

Date: February 1, 2017 Case No.: 16-016-RDO

**IN THE MATTER OF THE ENGINEERING,
AND GEOSCIENCE PROFESSIONS ACT,
AND
IN THE MATTER OF THE CONDUCT OF
MR. GREGORY J. SAUNDERS, 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. Gregory J. Saunders, P.Eng., ("the Member") with respect to a May 31, 2016 Letter of Complaint received from [Staff Member A], Registrar for APEGA, alleging that Mr. Saunders engaged in unprofessional conduct by virtue of disciplinary action taken against him by the Association of Professional Engineers of Ontario (PEO).

A. COMPLAINTS

1. The Member has engaged in unprofessional conduct that contravened Section 44(1)(b) of the Act and Rule of Conduct #1 of the Code. The Member failed to regard the welfare and safety of the public when he signed an engineering opinion confirming the structural integrity of a building in the jurisdiction of Ontario, without making reasonable provision to ensure the validity of the opinion.

B. AGREED STATEMENT OF FACTS

1. Background

Upon conclusion of the investigation, it is agreed by and between the Investigative Committee and Mr. Gregory J. Saunders, P.Eng., that:

- a) Mr. Gregory J. Saunders, P.Eng., was registered with APEGA as a Professional Member, and was thus bound by the *APEGA Code of Ethics*, at all relevant times. Mr. Saunders was also a Professional Member of the Association of Professional Engineers of Ontario (PEO) and the Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) at all relevant times. He is currently practising in Manitoba and is a Professional Member of Engineers Geoscientists Manitoba (APEGM).
- b) Mr. Saunders came to the attention of APEGA on May 11, 2016, as a result of the Registrar receiving correspondence from [COO & Registrar B], COO & Deputy Registrar of the Professional Engineers & Geoscientists Newfoundland & Labrador (PEGNL). [COO & Registrar B] advised that during the course of his application to PEGNL, Mr. Saunders disclosed disciplinary action (including a seven-month suspension) which resulted from a PEO hearing into his conduct.
- c) Mr. Saunders became a Professional Member of APEGA on February 10, 2012, by way of transfer from PEO. Mr. Saunders earned a B.Sc. in Mining Engineering from Queen's University in 1984.

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- d) Mr. Saunders was employed by M.R. Wright and Associates Co. Ltd. (MRW) in Ontario during the relevant time. He was one of the individuals involved with evaluating the structural integrity of the rooftop parking structure of the Algo Centre Mall in Elliott Lake, Ontario, which subsequently partially collapsed on June 23, 2012.
- e) MRW was a company registered in Ontario, holding a valid Certificate of Authorization with PEO. MRW also held a valid APEGA Permit to Practice (P2P) during the relevant time, having received a P2P from APEGA on March 1, 2012. MRW has since resigned, and their P2P was cancelled by APEGA effective March 20, 2013, when the company was dissolved.

2. Facts Relating to the Allegations

- a) The PEO written *Decision & Reasons* in the matter regarding the conduct of Mr. Saunders was endorsed on May 18, 2016. The document is publicly available on the PEO website.

The document details the Agreed Statement of Facts signed by Mr. Saunders, and lists both the misconduct to which he admitted, and the sanctions imposed by PEO:

- The matter relates to the structural investigation of the Algo Centre Mall (“the Mall”) in Elliot Lake, Ontario, and the subsequent partial collapse of the rooftop parking structure of the Mall on June 23, 2012, which killed two people
- Mr. Saunders was the Contact Professional for MRW at the time of the Mall collapse
- Mr. Robert G. Wood, P.Eng. was the President of MRW
- Mr. Wood’s licence was suspended by PEO effective November 16, 2011
- On April 12, 2012, Mr. Wood attended at the Mall to conduct a “structural condition inspection” at the request of the Mall’s management
- On April 30, 2012, Mr. Saunders co-signed, with Mr. Wood, a letter to the Mall’s management stating in part, “We have no structural concerns over the additional loading of caulking or waterproofing.” The letter was not sealed, contrary to the requirements of the Act

- Mr. Saunders did not attend the mall on April 12, 2012, and had no involvement in the “on-site review”
- On May 3, 2012, Mr. Saunders co-signed, with Mr. Wood, a report entitled *Structural Condition Inspection* based on Mr. Wood’s April 12, 2012 on-site review. This report was not sealed, contrary to the requirements of the Act
- The May 3, 2012 report did not identify any structural concerns with the Mall, and stated that the beams inspected were “structurally sound” and that “no visual signs of distress were observed”
- Prior to co-signing the May 3 report, Mr. Saunders was advised by Mr. Wood that the report was requisitioned by Mall representatives for the purposes of financing and that Mr. Wood, during his on-site inspection, had been taken by a Mall employee to the worst areas of leakage in the Mall. Mr. Wood informed Mr. Saunders that he looked at the steel above the ceiling tiles in these areas and found no loss of section on any of the beams inspected. Mr. Wood reviewed with Mr. Saunders all of the pictures Mr. Wood took of the Mall structure during his on-site inspection. Based upon Mr. Wood’s representations, Mr. Saunders co-signed the May 3 report. Those representations by Mr. Wood turned out to be false
- The April 12, 2012 on-site review, the April 30 letter and the May 3 report were deficient because Mr. Wood:
 - i. Failed to consider previous reports that were available to him
 - ii. Failed to look at important parts of the Mall that he knew, or should have known, ought to be inspected
 - iii. Failed to adequately inspect or examine those parts of the Mall that he did look at
 - iv. Failed to notice, or failed to appreciate, the effects of continued leakage on the structural integrity of the Mall
 - v. Drew conclusions about the structural integrity of the Mall without an adequate basis for doing so
 - vi. Failed to notice or to identify the effects of corrosion on structural elements of the Mall
 - vii. Failed to identify deficiencies that compromised the structural integrity of the Mall

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viii. Implicitly affirmed the structural integrity of the Mall without having an adequate basis for doing so

- Although Mr. Saunders co-signed the April 30 letter and May 3 report, he had not visited the Mall, did not insist on seeing any drawings or field notes, nor did he examine MRW's own records to ascertain whether there had been any prior reports relating to the Mall. He did not inquire, and therefore did not know, that there was a long history of leakage at the Mall. He did not closely question Mr. Wood as to the limited scope of his inspection and whether it was sufficiently comprehensive in the circumstances. Mr. Saunders did not ask, and therefore did not know, that Mr. Wood had failed to take any measurements of the beams that were referred to in the May 3 report as being "structurally sound," nor had Mr. Wood inspected the condition of the welds at connections in areas experiencing leakage
- In all the circumstances, Mr. Saunders should have taken steps to double-check Mr. Wood's work. He should have been much more careful. Mr. Saunders did not conduct a proper or adequate review of the April 30 letter or the May 3 report or the work leading to them, and fell below the expected standard of practice in his supervision of Mr. Wood's work in connection with the April 30 letter and the May 3 report
- Mr. Saunders admits that the work carried out by him in connection with the April 30 letter and May 3 report was deficient and fell below the expected standard of practice for engineering work of this type
- On June 23, 2012, about two months after the April 12 inspection, a portion of the Mall's rooftop parking structure collapsed causing two deaths, several non-fatal injuries, and substantial damage to a number of areas of the Mall. After the Mall collapse, Mr. Saunders cooperated with the Association and the Ontario Provincial Police in their investigations
- The cause of the collapse was failure of a heavily corroded steel connection located below the parking deck. The expert report commissioned by the Ontario Provincial Police following the collapse concluded that the general condition of the structure of the Mall was poor. The experts found that the welds and other components of the connections in more than 40% of the locations they inspected had severe to very severe corrosion. The expert report concluded that corrosion was a widespread issue that affected significantly more than the connection that ultimately failed
- Mr. Saunders agreed that he was guilty of professional misconduct as follows:
 - i. On or about April 30, 2012, and May 3, 2012, signing a final engineering opinion without applying a seal contrary to Section 53 of Regulation 941 of the Act, amounting to professional misconduct pursuant to Section 72(2)(g) of Regulation 941 of the Act.
 - ii. On or about April 30, 2012, and May 3, 2012, signing an engineering opinion confirming the structural integrity of a building without making reasonable provision to ensure the validity of the opinion, amounting to professional misconduct pursuant to Sections 72(2)(a) and (d) of Regulation 941 of the Act.
 - iii. By reason of the foregoing, he engaged in conduct or performed an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as unprofessional, amounting to professional misconduct under Section 72(2)(j) of the Act.
- Mr. Saunders received the following penalties pursuant to a joint sentencing proposal:
 - i. Pursuant to section 28(4)(f) of the Act, the Member shall be reprimanded, and the fact of the reprimand shall be recorded of the Register for a period of one (1) year;
 - ii. Pursuant to section 28(4)(b) of the Act, the Member's licence shall be suspended for a period of seven (7) months, commencing 14 days after the day the penalty decision is pronounced by the Discipline Committee;
 - iii. Pursuant to section 28(4)(h) of the Act, the Member shall pay a fine in the amount of \$2,000 (two thousand dollars) within 30 days of the date the penalty decision is pronounced by the Discipline Committee;

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- iv. The findings and order of the Discipline Committee shall be published in the full under sections 28(4)(i) and 28(5) of the Act, with reference to the Member’s name; and
- v. There shall be no order as to costs.

b) Reference was made on several occasions in the PEO *Decision & Reasons* to findings of the Elliot Lake Commission of Inquiry, led by The Honourable Paul R. Bélanger. The Inquiry was established by the Government of Ontario to inquire into and report on events surrounding the mall collapse. The results of the inquiry were released in a report published on October 15, 2014.

Mr. Saunders’ testimony before the commission on June 6, 2013, may also be found on the Commission web site.

- c) Mr. Saunders cooperated with the APEGA Investigation Panel. He provided a written response for consideration by the Panel on June 12, 2016. His summary of involvement leading up to the Mall collapse directly parallels the facts set out in the PEO *Decision & Reasons*. He undertook to accept any decision APEGA makes with respect to his licence, and that a discipline hearing would not be required.
- d) The Investigation Panel notes that a suspension of Mr. Saunders’ licence would have been recommended to the Investigative Committee had the Member not already been suspended by PEO. The Panel is satisfied, by virtue of reviewing the PEO *Decision & Reasons*, that appropriate disciplinary action was taken against the Member in the jurisdiction where the misconduct occurred, and that there was no danger to the public in Alberta.

C. CONDUCT

- 1. The Member freely and voluntarily admits that he engaged in unprofessional conduct that contravened Section 44(1)(b) of the Act and Rule of Conduct #1.

D. SECTION 44(1) OF THE ACT AND THE CODE OF ETHICS

1. 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...

- b. contravenes a code of ethics of the profession as established under the regulations;*
- ...whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.*

2. Applicable Rules of the APEGA Code of Ethics

- 1** *Professional engineers, geologists and geophysicists shall, in their areas of practice, hold paramount the health, safety and welfare of the public and have regard for the environment.*

E. RECOMMENDED ORDERS

The following Orders have been agreed to by the Investigative Committee, Mr. Gregory J. Saunders, P.Eng., and the Discipline Committee Case Manager. The Discipline Committee hereby orders that:

- 1. Mr. Gregory J. Saunders, P.Eng., shall receive a Letter of Reprimand which will remain on his file at APEGA indefinitely.
- 2. The circumstances of the case, including the Member’s name, be published in *The PEG* magazine, in the e-PEG electronic newsletter, and on the APEGA website.

I, Mr. Gregory J. Saunders, 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 above in this Recommended Order, and that I am in agreement with the Orders that are jointly proposed.

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

MR. GREGORY J. SAUNDERS, P.ENG.

DOUG MACDONALD, P.ENG.

Panel Chair, APEGA Investigative Committee

APEGA Discipline Committee

Approved this 1st day of February 2017

By Case Manager Ken Liu, P.Eng.