

APEGA Discipline Committee Order

Date: July 3, 2014 Case No.: 14-004-SO

IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT AND IN THE MATTER OF THE CONDUCT OF [PROFESSIONAL LICENSEE (ENG.) A]

Editor's Note: *The PEG* publishes all APEGA Discipline Committee decisions that include findings against Members. Names and other identifying information are included unless the decision recommends otherwise. Decisions are published almost verbatim; they are reproductions of regulatory records and therefore subject to only minor editing.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [PROFESSIONAL LICENSEE (ENG.) A] (the Member) with respect to allegations of unprofessional conduct, related to making threatening and harassing phone calls to the residence of [PROFESSIONAL ENGINEER B], and his wife during the early morning hours on Monday March 11, 2013.

A. COMPLAINTS

1. The Member has engaged in unprofessional conduct that contravened a code of ethics of the profession as established under the regulations, contrary to Section 44(1)(b) of the *Engineering and Geoscience Professions Act* ("Act") and Rule of Conduct #5 of the *APEGA Code of Ethics* ("Code"), in that he called the residence of [PROFESSIONAL ENGINEER B] four times between the hours of 0230 and 0330, March 11, 2013, awoke [PROFESSIONAL ENGINEER B]'s wife and harassed her during three separate telephone calls and left one threatening message on [COUPLE]'s voice answering device threatening to bring physical harm to [PROFESSIONAL ENGINEER B].

B. AGREED STATEMENT OF FACTS

As a result of the investigation, it is agreed

by and between the Investigative Committee and the Member that:

2. At all relevant times the Member was a professional member of APEGA and bound by the Act and the Code;
3. The Member and [PROFESSIONAL ENGINEER B] both attended [A CONFERENCE IN ALBERTA] in March 2013;
4. The Member and [PROFESSIONAL ENGINEER B] did not know each other;
5. The Member consumed excessive amounts of alcohol after the conference and is unable to recall specific details of his actions;
6. The Member decided to call [PROFESSIONAL ENGINEER B]'s home to "hassle" him about an Argument [PROFESSIONAL ENGINEER B] had with one of [[PROFESSIONAL LICENSEE (ENG.) A]'s colleagues;
7. During the night of March 10th to 11th the Member used a colleague's phone and made three harassing phone calls to [PROFESSIONAL ENGINEER B]'s home telephone number, the calls were answered by [PROFESSIONAL ENGINEER B]'s wife, the Member also left one threatening telephone message;
8. The Member does not recall the details of the telephone calls;
9. [PROFESSIONAL ENGINEER B] reported the telephone calls to the Red Deer RCMP. The matter was investigated and no enforcement action was taken by the RCMP;
10. The Member was tracked down by [PROFESSIONAL ENGINEER B]. They spoke by telephone. The Member admitted to making the telephone calls and took full responsibility for "his drunken stupidity.;"
11. [PROFESSIONAL ENGINEER B] contacted the Member's employer. The Member spoke to his employer about what he had done, he received a two week suspension without pay;
12. The Member sent a written apology to [PROFESSIONAL ENGINEER B].
13. The Member made arrangements to meet [PROFESSIONAL ENGINEER B] face-to-face in order to personally apologize for his actions. He travelled [FROM ONE MUNICIPALITY TO ANOTHER] for no other purpose but to meet [PROFESSIONAL ENGINEER B] and apologize;
14. APEGA investigations staff sent the Member a Notice of Investigation. In his written response to the Notice of Investigation the Member acknowledged that:
 - a. He made the telephone calls;
 - b. He was a social drinker and due to too much alcohol consumption was not thinking or acting rationally;
 - c. He deeply regretted his thoughtless actions and the effect his actions had on the persons involved;
15. In further response the Member has fully cooperated with the APEGA investigation and
 - a. Taken full responsibility for his actions and expressed remorse for his unprofessional conduct;
 - b. Stated that he wished this matter to be dealt with expeditiously by way of a Recommended Discipline Order.
16. Investigations have revealed no evidence of similar behavior by [PROFESSIONAL LICENSEE (ENG.) A].

C. CONDUCT

The Member freely and voluntarily admits that his conduct constitutes unprofessional

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conduct, and that the Complaint set out above is admitted and proven. The Member has therefore engaged in unprofessional conduct that contravenes a code of ethics of the profession as established under the regulations contrary to Section 44(1) (b) of the Act, and Rule of Conduct #5 of the Code, in that he made harassing and threatening telephone calls while in a state of alcohol impairment.

Section 44(1) of the Act states:

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 judgment in the practice of the profession, or;

(e) displays a lack of knowledge of 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.

Rule # 5 of the APEGA Code of Ethics states:

Professional engineers and geoscientists

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

D. ORDERS

On the recommendations of the Investigative Committee, and by agreement of the Member with those recommendations, following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:

- 1.** The Member receive a letter of reprimand;
- 2.** The details of this case be published in The PEG magazine, without names.

Approved this 3rd day of July, 2014

JOHN NICOLL, P.ENG.
Case Manager