



# 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:** October 25, 2022

**Discipline Case Number:** 22-011

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT  
AND  
IN THE MATTER OF THE CONDUCT OF ERROL CASTLE, P. ENG.**

Pursuant to the Engineering and Geoscience Professions Act,  
being Chapter E-11 of the Revised Statutes of Alberta 2000  
Regarding the Conduct of Errol Castle, P.Eng.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of Mr. Errol Castle, P.Eng. (the “Registrant”) with respect to a complaint initiated by [Name Withheld] (the “Complainant”), dated September 16, 2019 (the “Complaint”).

## **A. THE COMPLAINT**

The Complaint is about the Registrant’s involvement with the assessment of a partially completed, structurally insulated panel (SIP) system home.

The Complainant alleged that the Registrant engaged in unprofessional conduct an/or unskilled practice when he authored a Building Failure Report (the “Report”) dated September 30, 2018.

### Allegations:

The Investigative Committee conducted an investigation into the following allegations:

1. Whether the Registrant issued the Report without providing sufficient and measurable, engineering evidence and data to appropriately justify his conclusions.
2. Whether the Registrant, in his Report, failed to identify and prove the mechanism of failure.



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3. Whether the Registrant had a professional duty to contact the engineer of record who authenticated the project's drawings prior to issuing the Report.
4. Whether the Registrant demonstrated a conflict of interest by criticizing [Name Withheld] ("Company A") SIPs when he was actively involved with and was advertising for Company A's only competitor, [Name Withheld] ("Company B").

### B. AGREED STATEMENT OF FACTS

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

#### **Background:**

1. At all relevant times the Registrant was an APEGA Professional Member and was thus bound by the Engineering and Geoscience Professions Act and the APEGA Code of Ethics.
2. The Registrant holds a Bachelor of Science in Agricultural Engineering from the University of Saskatchewan.

#### **(i) Facts Relating to Allegations #1 and #2:**

*Whether the Registrant issued the Report without providing sufficient and measurable, engineering evidence and data to appropriately justify his conclusions.*

*Whether the Registrant, in his Report, failed to identify and prove the mechanism of failure.*

3. The Registrant authored the Report and references section 2.2.16.1 *Building Failures* of the Alberta Building Code, 2014 edition which specifies that the report is to include:
  - *The nature of the failure, and*
  - *A description of the remedial action that is to be undertaken.*
4. The Alberta Code specifies that when a building failure is reported, the failure has caused or has the potential to cause injury or loss of life.
5. The Registrant had a responsibility to identify the nature of the failure. Further, there was an expectation that he provide the substantive reasons to justify his conclusions, however these reasons were not sufficiently included in the Report.



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6. The Report contained numerous observations which identified workmanship deficiencies, concerns about building products, and concerns about the building envelope.
7. In the Report, there were no photos or other evidence of findings such as calculations or quantifiable data to back up the Registrant's assertions that a building failure had occurred or was imminent.
8. APEGA's Investigation Panel retained the services of another engineer, [Name Withheld], (Expert Engineer), who has been used as an expert by APEGA in previous cases, to complete an independent, 3<sup>rd</sup> party review of the Report.
9. In summary, Expert Engineer indicated:
  - The deficiencies and concerns described in the Report were repairable conditions and not failures.
  - The Registrant failed to establish a clear description of how the deficiencies led to the determination of a building failure. Further, the mechanism of failure(s) was not specifically identified nor proven.
  - The Report contained speculative conclusions which lacked scientific methods or research to substantiate those conclusions.
  - The building had not failed despite multiple claims of major failures.
10. The Report concluded that the building was, "...secure, stable and unoccupied.", a condition that is contradictory to the building failure definition.
11. The Registrant admitted that, in hindsight he has identified future performance concerns or alerts that he felt were deficiencies that needed attention.
12. The Registrant further admitted that he ought to have consulted another professional, such as an Architect who is well versed in building envelope matters, to assist him with the assessment of the home and the Report.

**(ii) Facts relating to Allegation #3:**

*Whether the Registrant had a professional duty to contact the engineer of record who authenticated the project's drawings prior to issuing his Report.*



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13. The engineer of record for the project had not been contacted by the Registrant when he was completing his assessments of the building.
14. The Registrant admitted that he had an obligation<sup>1</sup> to contact the engineer when he was assessing the building and we remiss in that he hadn't.

### (iii) Facts relating to Allegation #4:

*Whether the Registrant demonstrated a conflict of interest by criticizing Company A SIPs when he was actively involved with and was advertising for Company A's only competitor, Company B.*

15. The Report contained critical comments about Company A products, the Magnesium Oxide (MgO) board, and Company A's contractors.
16. [This paragraph was removed in the signed RDO]
17. In his Report, the Registrant claimed that Company A's MgO board was non-certified and that this was a major failure. He then claims the only certified MgO board was [Name Withheld] a product exclusively sold and distributed by Company B.
18. At the time of his Report, the Registrant has a website which encouraged viewers to, "*Checkout our Engineered Structurally Insulated Panels*". The link on the webpage would redirect the viewer to the Company B website.
19. The Registrant admitted that he ought to have removed the link and acknowledged how a conflict of interest could be perceived.

### C. CONDUCT

20. The Registrant freely and voluntarily admits that he:
  - a. Issued a building failure report that did not meet the expected standards and requirements to substantiate the determination of a building failure.
  - b. Had a professional obligation/duty to have contacted the engineer of record while he was performing a review of his work.

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<sup>1</sup>Reviewing the work of other professionals, APEGA *Guideline for Ethical Practice, v2.2 2013, Section 4.5.3*



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- c. Engaged in a conflict of interest by criticizing one distributor of a product while advertising for the competitor.
21. The Member acknowledges that the conduct described above constitutes unprofessional conduct and/or unskilled practice.

**Section 44(1) of the Act:**

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

22. The Registrant acknowledges that the code described above breaches Rule(s) of Conduct 44(1)(b)(e).
23. The Registrant acknowledges and admits that his conduct was also contrary to the *Rules of Conduct 2, 3, and 4* of the Code of Ethics.

*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.*



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

### D. RECOMMENDED ORDERS

24. On the recommendation of the Investigative Committee, 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 be reprimanded for his conduct and this order shall serve as the reprimand.
  - b) Withing eight (8) months from the date that this order has been approved by the Discipline Committee Case Manager, the Registrant shall provide the Director, Enforcement, proof of attendance and or successful completion of the following:
    - i. The Registrant shall complete, and successfully pass the **NPPE exam** at his own expense.  
<https://www.apega.ca/apply/membership/exams/national-professional-practice-exam-nppe>
    - ii. The Registrant shall complete the APEGA **Permit to Practice** Seminar.  
<https://www.apega.ca/members/events/event-detail/2022/12/15/default-calendar/webinar-permit-to-practice>



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- c) Within twelve (12) months from the date that this order has been approved by the Discipline Committee Case Manager, the Registrant shall provide the Director, Enforcement, proof of successful completion the **Moisture Control Certificate** as provided by SAIT (courses CNST 001 and CNST 005). These are to be completed at the Registrant's own expense.  
  
<https://tinyurl.com/3r3379hd>
- d) If the Registrant fails to provide the Director Enforcement with proof that he has completed the requirements noted above in section 24 (b) and (c) within the timelines specified, the Registrant's APEGA license to practice Engineering in Alberta will be suspended.
- e) Should the Order not be successfully completed after 18 months from the date of the Discipline Committee Case manager approval, the Registrant's APEGA membership will be cancelled, and the Registrant will be bound by APEGA's reinstatement policy.
- f) If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement for an extension prior to the deadline.
- g) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will name the Registrant.

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

Signed,

**ERROL CASTLE**, P. Eng.

**PETER BOZIC**, P. Eng., M.Eng.  
Panel Chair, APEGA Investigative Committee

**KEN LIU**, P. Eng.  
Case Manager, APEGA Discipline Committee

Date: October 25, 2022