck piles at the property located in Edgewater, British Columbia (the "Property"), in or around April 2016 (the "Piles"), to the reasonable standard expected of a professional engineer, by failing to:*
 - i. *assess on-site soil conditions adequately or at all;*
 - ii. *obtain sufficient information about the Property to conduct a proper analysis of factors that might have, and did, affect the Piles;*
 - iii. *sufficiently document the design for the Piles;*
 - iv. *provide the qualifications for the design to the installer; and*
 - v. *provide a design drawing to the installer.*

Allegation 2:

The Registrant failed to conduct himself with integrity, honesty, fairness and objectivity in his professional activities, contrary to section 44(1)(b) of the EGPA and Rule of Conduct 3, as outlined in his admission in Paragraph 3 of the EGBC Consent Order:

Signing and affixing his seal to a letter dated April 14, 2016 regarding "Screw Pile Inspection/Compliance" for the Property (the "Assurance Letter"), that states "a detailed inspection was completed by a Professional Civil Engineer for the screw pile installed at [the Property]" on April 7, 2016, when he knew neither he nor a Professional Civil Engineer under his supervision had done a site visit to inspect the Piles on that day or at all, and he knew or ought to have known that the wording of the Assurance Letter was misleading.

Allegation 3:

The Registrant failed to hold paramount the health, safety and welfare of the public, contrary to section 44(1)(b) of the EGPA and Rule of Conduct 1, as outlined in his admission in Paragraph 3 of the EGBC Consent Order:

Failing to conduct a site visit at the Property in a reasonable amount of time after being made aware of issues arising with the Piles by the Property owner in or around June 2017.

Allegation 4:

The Registrant displayed a lack of judgement in the carrying out of his duty to make field review notes, contrary to section 44(1)(e) of the EGPA, as outlined in his admission in Paragraph 3 of the EGBC Consent Order:



APEGA Recommended Discipline Order

Failing to make field review notes when making a site visit on or around December 26, 2017.

B. AGREED STATEMENT OF FACTS

(i) Background:

1. The Registrant is a Civil Engineer and has been a professional member of APEGA in good standing since 2010. Accordingly, the Registrant was a member of APEGA at the relevant time.
2. The Registrant was hired in 2016 to perform a screw pile design for a wraparound attached deck to a home located in Edgewater, B.C.
3. The Registrant authenticated an Inspection Report dated April 14, 2016, in which he stated a detailed inspection of the screw piles was completed by a Professional Civil Engineer on April 7, 2016.
4. At the time he designed the screw piles, the Registrant was not aware that the contractor had built an 18.3 m long (and 1.5 m high) concrete segmental retaining which runs beneath the deck.
5. The Registrant was first made aware of issues (the deck, screw piles and retaining wall moved several inches) with the homeowner's deck in the summer of 2017. Although he requested information from the owner, he did not receive the information and photos until October 2017.
6. On November 3, 2017, the Registrant discussed the issues with the deck with the contractor.
7. On November 10, 2017, the homeowner requested that the Registrant attend to inspect the deck on November 16, 2017. The Registrant was unable to attend on this date due to previous commitments.
8. On November 22, 2017, the Registrant received a copy of a third-party Preliminary Site Investigation Report prepared by Groundtech Engineering Ltd. (Groundtech Report) on November 4, 2017. The report noted the following with relation to the piles:
 - The retaining wall displaced east towards the house along its length with maximum displacement of 6 inches at mid-wall
 - The top of the helical piles displaced eastward towards the house up



APEGA Recommended Discipline Order

- to 3.25 inches and tilt of 1 -2 degrees in the two northern-most piles
- The saddles on top of the piles are slightly misaligned, such that the beam is not directly over the middle of the piles and saddles
 - The helical piles are based in the retained soil (i.e. not the backfill) of the retaining wall
9. The Groundtech Report focused on the shifting on the retaining wall, and postulated that lateral displacement of the wall was likely related to the clayey silt soils being used as backfill for the wall (a poor building practice by the contractor). The report did not cite any concerns with pile design.
10. On December 26, 2017, the Registrant visited the property. Although the Groundtech report implicated the retaining wall, the Registrant offered to assist the homeowner by supplying new pile caps for the screw piles and paying \$500 for installation. The homeowner declined the Registrant's offer.

(ii) Facts Relating to Allegations

11. On April 6, 2020, the Registrant admitted to unprofessional conduct/unskilled practice of the profession in an EGBC Consent Order dated April 6, 2020. The Registrant made the following admissions in Paragraph 3 of the order:
- A. He demonstrated incompetence, negligence, or unprofessional conduct by:
 - a) Failing to design screw piles for new deck piles at the property located in Edgewater, British Columbia (the "Property"), in or around April 2016 (the "Piles"), to the reasonable standard expected of a professional engineer, by failing to:
 - i. assess on-site soil conditions adequately or at all;
 - ii. obtain sufficient information about the Property to conduct a proper analysis of factors that might have, and did, affect the Piles;
 - iii. sufficiently document the design for the Piles;
 - iv. provide the qualifications for the design to the installer; and
 - v. provide a design drawing to the installer.
 - B. Signing and affixing his seal to a letter dated April 14, 2016 regarding



APEGA Recommended Discipline Order

“Screw Pile Inspection/Compliance” for the Property (the “Assurance Letter”), that states “a detailed inspection was completed by a Professional Civil Engineer for the screw pile installed at [the Property]” on April 7, 2016, when he knew neither he nor a Professional Civil Engineer under his supervision had done a site visit to inspect the Piles on that day or at all, and he knew or ought to have known that the wording of the Assurance Letter was misleading.

- C. Failing to conduct a site visit at the Property in a reasonable amount of time after being made aware of issues arising with the Piles by the Property owner in or around June 2017.
 - D. Failing to make field review notes when making a site visit on or around December 26, 2017.
12. The Registrant agreed to the following disposition/sanctions in the EGBC Consent Order dated April 6, 2020:
- A. His EGBC membership was suspended for a period of three months commencing April 17, 2020.
 - B. Within 6 months of resuming practice following the Suspension, he will undergo a General Practice Review conducted by EGBC and he will pay the costs associated with the Practice Review.
 - C. Within 6 months from the execution of the Consent Order, he will complete and pass the Professional Practice Examination of the Association.
 - D. He will pay \$2,000 towards the Association’s legal and investigation costs within 30 days of the date of this Consent Order.
 - E. Publication of the Order.
13. On June 30, 2020, the Registrant entered into an APEGA Voluntary Undertaking in which he undertook not to practice engineering in Alberta until the suspension detailed in the EGBC Consent Order terminated on July 17, 2020.
14. Both the EGBC suspension and the suspension pursuant to the APEGA Voluntary Undertaking ended on July 17, 2020.
15. The Registrant has fulfilled the EGBC disposition/sanctions noted in



APEGA Recommended Discipline Order

Paragraph 12 above, with the exception of EGBC practice review which has yet to commence.

16. The Registrant's cooperation with the APEGA investigation was exemplary.

C. CONDUCT

17. The Registrant freely and voluntarily admits that at the relevant times he was a Professional Member of APEGA and was thus bound by the *EGPA* and the *APEGA Code of Ethics*.
18. The Registrant acknowledges his admissions in the EGBC Consent Order.
19. The Registrant acknowledges that the conduct described above constitutes unprofessional conduct as defined in Section 44(1) of the *EGPA*:

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*



APEGA Recommended Discipline Order

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

20. The Registrant also acknowledges that the conduct described above breaches Rules of Conduct #1 and #3.

D. RECOMMENDED ORDERS

21. In determining appropriate sanctions, the IC recognizes the disposition already imposed on the Registrant pursuant to the EGBC Consent Order:
 - A. His EGBC membership was suspended for a period of three months commencing April 17, 2020.
 - B. Within 6 months of resuming practice following the Suspension, he will undergo a General Practice Review conducted by EGBC and he will pay the costs associated with the Practice Review.
 - C. Within 6 months from the execution of the Consent Order, he will complete and pass the Professional Practice Examination of the Association.
 - D. He will pay \$2,000 towards the Association's legal and investigation costs within 30 days of the date of this Consent Order.
 - E. Publication of the Order.

The IC also notes that through the APEGA Voluntary Undertaking, the Registrant was subject to period of interim suspension in Alberta from June 30, 2020 to July 17, 2020.

22. On the recommendation of the IC, 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 receive a Letter of Reprimand, a copy of which will be maintained permanently in the Registrant's APEGA registration



APEGA Recommended Discipline Order

file and be considered at any future date by APEGA.

- b) The Registrant shall disclose that he was the subject of APEGA disciplinary procedures to all other engineering regulatory bodies to which he holds membership and provide each regulator with a copy of this Order.
- c) The Registrant shall notify APEGA of the results of the EGBC practice review, and provide APEGA with a copy of the practice review report. Should the EGBC practice review identify any issues of competence, the Registrant acknowledges that the APEGA Deputy Registrar & Chief Regulatory Officer is at liberty to initiate a new complaint based on the concerns identified.
- d) The Registrant will be considered a Registrant in good standing while completing the above noted sanctions.
- e) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will name the Registrant.

Signed,

MR. STEPHEN PETROVICH, P. Eng.

MS. K. LEVITT, P.Eng.
Panel Chair, APEGA Investigative Committee

Adam Whiting, P.Eng.
Case Manager, APEGA Discipline Committee

Date: July 6, 2021