

Date: December 17, 2018

Case No.: 18-013 RDO

## IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT, AND IN THE MATTER OF THE CONDUCT OF NORMAND N. FALLU, P.ENG.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of Normand N. Fallu, P.Eng. ("the Member").

The investigation was conducted with respect to a complaint initiated by the Deputy Registrar and Chief Regulatory Officer (CRO) of APEGA, Matthew Oliver, P.Eng., ("the Complainant") on February 22, 2018. The complaint related to a disciplinary proceeding initiated against the Member by the Ordre des ingénieurs du Québec (OIQ).

### A. BACKGROUND

The Complainant filed a complaint against the Member alleging the Member had participated in a contract collusion scheme and obstructed the OIQ investigation.

### B. THE COMPLAINT

The Complainant referred the matter to APEGA's Investigative Committee after becoming aware that the Member may have engaged in unprofessional conduct and/or unskilled practice in the province of Quebec, contrary to Section 44(1) of the *Engineering and Geoscience Professions Act* ("the Act") by virtue of:

1. his participation, in his capacity as a vice-president at the engineering firm Dessau, in a contract collusion scheme implemented by the City of Longueuil, Quebec, between 2005 and 2010; and
2. obstructing the OIQ investigation by misleading the trustee during an interview on May 13, 2016.

### C. AGREED STATEMENT OF FACTS

1. During the relevant time (2005-2010) of the collusion scheme, the Member became the Vice President of Business Development at the engineering firm Dessau in Longueuil, Quebec.
2. The Member was not registered with APEGA during

the relevant time of the collusion scheme (2005-2010).

3. The Member voluntarily cancelled his membership with the OIQ on April 1, 2013, upon his transfer by Dessau to Calgary, Alberta.
4. The Member became a Professional Member of APEGA on April 9, 2013.
5. In May 2013 the Member was terminated by Dessau after he was identified as a person of interest in the Charbonneau Commission. The Charbonneau Commission, which commenced in 2011, was established by the Government of Quebec to investigate corruption in the granting and management of public contracts in the construction industry.
6. In the fall of 2013 the Member was hired by Stantec in Alberta.
7. The Charbonneau Commission Report was published in November 2015.
8. On April 11, 2016, OIQ initiated an investigation into an allegation that the Member, in his capacity of vice-president at the engineering firm Dessau, participated in a contract collusion scheme implemented by the City of Longueuil, Quebec, between 2005 and 2010.
9. On May 13, 2016, the Member obstructed the OIQ investigation by misleading the trustee (denying his involvement in the contract collusion scheme) during an interview at the OIQ office located in Montreal, Quebec. At this time, the Member was a professional member of APEGA and was thus bound by the Act and the APEGA *Code of Ethics*.
10. On September 11, 2017, OIQ filed the following charges against the Member pursuant to the *Quebec Code of Ethics of Engineers* and the *Professional Code*:

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*"Normand Fallu, ing., a member of the OIQ (under his title # 45037) at the time of the events outlined below, failed or neglected to meet certain obligations imposed by the Code de déontologie des ingénieurs (Code of Ethics of Engineers) (R.R.Q.,1981, c 1-9, r. 3), and the Code des professions (Professional Code), RLRQ c C-26 as follows:*

**Count 1**

*In Longueuil, between the years 2005 and 2010 , as part of the exercise of his profession while he was vice-president of development of business for the firm Dessau in Longueuil, the engineer Normand Fallu failed to fulfill his professional obligations by resorting to or by indulging in dishonest or doubtful procedures, either by tolerating a system of sharing contracts (collusion) to bypass the tendering procedure in the City of Longueuil, thereby contravening section 3.02.08 of the Code of Ethics of Engineers or, failing that, acting in a manner derogatory to the honour or dignity of the profession or discipline of the members of the Order under section 59.2 of the Professional Code.*

**Count 2**

*In Longueuil, between the years 2005 and 2010, as part of the exercise of his profession while he was vice-president of development of business for the firm Dessau in Longueuil, the engineer Normand Fallu demonstrated a lack of integrity and harmed the standing of the profession by participating, several times, in a system to bypass the tender process of the City of Longueuil, thus contravening article 3.02.01 of the Code of Ethics of Engineers and section 59.2 of the Professional Code.*

**Count 3**

*In Montréal, on or about May 13, 2016, as part of the investigation that the trustee led, the member impeded the investigation by providing false or incomplete information thus contravening provisions of art. 114 of the Professional Code."*

11. In January 2018 the Member resigned from Stantec in Alberta.
12. On February 19, 2018, the Member signed an OIQ joint summary of facts as follows:

- 1) *Following receipt of the information, the Trustee's Office opened an investigation on engineer Normand Fallu on April 11, 2016;*
- 2) *This inquiry concerned the collusion of contracts prevailing between engineering firms in the municipality of Longueuil;*
- 3) *The objective of this consortium was to obtain the opportunity to bid on some projects in the city of Longueuil;*
- 4) *Normand Fallu, between 2005 and 2010, was vice-president of business development for the firm of Dessau in Longueuil;*
- 5) *Because he became a member of the Alberta College of Engineers (APEGA), the member has given up his engineering title with the Ordre des Ingénieurs du Québec (OIQ) on April 1, 2013;*
- 6) *Less than one month following his transfer to Alberta by Dessau, the member lost his job while the company was seeking accreditation from the AMF (Autorité Des Marchés Financiers) in order to be able to bid again on public contracts;*
- 7) *The member has no previous disciplinary history;*
- 8) *The member pleads guilty to the three (3) counts of the complaint;*
- 9) *The risk of reoffending is non-existent;*
- 10) *The member is in agreement with the recommendation on sanctions to be presented to the Disciplinary Board.*
13. On February 22, 2018, the Member attended the OIQ discipline hearing by telephone from Calgary. The Disciplinary Council Chair verified the Member's guilty plea on the three charges. A joint submission on sanctions was provided to the Disciplinary Council, recommending a \$10,000 fine on Count 1, a \$10,000 fine on Count 2, and a \$2,500 fine on Count 3. The proposed fines totalled \$22,500.
14. On February 22, 2018, APEGA commenced its investigation into the conduct of the Member. The Member undertook to fully cooperate with the investigation.
15. On March 26, 2018, the Member voluntarily changed his status with APEGA from Practicing Professional Member to Non-Practicing Professional Member.

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16. On August 20, 2018, OIQ published the discipline decision on the conduct of the Member. The decision was dated July 9, 2018, and brief correction to the July 9, 2018, decision was dated July 18, 2018. The decision documented the Disciplinary Council's finding that the Member was found guilty on all three charges and outlined the sanctions for each count as outlined in paragraph 10 above, totalling \$22,500 payable within 12 months of the date of the order.
17. The OIQ decision outlined the specific role played by the Member. When the Member was promoted to VP Business Development at Dessau, the system of contract sharing between the engineering firms Genivar, consultants SM, SNC-Lavalin, CIMA, and Dessau had been in place for some years in the City of Longueuil. By this system, the firm winning the contract from the City of Longueuil was informed by a representative of the city before the bidding became public. This firm was required to bid at an X price and notify the other four firms to bid at a higher price. The Member was the person designated at Dessau to receive this information from the City of Longueuil and retransmit it to the colluding engineering firms.
18. On October 12, 2018, written response, and November 6, 2018, interview with Investigation Panel, the Member admitted his conduct as outlined in the OIQ decision and joint summary of facts. The Member regrets his actions and accepts full responsibility for his conduct.
19. The Member's cooperation with the APEGA investigation was exemplary.
20. On November 6, 2018, the Member advised the Investigation Panel that his intention going forward is to remain a non-practising member of APEGA.

**D. CONDUCT**

21. The Member, P.Eng., freely and voluntarily admits that his conduct, described above, constitutes unprofessional conduct.
22. 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 dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.*

23. The conduct of the Member, by virtue of his participation in the collusion scheme in Longueuil, Quebec, between 2005 and 2010, would constitute a violation of Rules of Conduct #3 and #5 if he had been a member of APEGA during the relevant time. The Member, however, did not register with APEGA until April 9, 2013. As such, the Member was not bound by Section 44(1) of the *Act* and the *APEGA Code of Ethics*. The Investigative Panel finds the sanctions imposed by the OIQ for the Member's participation in the collusion scheme to be reasonable.
24. The Member, P.Eng., has breached the *Act*, and therefore engaged in unprofessional conduct by:
 

**Rule of Conduct # 3:** Failing to conduct himself with integrity, honesty, fairness and objectivity by obstructing the OIQ investigation by misleading the trustee during an interview in Montreal, Quebec, on May 13, 2016.

**E. RECOMMENDED ORDERS**

25. On the recommendation of the Investigative Committee, and by agreement of the Member with

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that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the following recommended orders are issued pursuant to Section 52 of the Act:

1. Mr. Normand N. Fallu, P.Eng., will receive a letter of reprimand, a copy of which will be maintained permanently in the Member's registration file and be considered at any future date by APEGA.
2. Mr. Normand N. Fallu, P.Eng., must confirm his knowledge of professionalism, law, and ethics by successfully passing the National Professional Practice Exam (NPPE) within six months of the date of this order. Should Mr. Fallu fail to successfully complete the NPPE within the stated time, his membership with APEGA will be cancelled.

3. This matter and its outcome will be published by APEGA in any form or media deemed appropriate but having regards to the established publication practices of APEGA in prior cases, and such publication will name Mr. Normand N. Fallu, P.Eng.

Signed,

**NORMAND N. FALLU, P.ENG.**

**REX PERCHARD, P.ENG.**  
APEGA Investigative Committee

**CHRISTINE NEFF, P.ENG.**  
Case Manager, APEGA Discipline Committee

*Date: December 17, 2018*

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