



APEGA Discipline Committee Decision

APEGA members and permit holders are required to practise engineering and geoscience skillfully, ethically, and professionally. They must meet all prescribed requirements and follow all applicable legislation and regulations, such as the [Engineering and Geoscience Professions Act, General Regulation, Code of Ethics, and APEGA bylaws](#). Investigation and enforcement—followed by, when necessary, judgment based on a fair hearing of the facts—are requirements of ours in service to the public interest. For more information, please visit www.apega.ca/enforcement/discipline-decisions.

Date of Hearing: N/A

Date of Decision: February 18, 2020

APEGA Discipline Case Number: <>

IN THE MATTER OF A HEARING OF THE DISCIPLINE COMMITTEE OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF ALBERTA

Pursuant to the *Engineering and Geoscience Professions Act*,
being Chapter E-11 of the Revised Statutes of Alberta 2000
In the Matter of the Conduct of [Professional Member], P.Eng.

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of [Professional Member], P.Eng. (the “Member”) with respect to allegations of unprofessional conduct and/or unskilled practice pursuant to Section 44(1) of the *Engineering and Geoscience Professions Act*.

A. THE COMPLAINT

This investigation related to allegations that the Member engaged in unprofessional conduct and/or unskilled practice of the profession with respect to his role in the preparation of professional documents for a small business expansion project in Fort McMurray, Alberta.

The Investigative Committee investigated the following allegations outlined in the Complaint:

1. Whether the Member reviewed and checked an incorrect mechanical design.
2. Whether the Member failed to authenticate the mechanical design.

The Investigative Committee also investigated the actions of the Member's employer, an Edmonton-based APEGA Permit Holder (the “Permit Holder”). The Investigative Committee determined there was insufficient evidence of unprofessional conduct on the part of the Permit Holder.



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B. AGREED STATEMENT OF FACTS

(i) Background:

1. The Member graduated in 2009 from the University of Alberta with a Bachelor of Science, Mechanical Engineering.
2. The Member has been working at the Permit Holder since graduation and holds the title of senior mechanical engineer.
3. In August 2017, the owner of the business in Fort McMurray (the "Complainant"), signed a contract with the Permit Holder. The scope of the contract included the provision of "detailed drawings showing domestic water (hot and cold) runs, sanitary runs, as well as the dryer vent runs, and coring locations for all piping."
4. The Member was assigned to work with the Complainant.
5. The Member issued professional design documents to the Complainant which were relied upon to core a six inch diameter hole through a concrete wall to accommodate the dryer vents.
6. The Complainant discovered that the specifications for her newly purchased dryers required the dryer ventilation lines to be eight inches in diameter. As a result the Complainant was required to re-core the concrete wall.

(ii) Facts Relating to Allegation#1:

Whether the Member reviewed and checked an incorrect mechanical design.

7. The Complainant undertook a renovation of her business which involved the addition to two washing machines and four dryers.
8. The Complainant required the mechanical drawings to indicate the ventilation diameter for the four dryers. Additionally, the Complainant required a 'stack dryer' set-up consisting of four dryers in two stacked columns (two dryers in each column).
9. The Complainant dealt mainly with design technicians at the Permit Holder and emailed them documents including specification sheets, mechanical and electrical sub-trade quotes. The Complainant was unaware that the electrician had highlighted the incorrect specifications on the cut-sheet which was sent to the Permit Holder. The incorrectly highlighted specification referred only to a single dryer set-up which required a six-inch



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ventilation line. The 'stack dryer' set-up required an eight-inch ventilation line in order to meet manufacturer specifications.

10. The design was drawn by a design technician employed by the Permit Holder. The Member reviewed and checked the design and issued the drawings to the Complainant.
11. The Member admits that only after being notified by the Complainant of her concerns that he discovered additional information in an email thread sent to the Permit Holder that confirmed the project consisted of four dryers and a related installation specification of an eight-inch diameter ventilation line.
12. The Member acknowledges that the mechanical design provided to the Complainant was not correct and that his conduct constitutes unskilled practice.

(iii) Facts Relating to Allegation#2:

Whether the Member failed to authenticate the mechanical design.

13. The professional documents consisted of two pages: "Main Floor Plumbing" and "Second Floor Plumbing and Ventilation".
14. The professional documents were marked as 'checked' by the Member, however they were not authenticated.
15. Section 54 of the *Engineering and Geoscience Professions General Regulation* states that a professional member must stamp (authenticate) "all final plans, specifications, reports or documents of a professional nature that were prepared by the professional member or licensee or under the professional member's or licensee's supervision and control, or that were prepared by another person in circumstances where the professional member or licensee has thoroughly reviewed them and accepted professional responsibility for them."
16. The APEGA Professional Practice Standard Authenticating Professional Work Products, July 2019 (formerly the APEGA Practice Standard for Authenticating Professional Documents V3.1, January 2013) states in part, "Section 54 of the General Regulation requires licensed professionals to authenticate professional work products (PWP) they have prepared or reviewed, showing their professional responsibility for the PWP. The legislative obligation to authenticate overrules any contractual agreements between a permit holder or licensed professional and a client or employer;"
17. The Member acknowledges that he failed to follow the *Engineering and Geoscience Professions General Regulation* and the APEGA Practice Standard for Authenticating



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Professional Documents V3.1, January 2013 (in effect at the time of the allegations) and that his conduct constitutes unskilled practice.

C. CONDUCT

18. The Member freely and voluntarily admits that at all relevant times he was a Professional Member of APEGA and was thus bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
19. The Member acknowledges that the conduct described above constitutes unprofessional conduct and unskilled practice as defined in Section 44(1) of the *Act*:

Section 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.

20. The Member acknowledges that the conduct described above in Allegation 1 is conduct that is detrimental to the best interests of the public and displays a lack of knowledge or lack of skill or judgment in the practice of the profession.
21. Further, the conduct described in Allegation 2 constitutes a breach of Rule #4 of the Code of Ethics, which states:

4. Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.

D. RECOMMENDED ORDERS



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22. On the recommendation of the Investigative Committee, and by agreement of the Member with that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
- a) The Member will receive a letter of reprimand, a copy of which will be maintained for a period of five years in the Member's APEGA registration file.
 - b) The Member shall provide written confirmation to the Director, Enforcement, within thirty days of being notified that the Recommended Order has been approved, that he has reviewed APEGA's Professional Practice Standard *Authenticating Professional Work Products* (July, 2019) and that he will comply with the requirements therein.
 - c) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not name the Member.
23. If the Member fails to provide proof that he has completed the requirements in paragraph 22(b) above within the timeline specified, the Member shall be suspended from the practice of engineering until he provides to the Director, Enforcement proof of successful completion.

Signed,

[PROFESSIONAL MEMBER], P. Eng.

WAYNE BAIRD, P. Eng.
Panel Chair, APEGA Investigative Committee

NEIL JAMIESON, P.Eng.
Case Manager, APEGA Discipline Committee
Date: February 18, 2020