Date: September 7, 2018 Case No.: 18-007-RDO

IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT AND IN THE MATTER OF THE CONDUCT OF MR. JAN KORZENIOWSKI, 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. Jan Korzeniowski, P.Eng., (the "Member") with respect to a complaint initiated by [the Complainant].

A. THE COMPLAINT

The Investigative Committee appointed an Investigation Panel to conduct an investigation into whether the Member engaged in unprofessional conduct and/or unskilled practice with respect to the allegations outlined in the complaint dated February 9, 2015. A Notice of Investigation was sent to the Member on July 15, 2015, requesting the Member to respond to the Complainant's allegations.

B. BACKGROUND

The Complainant is the owner and developer of [an Alberta golf course]. To ensure his golf course and banquet facilities would be Alberta Environment-compliant, he required the services of an engineer to design a water supply and wastewater sewage system (the System).

The Complainant, through [Company A], retained the Member (JK Engineering Ltd.) in 2000 on an "as-required" basis.

C. AGREED STATEMENT OF FACTS

1. The Member attained his master's degree in civil engineering from the Technical University of Warsaw, Poland, in 1966.
2. The Member has been practising as an engineer in Canada for approximately 45 years and has been a member in good standing of APEGA since 1976, 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 water engineering field, generally related to water supply and wastewater systems and hydrogeology, taking on a variety of different projects through his company, JK Engineering Ltd.
4. The Member was retained on a verbal contract with the Complainant with the specific scope to complete a water and wastewater treatment facility at [the golf course] that would be in compliance with appropriate regulatory bodies and jurisdictions.
5. The Member and the Complainant did not execute a formal, written contract to confirm the scope of work. Rather, the agreement was for the Member to provide engineering services on an as-required basis.
6. The Member provided design drawings for the System that were to be submitted for Alberta Environment approvals and then utilized by the Complainant's staff and contractors to construct.
7. The Member supplied equipment for the System, with some components being sourced out of Poland. Among components sourced out of Poland were fiberglass, potable water storage tanks.
8. Alberta Environment and Parks (AEP) *Standards and Guidelines for Construction and Design of Water Works Facilities* is a document that sets the standard for tanks that come into contact with water. In the treatment process, anything that contacts the water must comply with NSF61. In this case, the tank was not NSF61-certified and therefore is not in compliance with NSF61. The standard reads:

> ***The AEP***
> ***Standards and Guidelines for Construction and***

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Design of Water Works Facilities
2006 & 2012

1.7 Potable Water Treatment Chemical standards

1.7.2 Direct and Indirect Additives

The American National Standards Institute and National Sanitation Foundation Standards (ANSI/NSF) 60 and 61 shall be used to control potential adverse human health effects from products in contact with or added to water directly for treatment or indirectly during treatment, storage or transmission as follows:

1. 7.2.1 Indirect Additives

All substances, materials or compounds (e.g. pipes, coatings, filter media, solders, valves, gaskets, lubricants, resins, process equipment, etc.) that may come in contact with water in the waterworks being treated to be potable and water that is potable shall conform to ANSI/NSF Standard 61 for health effects and the product certified for potable use by an agency accredited by the Standards Council of Canada, e.g. NSF, CSA, UL, etc.

The following exceptions apply:

- *Any materials listed in the current NSF Standard 61 "Annex C".*
- *Existing waterworks (unless otherwise notified by the Regional Director).*
- *Portland cement based concrete. However, the Portland cement, any admixtures used in the concrete and concrete coatings shall be certified.*
- *If NSF certification does not exist for any substance, material or compound, the Regional Director, at his discretion, may approve formal food grade certification by a recognized agency (Health Canada, FDA, etc.).*

9. The Member interpreted this requirement that such control can be ensured by using other recognized certification and assumed that the Polish/EU certification is acceptable as an equivalent to NSF, CSA, or UL.
10. The Member provided the Polish Hygienic Certificate and the Polish National Declaration of Compliance regarding the acceptability of the fiberglass tanks for potable water storage that were made in Poland.
11. The storage tanks are made of a material that will come into contact with potable water, as it is the potable water storage tank, and therefore should have conformed to ANSI/NSF 61.
12. The Member fully cooperated with the investigation and indicated he will be contacting the AEP Regional Director regarding the process required to certify the tank material.

D. CONDUCT

13. The Member freely and voluntarily admits that:
    a. The tanks, as supplied, were not certified as per ANSI/NSF61 as set out above in paragraph 8 and thereby demonstrated a lack of judgment in carrying out a duty or obligation undertaken in the practice of engineering.
    b. Since the potable water storage tanks were not certified as per ANSI/NSF 61, their use resulted in a potential public health risk, and the Panel found sufficient evidence to support a finding of unprofessional conduct under Section 44(1)(e) of the *Engineering and Geoscience Professions Act* (the Act).
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:

    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:

    . . .(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 dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.

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E. RECOMMENDED ORDERS

15. On the recommendation of the Investigative Committee, and by agreement of the Member 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. Should the Member fail to meet the above requirements after a one-year period, from the date this document was signed and approved by the Case Manager, the Member's registration with APEGA shall be cancelled.
    5. This matter and its outcome will be published by APEGA in any form or media as deemed appropriate and such publication will name JK Engineering Ltd. and the Member, Jan Korzeniowski, P.Eng.

Signed,

JAN KORZENIOWSKI, *P.ENG.*

JIAN YAO, *P.ENG.*
Panel Chair, APEGA Investigative Committee

JOHN VAN DER PUT, *P.ENG.*
Case Manager, APEGA Discipline Committee

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