

Decision Summaries

Date: September 17, 2018

Case No.: 17-009-FH

REGARDING THE CONDUCT OF SUNDEEP JHINJAR, P.ENG., AND S&M PROJECT SERVICES INC.

Under the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11 (“the Act”), a hearing into this matter was held by a Hearing Panel of the Discipline Committee on March 27, 2018. The hearing addressed a complaint against the conduct of Sundeep Jhinjar, P.Eng., (“Mr. Jhinjar”) and Mr. Jhinjar’s company, S&M Project Services Inc. The hearing proceeded by way of an agreed statement of facts, an admission of unprofessional conduct, and a joint submission on penalty.

The hearing dealt with the following amended charges:

1. With respect to each of the properties (44) listed in and attached to the charges, Mr. Jhinjar and/or S&M Project Services Inc. designed and stamped tall wall designs that were deficient in one or more of the following ways:
 - a. If drawn to scale the proposed windows and/or doors would not fit due to the thickness of the columns;
 - b. Key design elements are missing, including but not limited to connection details to the roof and concrete ladder set, the header-to-column connection, clips for studs or columns, bottom plates to concrete foundations, and sill plates (wind beams on the lintel);
 - c. The tall wall layouts lack climatic data;
 - d. Some of the columns and headers on the tall wall designs would not pass an engineering/structure check;
 - e. The tall wall design ignores, or does not include, roof loading;
 - f. Some of the tall wall is not top laterally restrained. The roof trusses run parallel to the tall wall, and as such there is a hinge created between the top plates of the wall and the bottom chord of the gable end;
 - g. In instances where the wall cladding is brick or brick veneer, the deflection criteria were not increased to prevent masonry cracking; and
 - h. The designs do not represent a true wall as they were missing step downs which may affect column design and connection.
2. Mr. Jhinjar, on his own behalf and on behalf of the S&M Project Services Inc., executed a written voluntary undertaking to APEGA on February 9, 2017. The terms of that document included Mr. Jhinjar’s undertaking to not provide engineering services in tall wall design until the conclusion of APEGA proceedings involving him. Despite that, on or about April 28, 2017, Mr. Jhinjar issued a tall wall design for [a specific lot in a development in Alberta] in breach of his undertaking to APEGA.
3. Mr. Jhinjar inappropriately issued, or allowed the S&M Project Services Inc. to issue, tall wall designs bearing a reproduction stamp of another professional member. Such designs include drawings stamped by S&M Project Services Inc. on April 29, 2017, relating to [a second specific lot in the same development in Alberta], and on March 10, 2016, relating to [a third specific lot in the same development in Alberta].

It was alleged that the above-referenced conduct constituted unprofessional conduct as set out in Section 44(1) (a), (b), (c), (d), and (e) of the Act, and contravened one or more of Rules of Conduct #1, #2, #3, #4 and #5 of APEGA’s *Code of Ethics*.

The agreed facts included that Mr. Jhinjar became a professional member of APEGA on November 24, 2006. Since approximately 2011, Mr. Jhinjar engaged in his own practice of engineering, which included structural engineering in the residential home building context,

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particularly the design of tall walls. A tall wall is any wall over 3.6 metres in height, under Part 9 of the *Alberta Building Code*.

In the fall of 2016, another professional member was approached by a client of Mr. Jhinjar's, requesting a compliance letter for an as-built tall wall designed by Mr. Jhinjar. Upon reviewing the drawings, the member was concerned about the height of the proposed wall and felt that the drawings did not provide the proper connection details. The member then lodged a complaint with APEGA on November 15, 2016, regarding the conduct of Mr. Jhinjar and S&M Project Services Inc. As part of the investigation, the Investigation Panel asked Mr. Jhinjar to provide 12 or more tall wall designs. Mr. Jhinjar provided a response. Upon the Investigation Panel's review of Mr. Jhinjar's response, the Investigation Panel noted that the subject of the original complaint and 11 of the other examples contained deficiencies, including:

- a. Columns on the tall walls failed a structure check due to deflection, referring to the maximum allowed bending of a column in relation to the exterior finish of the house (i.e., brick, stucco, vinyl siding); and
- b. Missing key elements, including connection details to the roof and concrete ladder set, the header-to-column connection, and sill plates.

Following the Investigation Panel's review and in lieu of an interim suspension, Mr. Jhinjar executed a voluntary undertaking on behalf of himself and S&M Project Services Inc. to cease to personally provide engineering services in tall wall design until the conclusion of the APEGA discipline proceedings against him. However, the undertaking permitted S&M Project Services Inc. to hire a qualified professional to act as its Responsible Member on appropriate notice to APEGA. S&M Project Services Inc. hired [Professional Engineer A] as the Responsible Member to provide tall wall designs.

On March 6, 2017, the Investigation Panel informed Mr. Jhinjar that it was expanding the scope of its investigation and requested that he provide six additional examples of tall wall designs for each of the years 2012 to 2015 for its review. Mr. Jhinjar supplied the examples on March 13, 2017. The Investigation Panel noted deficiencies.

On May 29, 2017, the Investigation Panel was

informed of a tall wall design that was apparently stamped by [Professional Engineer A] and dated April 28, 2017. The Investigation Panel was concerned about the manner in which [Professional Engineer A's] stamp was applied, as it did not appear to be a wet-stamp application but rather an electronic screen capture. On June 11, 2017, [Professional Engineer A] forwarded an email he received from Mr. Jhinjar to the Investigative Committee in which Mr. Jhinjar apologized for using a screen capture of [Professional Engineer A's] stamp on two tall wall designs.

On June 27, 2017, Mr. Jhinjar was notified by the Investigative Committee that it had imposed an interim suspension of Mr. Jhinjar's registration and S&M Project Services Inc.'s permit under Section 55 of the Act. Mr. Jhinjar was also informed that the matter would be referred to the Discipline Committee for a formal hearing.

The agreed facts for Charge 1 confirmed that the tall wall designs relevant to Charge 1 evidence a consistent pattern of errors, indicating a lack of sufficient understanding of structural engineering to practise that discipline in a skilled manner. To the extent the tall wall designs lacked proper, or any, connection details, the failure to supply such details was a breach of the *Alberta Building Code*, Division B, Part 4 (Structural Design). When asked by the Hearing Panel whether Mr. Jhinjar had taken steps to ensure that all of the designs he conducted since he started his venture were safe for occupancy, Mr. Jhinjar explained that he went and saw the builders who he had done designs for and got emails back from the builders confirming the fact that there were no issues.

The agreed facts for Charge 2 confirmed that Mr. Jhinjar provided engineering services in tall wall design on or about April 28, 2017, before the conclusion of any APEGA discipline proceedings, contrary to the undertaking he signed and in breach of the undertaking. Mr. Jhinjar acknowledged that the drawings of tall wall details were prepared and issued by Mr. Jhinjar and not [Professional Engineer A] on April 28, 2017.

The agreed facts for Charge 3 confirmed that drawings of tall wall details prepared and stamped by S&M Project Services Inc. were not completed or stamped by [Professional Engineer A]. Mr. Jhinjar acknowledged that he prepared and issued the drawings and that he applied a reproduction of [Professional Engineer A's] stamp to these drawings without the knowledge, consent, or involvement of [Professional Engineer A]. Mr. Jhinjar acknowledged that he improperly

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used [Professional Engineer A's] stamp on those two occasions.

The Hearing Panel accepted the agreed statement of facts. The Hearing Panel found there was sufficient evidence to support the Admissions of Unprofessional Conduct made by Mr. Jhinjar and S&M Project Services Inc. in relation to all three amended charges and that the conduct constitutes unprofessional conduct. The Hearing Panel noted that Mr. Jhinjar cooperated throughout the hearing and hearing process.

For charge 1, the tall wall designs were deficient and included a consistent pattern of errors, signifying a lack of sufficient understanding of structural engineering to be able to practise in a skilled manner.

For charge 2, professional engineers are expected to conduct themselves with integrity and honesty. A breach of an undertaking signed with the regulator is clearly serious and inappropriate conduct that falls below the standard expected of a member of the profession. APEGA must be able to rely upon the honesty and integrity of its members, and members must be fully honest in the promises they make to APEGA. Such conduct also calls into question Mr. Jhinjar's governability as a member and demonstrates poor professional judgment by Mr. Jhinjar.

For charge 3, Mr. Jhinjar acknowledged that he improperly used another member's stamp on those two occasions. It is serious unprofessional conduct to misuse the stamp of another professional member and is, further, a serious lapse in professional judgment. The Hearing Panel found that Mr. Jhinjar's conduct was detrimental to the best interests of the public. His conduct in issuing deficient tall wall designs displayed a lack of knowledge or lack of skill or judgment in the practice of the profession, specifically structural engineering; his conduct harmed the standing of the profession generally when he breached the undertaking of APEGA; and his conduct in improperly applying the stamp of another professional member is detrimental to the best interests of the public and contravened the *Code of Ethics*. Mr. Jhinjar's conduct clearly breached the *Code of Ethics* Rules of Conduct #1, #2, #3, #4, and #5.

Code of Ethics

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.*

The parties also made a joint submission on penalty at the hearing. Following questions from the Hearing Panel at the hearing, the parties agreed that they would make further written submissions on penalty. The Hearing Panel accepted the modified joint submission on penalty and made the following orders:

1. "Structural engineering" is defined as a sub-discipline of civil engineering in which structural engineers are trained to understand, predict, and calculate the stability, strength, and rigidity of built structures. Structural engineers determine the natural and human-imposed forces that all elements of the structure must resist and select the materials and geometry of those elements and their connections so that the structure will safely withstand those forces.
2. Mr. Jhinjar shall be restricted from practising structural engineering, including but not limited to the design of tall walls, for a period of at least one (1) year from the date this sanction is imposed by the Discipline Committee by its written decision.
3. Mr. Jhinjar shall be restricted from the practice of structural engineering, including but not limited to the design of tall walls, until he has both completed his (1) year of restricted practice and has successfully undertaken and completed the following, to the satisfaction of the Discipline Committee:
 - a. A university-level engineering course in structural analysis and design, such as Steel and Wood Design (NAIT, CIVL 2310);

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- b. A university-level ethics course, such as the Practice of the Engineering Profession (University of Alberta, ENGG 600); and
 - c. The National Professional Practice Exam.
4. Upon completing the requirements described in Paragraphs 2 and 3 above, and for a period of two (2) years, Mr. Jhinjar shall only practise in structural engineering under the direct, personal supervision of a structural engineer, with appropriate qualifications acceptable to the Discipline Committee. That supervisor shall provide quarterly reports to APEGA respecting all projects Mr. Jhinjar has worked on, at Mr. Jhinjar's expense. Mr. Jhinjar may submit the name or names of supervisors he wishes to work with, and the Discipline Committee will consider the suitability of those candidates. The final selection of a supervisor will be made by the Discipline Committee.
 5. At the conclusion of two (2) years of supervised practice, the supervisor will attest in writing to Mr. Jhinjar's competency in structural engineering.
 6. If the supervisor does not attest to Mr. Jhinjar's competency at the conclusion of the two (2) years of supervised practice, the period of supervised practice will be extended for a further one year.
 7. S&M Project Services Inc. shall be restricted from the practice of structural engineering, including but not limited to the design of tall walls, for a period of one year from the date that this sanction is imposed by the Discipline Committee.
 8. Mr. Jhinjar and S&M Project Services Inc. shall each receive a formal reprimand for their conduct with the Discipline Committee's written decision to serve as the formal reprimand.
 9. Mr. Jhinjar and S&M Project Services Inc. shall each pay a fine in the amount of \$2,500, for a total of \$5,000, within six (6) months of the Discipline Committee's written decision. Failure to pay the same by either Mr. Jhinjar or S&M Project Services Inc. shall result in the immediate suspension of the registration or the permit to practice, as the case may be, until the fine is paid.
 10. Mr. Jhinjar will pay hearing costs in the amount of \$5,000, payable within six (6) months of receiving the Discipline Committee's written decision.
 11. Details of the Discipline Committee's decision will be published in *The PEG* and/or posted on APEGA's website with Mr. Jhinjar's and S&M Project Services Inc.'s names.

It was the view of the Hearing Panel that the modified joint submission on penalty was appropriate and reasonable. These orders will protect the public because Mr. Jhinjar is not permitted to practise in structural engineering until he has completed one year of restricted practice and has successfully completed the courses set out above. Further, once Mr. Jhinjar has completed Orders 2 and 3, he shall only practise in structural engineering under the direct, personal supervision of a structural engineer who has appropriate qualifications. The supervision order is for a further two-year period.

Similarly, S&M Project Services Inc. is restricted from the practice of structural engineering for a period of one year.

Signed,

ROBERT SWIFT, P.ENG.

Panel Chair, APEGA Discipline Committee

TIM MORAN, P.ENG.

Panel Member, APEGA Discipline Committee

JOHN NICOLL, P.ENG.

Panel Chair, APEGA Discipline Committee

WANDA GOULDEN, P.ENG., P.GEO.

Panel Member, APEGA Discipline Committee

MURIEL DUNNIGAN,

Public Member, APEGA Discipline Committee

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