

Date: November 10, 2017

Case No.: 17-014-RDO

IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT, AND IN THE MATTER OF THE CONDUCT OF [PROFESSIONAL MEMBER A], P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Professional Member A], P.Eng. (the “Member”). The investigation has been conducted with respect to a complaint initiated by [Complainant B], who submitted a letter of complaint dated December 16, 2015.

A. BACKGROUND

The Complainant lodged a complaint against the Member regarding structural work that was completed on [Facility C].

[Facility C] is a two-storey building with a building area of 454.1 sq. m. It was constructed with insulated concrete foundation (ICF) walls and was completed with wooden engineered roof and floor trusses. The construction began in late 2013 and had been stopped at the framing stage in February 2015 as a result of a dispute between the Builder and Owner.

The Owner’s lawyer retained an engineer in May of 2015 to prepare a report for the purposes of potential litigation. The Owner retained a second contractor to complete [Facility C]. The Complainant was retained by the second contractor to rectify any structural deficiencies that were identified, and according to the Complainant the report prepared for the Owner’s lawyer was the driver for his involvement. The Complaint was made on December 16, 2015. The Owner has since commenced legal proceedings.

In his complaint of December 16, 2015, the Complainant alleged that the Member had signed off the *Alberta Building Code’s Structural Schedule C-2* for the shell and floor structure, allowing occupancy when half of the roof structure and part of the floor structure was unsafe and in a state of imminent collapse. The Complainant later acknowledged that his initial assessment was overstated in terms of the bearing issues he had identified.

B. THE COMPLAINT

The Investigative Committee appointed an Investigative Panel to conduct an investigation into whether the Member engaged in unprofessional conduct and/or unskilled practice arising from the field inspection conducted by the Member with respect to the structural components of [Facility C]. A Notice of Investigation was sent to the Member on February 23, 2016, particularizing the items the Investigative Panel intended to consider, including:

- a. Whether the Member failed to identify that the roof trusses installed were bearing less than the minimum required 4 inches on the ICF exterior north wall.
- b. Whether the Member failed to identify that floor joists, supporting the 2nd floor, were only bearing on a supporting beam by $\frac{3}{4}$ -inch.
- c. Whether the Member failed to identify that the Simpson H2.5AZ uplift anchors were also not installed as required by the truss drawings.

C. AGREED STATEMENT OF FACTS

1. The Member has been a member of APEGA since 1967 and has had no prior findings of unprofessional conduct or unskilled practice since he has been a Member.
2. The Member has a master’s degree in electrical engineering. His background and experience were primarily in the electrical field and not in the structural discipline of the residential or commercial construction field, although in recent years he has been involved in residential and small office building construction.
3. The Member was the Registered Professional of Record for the structural components of [Facility C]. As such, he was responsible for the field review with respect to the *Alberta Building Code’s Structural Schedule C-2* requirements.

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4. The Member was aware of the minimum bearing requirement of 4 inches for the roof trusses as indicated in the roof truss drawings.
 5. The Member did not identify during his field review that the roof trusses installed on the building's exterior ICF north wall did not meet the minimum 4-inch bearing requirement on the building's exterior ICF north wall as indicated in the roof truss drawings.
 6. The Member did not identify during his field review that the floor joists (supporting the 2nd floor) were only bearing on a supporting beam by 3/4-inch at the location where the 3-ply beam transitions to a 2-ply beam.
 7. The Member did not confirm in his field review that the Simpson H2.5AZ uplift anchors, meant to be installed at the ends of the trusses, were installed as required.
 8. Per the *Alberta Building Code*, [Facility C] is classified as a Division B, Group D Occupancy as it contains two storeys, each greater than 250 sq. m. As such it requires professional involvement by an architect and an engineer, therefore requiring appropriate schedules.
1. The Member shall receive a letter of reprimand and a copy to be retained on his APEGA file.
 2. The Member shall pay a fine in the amount of \$4,000 to be paid within 90 days after the Discipline Committee's Case Manager approves the Recommended Order.
 3. The Member has agreed not to act as a Registered Professional of Record for the structural elements of a project and shall state such in a letter to APEGA to be retained on his APEGA file.
 4. Should the Member fail to pay the fine in the period specified, or should he not submit the letter, his registration will be suspended until such time as he does.
 5. Although the Investigative Committee and the Member understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies the Member by name, the parties understand that the decision to publish with or without name is discretionary. The parties submit that publication without name is appropriate, given the specific facts in this case, including the following:
 - a. The Member has been in good standing as a Member of APEGA since 1967 and has had no prior findings of unprofessional conduct or unskilled practice since he has been a member;
 - b. [Facility C] is currently the subject of proceedings in the Court of Queen's Bench of Alberta.

D. CONDUCT

9. The Member freely and voluntarily admits that:
 - a. During his field review he did not identify the items set out in paragraphs 5, 6 and 7 of the Agreed Statement of Facts and thereby demonstrated a lack of skill in carrying out a duty required by the *Alberta Building Code*.
10. The Member acknowledges that the conduct is a breach of section 44(1)(e) of the *Act* and therefore constitutes unskilled practice as defined in the *Act*.

E. RECOMMENDED ORDERS

11. On the recommendation of the Investigative Committee, and by agreement of [Professional Member A] and following a discussion and review with the Discipline Committee's Case Manager, the Discipline Committee hereby orders that:

Signed,

[PROFESSIONAL MEMBER A], P.ENG.**ALLAN YUCOCO**, P.L.(ENG.)

Panel Chair, APEGA Investigative Committee

D.F. COX, P.ENG.

Case Manager, APEGA Discipline Committee

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