



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: May 27, 2020

Date of Decision: July 29, 2020

APEGA Discipline Case Number: 18-015-FH

**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 Gurpreet Gill, P.Eng.

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 May 27, 2020 via video conference. The hearing addressed the conduct of Mr. Gurpreet Gill, P.Eng. (the “Member”) and Consultech Engineering Ltd (“Consultech”). The hearing proceeded by Agreed Statement of Facts, Admission of Unskilled Practice (“Admission”) and a Joint Submission on Penalty.

The Notice of Hearing provided to the Hearing Panel contained nine charges:

- a. Charges 1, 2 and 3 alleged unskilled practice relating to the design of tall walls in a series of listed residences or the issuance of letters concerning whether constructed tall walls were acceptable and adequate to support imposed loads;
- b. Charge 4 alleged unskilled practice relating to the issuing of deficient “as-built” letters to clients that contained omissions or unsupported statements for four properties;
- c. Charge 5 alleged unskilled practice in issuing an authenticated letter relating to the field inspection of a wood structure which contained unsupported assumptions respecting the structure’s acceptability and adequacy to support imposed loads;
- d. Charge 6 alleged unskilled practice by authenticating a foundation plan, high wall details, generic tall wall connection details and generic tall wall bracing at gable end for a commercial client with four specified particulars of unskilled practice;



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- e. Charge 7 alleged unskilled practice by authenticating high wall details, generic tall wall bracing at gable ends and generic tall wall connection details for a specific residence with three specified particulars of unskilled practice; and
- f. Charges 8 and 9 alleged breaches of a voluntary undertaking to APEGA not to practice structural engineering services including tall wall design until the conclusion of discipline proceedings or until the Member and Consultech had hired an approved Responsible Member and notified APEGA's Permit Department of the hiring. It was alleged that these breaches constituted unprofessional conduct.

The Notice of Hearing also alleged that the above-referenced unskilled practice or unprofessional conduct contravened section 44(1)(a) – (e) of the Act and one or more of the Rules of Conduct 1 through 5 of APEGA's *Code of Ethics*.

Given the wording in the Notice of Hearing, the Hearing Panel asked for clarification as to whether the Member's Admission was to unprofessional conduct and unskilled practice. Counsel for the Investigative Committee submitted that the intent and purpose of the Admission was for the Member to admit to unskilled practice and not unprofessional conduct. The Investigative Committee asked that the reference to unprofessional conduct be removed from the Agreed Statement of Facts and the Member's Admission.

Decision Regarding Unskilled Practice

The Hearing Panel considered the Agreed Statement of Facts and the Member's Admission and found that it was clear that the allegations in each of Charges 1 to 7 were proven.

The Agreed Statement of Facts noted that the Member participated in an interview during APEGA's investigation of the complaint made against him. The Member had difficulty articulating and explaining core structural engineering concepts in relation to tall walls.

The Agreed Statement of Facts also noted that a third party expert in structural engineering, K.G., P.Eng. reviewed the interview of the Member and other investigative materials and provided an opinion that the Member "was unable to demonstrate sufficient understanding of fundamental structural analysis and design of wood members and connections". K.G., P.Eng. recommended that the Member should not be allowed to practice structural engineering until such time as he could demonstrate adequate proficiency in the subject, both for the protection of the public and the reputation of the profession.

APEGA expanded the scope of its investigation when it received the recommendations of K.G., P.Eng. APEGA requested that the Member provide the following examples of prior structural engineering work:

- a. Ten examples of stacked tall walls from 2016;
- b. Ten examples of stacked tall walls from 2017;



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- c. Ten examples of tall walls that exceed 19'6" in height;
- d. Five examples of tall wall designs;
- e. Five examples of foundation designs where the total square footage of the home exceeds 3,500 square feet;
- f. Ten examples of 'as-built' acceptance letters to clients;
- g. Five examples of structural field inspections of wood structures from 2016;
- h. Five examples of structural field inspections of wood structures from 2017;
- i. Ten examples of steel beam designs, including associated plans and corresponding information (floor layout, roof layout, etc.); and
- j. Five examples of commercial work including multi-story walk ups, 5-plex units and/or mezzanines.

K.G., P.Eng. provided a report to APEGA assessing the prior structural engineering work that had been provided by the Member pursuant to APEGA's request. After reviewing the work, K.G., P.Eng. advised APEGA of a potential safety concern he identified relating to a 6000 square foot commercial structure that, in his opinion, had a foundation and piles that were under-designed for a building of this size and configuration.

In summary, K.G., P.Eng.'s opinion was that the Member's submitted work did not meet minimally acceptable standards of practice with respect to structural engineering scope. K.G., P.Eng. identified numerous deficiencies in the Member's examples of structural engineering design projects he had completed.

The Hearing Panel also reviewed the admissions of unskilled practice made by the Member. The Member admitted that, in relation to each of the Charges 1 through 7, he failed to demonstrate minimally acceptable standards of practice expected of a member of the profession. In addition to the detailed and specific admissions in relation to Charges 1 to 7, the Member made an admission that his conduct constituted unskilled practice as set out in sections 44(1)(d) and (e) of the Act, and contravened Rule of Conduct 2 of APEGA's *Code of Ethics*.

Rule of Conduct 2 reads as follows:

2 Professional engineers and geoscientists shall undertake only work that they are competent to perform by virtue of their training and experience.

The admissions made by the Member and Consultech in respect to each of Charges 1 to 7 were detailed and specific and confirmed the concerns noted by K.G., P.Eng. in his review of the prior structural engineering work provided to APEGA by the Member. In each Charge, the admitted conduct was clearly below the minimally accepted standards of practice expected of a member engaging in structural engineering. In the opinion of the Hearing Panel, this admitted conduct



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fell below the minimally accepted standards of practice expected of a member engaging in structural engineering and clearly constituted unskilled practice pursuant to section 44 of the Act.

The Hearing Panel noted that the Investigative Committee chose not to call any evidence respecting Charges 8 and 9 provided in the Notice of Hearing. The parties jointly requested that Charges 8 and 9 be dismissed. The Hearing Panel accepted the submission of the parties and dismissed Charges 8 and 9.

Decision Regarding Orders for Penalty

The parties made a joint submission on penalty. The Hearing Panel accepted the joint submission with some minor modifications consented to by the parties. The Hearing Panel made the following orders:

- a. For the purposes of these Orders, “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.
- b. The Member shall be restricted from practicing structural engineering, including but not limited to the design of tall walls, for a period of at least 16 months from the date that this sanction is imposed by the Discipline Committee by notice of its decision.
- c. The Member 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 16 months of restricted practice and has successfully undertaken and completed the following, to the satisfaction of the APEGA Director, Enforcement:
 - i. Written and achieved a passing grade on the Associate Membership Exam for the Institution of Structural Engineers (“ISTRUCTE”). The Member is responsible for registering to write this exam and for any fees and costs associated with writing this exam. Details on how to register to write the ISTRUCTE exam, locations where it may be written, dates and costs may be found at www.istructe.org.
- d. Upon fully completing the requirements described in (b) and (c), and for a further period of two years, the Member shall only practice structural engineering under the direct, personal supervision of a structural engineer, with appropriate qualifications, acceptable to the APEGA Director, Enforcement. The supervisor shall provide quarterly reports to the APEGA Director, Enforcement respecting all projects that the Member has worked on, at the Member’s expense. The Member shall submit to the APEGA Director, Enforcement the names and qualifications of three structural engineers willing to provide the required direct, personal supervision. The final selection of the supervisor will be made by the APEGA Director, Enforcement.



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- e. At the conclusion of the two years of supervised practice, the supervisor will attest in writing to the Member's competency in structural engineering. The APEGA Director, Enforcement will review the supervisor's written assessment. If, on review of the supervisor's written assessment, the APEGA Director, Enforcement deems the Member's competency remains unsatisfactory, the Member shall remain restricted from the practice of structural engineering.
- f. For greater certainty, nothing in these orders is intended to suspend or restrict the Member's ability to practice geotechnical engineering in accordance with his qualifications and competencies.
- g. The Member and Consultech shall each receive a written reprimand for their conduct with the Hearing Panel's written Decision to serve as the formal reprimand.
- h. The Member will pay hearing costs in the amount of \$5000, payable within 6 months of receiving the Hearing Panel's notice of decision. If the costs are not paid within the required 6 months, the Member will not be allowed to proceed to the next steps in the process set out in these orders until the costs of \$5000 have been paid.
- i. This matter will be published in the PEG Magazine, with names.

The Hearing Panel recognized that, as stated by the Supreme Court of Canada in *R v Anthony-Cook*, it has a duty to give serious consideration to a joint submission on penalties by the parties and should exercise deference when presented with a joint submission on penalty. After considering the proposed orders with the modifications requested by the Hearing Panel and agreed to by the parties, the Hearing Panel found that the Joint Submission on Penalty was appropriate and not unreasonable or against the public interest.

The Hearing Panel also noted that the Member and Consultech have been subject to an interim suspension since June 22, 2018.

The fundamental concern in respect to the orders proposed was that they must protect the public and ensure that the Member is prohibited from engaging in the practice of structural engineering unless and until he fully demonstrates that he can practice structural engineering competently and safely.

The proposed orders that restrict the Member from practicing structural engineering, including but not limited to the design of tall walls, for at least 16 months and until he successfully completes the Associate Membership Exam for ISTRUCTE will ensure that the Member cannot practice structural engineering until he demonstrates his understanding of the fundamental concepts of structural engineering through passing the ISTRUCTE exam.

The public is further protected by the order requiring that after the minimum 16 months and the passing of the ISTRUCTE exam, for a period of two years the Member must practice structural



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engineering under the direct, personal supervision of a structural engineer with suitable qualifications that is acceptable to the APEGA Director, Enforcement. This protection is enhanced by the amendment agreed to by the Member that he will submit the names of three qualified structural engineers willing to provide the direct, personal supervision to the APEGA Director, Enforcement who will select the supervising structural engineer. The supervising structural engineer must provide quarterly reports to APEGA respecting all projects that the Member has worked on at the Member's expense. This provides ongoing monitoring for the APEGA Director, Enforcement as to whether the Member is meeting the requirements of his supervising structural engineer.

The public is also protected by the order requiring that at the end of the two year supervision period, the supervising structural engineer must provide a written assessment attesting that the Member is competent in structural engineering to the APEGA Director, Enforcement who will determine if the assessment is satisfactory.

These orders provide protection to the public while also giving the Member an opportunity to demonstrate that he can acquire and demonstrate the necessary knowledge and practical experience to be permitted to again practice structural engineering.

The Hearing Panel noted that the combined effect of the interim suspension, the minimum 16-month restriction from practicing structural engineering, and the two year requirement to practice under direct, personal supervision of a structural engineer, meant that the Member will be prohibited from practicing structural engineering independently for over 5 years. This is a very long period and it will deter both the Member and other members of the profession from acting as the Member did in this case.

The Member will only be able to practice structural engineering independently if he passes the ISTRUCTE exam and satisfies his supervising structural engineer and the APEGA Director, Enforcement that he is competent to practice structural engineering.

These orders also demonstrate to the public and to the profession that APEGA is committed to protecting the public and the integrity of the profession and will only permit the Member to practice structural engineering in the future if he has clearly demonstrated his competence in structural engineering. They are substantial and serious orders.

The Joint Submission on Penalty acknowledged that the Member had a prior discipline history with APEGA relating in part to conduct in relation to the assessment and design of residential tall walls that demonstrated a lack of skill and competence in the practice of structural engineering and violations of the APEGA Code of Ethics. The Hearing Panel was concerned that this was the second time the Member has been the subject of disciplinary orders regarding his practice in structural engineering and the design of tall walls. However, after reviewing the orders jointly proposed by the parties the Hearing Panel was satisfied that the requirement to pass the ISTRUCTE exam and to practice under direct, personal supervision of a structural engineer satisfactory to the APEGA Director, Enforcement for two years requires the Member to demonstrate both theoretical and practical knowledge of structural engineering which will be assessed by the APEGA Director, Enforcement.



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Overall, the Hearing Panel found that the proposed orders on penalty fall within a range of reasonable orders and were not unreasonable or contrary to the public interest.

The Hearing Panel also found it appropriate for the Member to pay a portion of the costs of the hearing and for this matter to be published in the PEG Magazine with names.

Signed,

KEN LIU, P.ENG.

Panel Chair, APEGA Discipline Committee

DOUG COX, P.ENG.

Panel Member, APEGA Discipline Committee

ADAM WHITING, P.ENG.

Panel Member, APEGA Discipline Committee