



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: January 18, 2023

Discipline Case Number: 22-014

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT
AND
IN THE MATTER OF THE CONDUCT OF AZER MUSTAQEEM P. GEOPH.,
AND PETRO-EXPLORERS INC.**

Pursuant to the Engineering and Geoscience Professions Act,
being Chapter E-11 of the Revised Statutes of Alberta 2000
Regarding the Conduct of Azer Mustaqeem P. Geoph., and Petro-Explorers Inc.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of Azer Mustaqeem, P. Geoph. (the Registrant) and Petro-Explorers Inc. (the Permit Holder) with respect to a complaint initiated by the APEGA Practice Review Board (the Complainant or PRB) dated July 12, 2022 (the Complaint).

A. THE COMPLAINT

The Complainant filed a complaint alleging the Registrant and Permit Holder engaged in unprofessional conduct, as defined at section 44(1) of the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11 (“EGP Act”)

The Investigative Committee’s investigation focused on the following allegation which can be summarized as follows:

- (1) The Registrant and the Permit Holder engaged in unprofessional conduct as per the requirements of an APEGA Professional Practice Review, in particular, that they:
 - a. Failed to respond promptly and appropriately to a duly served communication of a regulatory nature.
 - b. Failed to provide the requested documents to facilitate the practice review.



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- c. Failed to ensure a Professional Practice Management Plan (PPMP) was developed and implemented within one year of Petro-Explorers Inc. receiving an APEGA Permit to Practice in 2014.
- d. Failed to fulfil the obligations as the Responsible Member,

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 August 25, 2015. The Registrant is the sole Responsible Member (RM) and sole geoscientist for the Permit Holder.
2. The Permit Holder has been an APEGA Permit Holder in good standing since April 1, 2014.
3. The Registrant and the Permit Holder, accordingly, were thus bound by the *Engineering and Geoscience Professions Act* and the APEGA Code of Ethics during the relevant time.
4. The Registrant and Permit Holder cooperated with the investigation.
5. The Complainant in this matter is the PRB, one of APEGA's statutory boards. The board is primarily responsible for developing and maintaining professional practice standards, guidelines, and bulletins; evaluating the professional practice and competence of Professional Members, Licensees, Permit Holders, and Certificate Holders against the practice standards and guidelines, which includes practice review of Permit Holders and individual Licensees; and administering and enforcing the Continuing Professional Development (CPD) program of the APEGA Council

(ii) Facts Relating to Allegation #1:

6. The PRB proactively reviews the practices of APEGA permit holders. If alleged unprofessional conduct or unskilled practice is encountered by the PRB during the course of review, it may refer allegations to the Investigative Committee.



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7. In January of 2022, the PRB initiated a practice review of the Permit Holder. The PRB made formal notification and requests for documents in early February of 2022. After numerous requests, the PRB had only received two documents on March 7, 2022. No other requested documents had been provided by the Permit Holder, namely:
 - a. *“A current signed and approved version of the corporate Professional Practice Management Plan (PPMP).*
 - b. *At least three examples of an authenticated professional document.*
 - c. *Organization chart(s) of the Permit Holder showing the Chief Operating Officer (COO), RM, all professional members, and any other individuals contributing to the practices of engineering and geoscience.*
 - d. *Any other documents to support the development and implementation of your PPMP.*
 - e. *A plan, process, or procedure for outsourcing engineering and/or geoscience professional work outside Alberta (if applicable).*
 - f. *A plan, process, or procedure for which professional members review and assess work prepared by others.*
 - g. *A plan, process, or procedure or quality manual that is used to manage engineering and/or geoscience practice for the Permit Holder.*
 - h. *Marketing or promotional materials which outline the Permit Holder scope of practice or services offered of practice or services that the permit holder is currently offering (if applicable)*
 - i. *Organization chart(s) of the Permit Holder showing COO, RM, all professional members, and any other individuals contributing to the practices of engineering and geoscience.*
 - j. *Three examples of job descriptions (Senior, junior and MIT positions).”*
8. By the end of April 2022, the Permit Holder remained in non-compliance. The Permit Holder advised the PRB that they did not have the requested documents to provide.
9. As a result of the PRB findings, an allegation of unprofessional conduct against the Registrant and Permit Holder was referred to APEGA Investigations on July 12, 2022.



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10. The Registrant and Permit Holder admit they failed to respond appropriately to duly served communications from the PRB, and that they have not provided all the requested documents. The Registrant, in his capacity as RM, further acknowledged he failed to create the required PPMP (since 2014 when the Permit Holder was registered) and accepts full responsibility.
11. The Registrant and Permit Holder assert their non-compliance was not in any way designed to ignore their ethical and professional standards; rather, the non-compliance was attributed to time constraints, important business obligations, financial concerns, absence from the country and less than perfect archiving system (which they state has been improved). The Registrant and Permit Holder have learned from the experience. The Registrant has further acknowledged he has since reviewed the relevant APEGA standards and guidelines to improve their practice.
12. Specifically, the Registrant and Permit Holder stated:
 - a. *“Thank you for providing a detail account of allegations and starting of investigation. As stated in various e-mails, non-availability of a PPMP was by no mean intended to not follow the ethical and professional standards as defined by EGP and Ethical Standards. I have completed the APEGA latest Permit to Practice Seminar in May 2021.*
 - b. *As you have made it very clear during last practice review that PPMP document, even with one APEGA member, must be created and revised every year, we have worked on the document for last two months. I have attached the document for your review. We have also spent a whole week going through the New Ethical Standards (August 2022), EGP and Authentication processes. We have not authenticated a document lately due to supply of digital products only, such as SEGYfiles to the clients.*
 - c. *I am sorry for wasting your time, but we have learned a great lot, to document things in more detail and have better archiving practices.*
 - d. *Regarding Allegation 1(a), We agree that we failed to respond promptly to the duly served communications due to international travels and business obligations. The time was very sensitive as the business was under extreme losses and we were trying to do our best to generate new business. That was Feb/March 2022.*



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- e. *Regarding Allegation 1(b), Practice review have asked for the documents that we do not have, and we clearly explained that in the correspondence. My initial understanding was that as I am the only RM, I just have to read the APEGA by-laws and comply with the RM practice requirements.*
 - f. *Regarding Allegation 1(c), I agree that I did not prepare the PPMP document in time, we tried to create the PPMP, during practice review, but due to heavy load of work could not send the document, in time. As per last e-mail the document is created and sent for your (APEGA) review.*
 - g. *Regarding Allegation, 1(d), I acknowledge that I was unable to create a PPMP as a requirement for an RM”.*
13. Bylaw 32.1 of the EGPA states that Professional Members shall respond promptly and appropriately to any duly served communication of a regulatory nature received from the Association that contemplates a reply.
14. As of February 2003, section 48(1)(d) of the *EGPA Regulation* requires all APEGA permit holders to develop and maintain a Professional Practice Management Plan that is appropriate to their practices. The Panel also notes the requirement to maintain a PPMP with yearly updates has been outlined for the membership in past APEGA Guidelines for PPMPs (including the 2013 APEGA PPMP Guideline in effect during the relevant time). For the public to have confidence in the quality of the professional services provided, permit holders must have a structured process in place for managing professional practice. The Registrant and Permit Holder failed to meet this requirement between 2014 and the time of the practice review in January 2022.
15. The Registrant and Permit Holder admit that they engaged in unprofessional conduct with relation to the allegation. The Registrant undertook to continue working cooperatively with APEGA to improve the practice of the Permit Holder.

C. CONDUCT

16. The Registrant and Permit Holder freely and voluntarily admit that at all relevant times the Registrant and Permit Holder were professional member/permit holders of APEGA, and thereby bound by the *Engineering and Geoscience Professions Act* and the APEGA Code of Ethics.
17. The Registrant and Permit Holder acknowledge that the conduct described above constitutes unprofessional conduct as defined in Section 44(1) of the Act:



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



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18. The Registrant and Permit Holder acknowledge that the conduct described above is conduct that is detrimental to the best interests of the public, displays a lack of judgment in the practice of the profession, and contravenes the Code of Ethics as established under the regulations.
19. Further, the Registrant and Permit Holder acknowledge that the conduct described above constitutes a breach of Rules #3, #4 and #5 of the Code of Ethics.

D. RECOMMENDED ORDERS

20. 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 and Permit Holder shall be reprimanded for their conduct and this order shall serve as the reprimand.
 - b. The Permit Holder shall pay a fine in the amount of \$500.00. The fine is a debt 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 shall provide written confirmation to the Director, Enforcement, within three (3) months of being notified that the Recommended Order has been approved by the Discipline Committee Case Manager, that he has reviewed the following APEGA publications, and that the Registrant and/or Permit Holder will comply with the requirements therein:
 - i. 'Ethical Practice Guideline' (ver 3.0, August 1, 2022).
 - ii. Professional Practice Management Plan Standard (ver 1.1, November 2022).



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- d. If the Registrant and/or Permit Holder fails to provide the Director, Enforcement with proof that they have completed the requirements noted above in Paragraphs 20 (b) and (c) within the timelines specified, the Registrant and/or Permit Holder shall be suspended from the practice of geoscience until the requirements are met. If there are extenuating circumstances, the Registrant and/or Permit Holder may apply in writing to the Director, Enforcement, for an extension prior to the noted deadlines. The approval of extending this deadline is at the discretion of the Director, Enforcement. 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 deadline, and any other documentation requested by the Director, Enforcement.
- e. The Permit Holder shall undergo a Permit Holder practice review to the satisfaction of the Director, Professional Practice and comply with the Findings of the Practice Review. The Practice Review Findings shall include compliance requirements and a compliance timeline.
- f. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will name the Registrant and Permit Holder.

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

Signed,

AZER MUSTAQEEM, P.Geoph.

DR. GERALD B LANGILLE, P.Geo.
Panel Chair, APEGA Investigative Committee

DAVID WOODALL, P.Eng.
Case Manager, APEGA Discipline Committee

Date: January 18, 2023