

Case No. 17-020-RDO continued

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 Discipline Order, and that I agree 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.

Signed,

MR. HARPREET S. DINSA, P.ENG.

GEORGE ANDERSON, P.ENG.

Panel Chair, APEGA Investigative Committee

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

Panel Chair, APEGA Discipline Committee

Date: December 19, 2017

Date: December 14, 2017

Case No.: 17-021-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 [Complainants B] (the “Complainants”) who submitted a letter of complaint dated May 30, 2016.

A. BACKGROUND

The Complainants purchased a home in September/October 2014 located on an acreage in [Alberta County C]. The house, built in 1990, contained a preserved wood foundation (PWF) basement consisting of only a 4-foot crawlspace. As part of the purchase process, the previous owners (the “Client”) retained the Member to inspect the PWF basement of the home. This was initiated by the Complainant’s Realtor to ensure the foundation was structurally intact without major issues.

The Member completed an onsite inspection and produced a report that did not identify any concerns. In his report, the Member stated, “...no long-term problems and suggests this foundation is quite adequate in all relevant ways for the foreseeable future.” Furthermore, the Member recommended that a follow-up engineering inspection of the crawlspace be completed again in 12–15 years.

The Complainants were also required to have a home inspector inspect the home as a condition of the purchase of the home. This inspection was completed after the Member’s inspection. The home inspector identified wood rot within the built-up platform associated with the construction of the jet tub located in the master ensuite, which included floor joists and plywood decking, and these defects were noted while the home inspector was inside the crawlspace.

The Member was contacted by the Client regarding the home inspector’s findings. The Member returned to the site to re-inspect the identified area of concern, and supplied a second report that outlined repair requirements for the specific damages referenced in that report.

The Member believes his Client did not share the second report with the Complainants as the sale price was renegotiated, and the difference settled on was less than the repair cost estimate the Member provided.

In June 2015, the house was hit by a hail storm, requiring repairs to the siding and roof. During the repair of the property, further rotting of the PWF basement was discovered on the southwest side of the house. Again, the damage could be seen from the PWF crawl space. The Complainants allege the Member, when contacted, also offered to come back to look at the property; however, the Member did not re-visit the site and did not contact the Complainant again.

Case No. 17-021-RDO *continued*

The Complainants have corrected the concerns at their cost; however, the damage was clearly caused over an extended period of time. The Complainants trusted the Member as a professional and expected him to be competent in his field of work. Instead they have found issue after issue with the structure of their home that they now own.

The Complainants feel the Member failed to identify and inform them of the major concerns regarding the foundation of the house they purchased. They feel the Member's actions reflect a major oversight that either highlights his incompetence as a professional engineer or his possible affiliation with the previous owners. They feel the Member's assessment and recommendations were inappropriate and did not in any way protect the Complainants as the buyer.

The Member has indicated his scope was to review and comment on the PWF elements only and not to conduct a full structural evaluation of the house. Although rot was found inside the crawlspace, he believes it was associated with the floor and rim joist framing which formed the main floor and contained a raised platform built to house the ensuite hot tub.

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 PWF components of the home. A Notice of Investigation was sent to the Member on January 10, 2016, requesting the Member to respond to the Complainant's allegations.

C. AGREED STATEMENT OF FACTS

1. The Member attained his degree in civil engineering from [a Canadian university] in May 1985.
2. The Member has been practising as an engineer in Canada for approximately 32 years and has been a member, in good standing, of APEGA since August 26, 1998, with no prior findings of unprofessional conduct or unskilled practice since he has been a member.

3. His background and experience have been primarily in the consulting engineering fields, generally related to structural and architectural work in the building construction field, taking on a variety of different projects through his company, [Company D].
4. The Member made a verbal contract with his client with specific instructions to complete a review and engineering assessment on the conditions of the preserved wood foundation (the bearing components of the floor structure sitting on the footings) of the home. He was not asked to complete a structural analysis of the floor or the walls.
5. The Member did not have a formal, written contract to confirm his scope of work with his client.
6. The Member did access the home's unique crawlspace; however, he did not inspect every area of the crawlspace and did not utilize a checklist to assist with his inspection.
7. The Member did verify the PWF studs (vertical supports) and baseplates (resting on a concrete footing) of the foundation wall were intact and performing as intended.
8. The Member admitted he did not identify some wood rot located in the top plates of the PWF wall framing.
9. The Member also identified some of the interior bearing components of the house (supporting posts and beams) were suspect in nature; however, he did not include any comment regarding this in his report, indicating they did not relate to the PWF system.
10. The Member's report erroneously indicated the primary structural components of the PWF system appeared to be fine and that it should be rechecked in 12 to 15 years.
11. After being contacted by the Complainants with additional concerns, the Member indicated he had intentions of revisiting the house; however, he got very busy and never made it back out to the house.
12. The Member fully cooperated with the investigation.

D. CONDUCT

13. The Member freely and voluntarily admits that:

Case No. 17-021-RDO *continued*

- a. During his field inspection he did not identify the items set out in paragraphs 8, 9, and 10 of the Agreed Statement of Facts and thereby demonstrated a lack of judgment in carrying out a duty or obligation undertaken in the practice of engineering.
14. The Member acknowledges that the conduct is a breach of Section 44(1)(e) of the *Act* and therefore constitutes unprofessional conduct as defined in the *Act*.

E. RECOMMENDED ORDERS

15. 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:
- 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 \$2,000 to APEGA, the amount to be paid within 60 days after the Discipline Committee’s Case Manager approves the Recommended Order.
 - 3. Should the Member fail to submit the above-mentioned requirements within the designated timelines, his registration will be suspended until such time as he does.
 - 4. The matter to be published without names.
 - a. 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:

- i. The Member has been in good standing as an engineer with APEGA and has had no prior findings of unprofessional conduct or unskilled practice since he has been a member.
- ii. This matter contained unique circumstances that the Panel felt would not have been duplicated with any other previous inspection conducted by the Member.
- iii. The Member willingly admitted fault.
- iv. The Member fully cooperated with the investigation and it was determined there was no further risk to the public.

Signed,

[PROFESSIONAL MEMBER A], P.ENG.

SIDDHARTA DASGUPTA, P.ENG.

Panel Chair, APEGA Investigative Committee

RALPH HILDENBRANDT, P.ENG.

Panel Chair, APEGA Discipline Committee

Date : December 14, 2017

Date: December 6, 2017

Case No.: 17-017-RDO

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT,
AND
IN THE MATTER OF THE CONDUCT OF MR. OLUTOYIN OKELANA, 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. Olutoyin Okelana, P.Eng.

The investigation has been conducted with respect to a complaint initiated by [Complainant A] (the “Complainant”), who submitted a letter of complaint dated March 3, 2017.