



**RECOMMENDED ORDER
To The
DISCIPLINE COMMITTEE**

IN THE MATTER OF THE ENGINEERING,
AND GEOSCIENCE PROFESSIONS ACT,

AND

IN THE MATTER OF THE CONDUCT OF
[REDACTED] P.ENG.

&
[REDACTED]

APEGA Investigative Committee Recommended Order

In the matter of the Engineering and Geoscience Professions Act

And

In the matter of the conduct of
[REDACTED], P.ENG.

&
[REDACTED]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [REDACTED] P.Eng., (the "Member") with respect to three, separately filed, homeowner complaints. The complaints were with regards to the engineering services (inspections) provided by [REDACTED] to [REDACTED].

A. Complaints

1. The Member engaged in unprofessional conduct that was detrimental to the best interests of the public contrary to Section 44(1) (a) (b) of the Engineering and Geoscience Professions Act (the "Act") and Rule of Conduct #1 and #5 of the APEGA Code of Ethics (the "Code"). The Member provided a sealed and authenticated letter that stated the ready to move homes [REDACTED] built by [REDACTED] were inspected and found to be in compliance with the National and Alberta Building Codes. The Member's letter implied (erroneously) that all elements of the building codes were inspected.
2. The Member has engaged in unprofessional conduct that displayed a lack of judgement in the carrying out of a duty contrary to Section 44(1) (b) of the Act and Rule of Conduct #4 of the Code. The Member's authenticated documents contained irregularities. Specifically, the signed seal of the Member was reproduced to another document inappropriately.

B. Agreed Statement of Facts

As a result of the investigation, it is agreed by and between the Investigative Committee and [REDACTED] P.Eng., that:

1. At all relevant times the Member was a professional member of APEGA, and bound by the APEGA Code of Ethics;

2. The Member holds a BEng in Mechanical Engineering from the University of Western Ontario [REDACTED]. The member is currently employed by his own engineering firm, [REDACTED], located in [REDACTED] Alberta.
3. [REDACTED], held a valid Permit to Practice at all relevant times.
4. In 2012 the Member was retained by [REDACTED] to inspect the structural components of [REDACTED] that were being built on their manufacturing site located near [REDACTED] Alberta.
5. The Member had extensive experience and possessed the necessary skill, background and experience to complete those structural inspections.
6. That the Member's scope of work did not include the transportation of the home from [REDACTED] lot to the home site – therefore any damage as a result of the move was not the Member's responsibility (rather it was between [REDACTED] and the Homeowner)
7. That the Member's scope of work did not include the placement of the home on its foundation.
8. That the Member's scope of work did not include the final service connections for the electrical, plumbing and mechanical components of the home.
9. That the Member was not responsible for the final assurance that the home would be ready for occupancy (a local authority having jurisdiction responsibility).
10. The Member was to provide authenticated documentation confirming that a structural inspection was completed on these homes and that they were built to the structural standards required to meet or exceed the National and Alberta Building Codes.
11. The stamped letter of compliance was to be provided to the future purchasers of these homes.
12. The wording of the Member's letter of compliance did not provide any clarifying information that would have indicated the scope of the inspection was limited to the structural components of the home only.
13. The Member's letter of compliance was not clear with respect to which elements of the home were inspected and therefore the Homeowners, who are typically not well versed (lacking the technical knowledge) in the various construction or inspection processes, assumed the letter of compliance referred to all aspects of the home (mechanical, electrical and HVAC).
14. APEGA's investigative Panel conducted two separate interviews with the Member to discuss the 3 separate complaints. During the interviews the Member freely acknowledged that:
 - a. For all three homes, the letters of compliance (bearing the address of each homeowner) contained irregularities with authentication.
 - b. The above mentioned letters contained misleading information, specifically containing the statement, "The ...Home...has been inspected and found to be in compliance with the National and Alberta Building Codes," and that the

statement did not clarify or limit the scope of the inspection to the structural components of the home.

- c. The Member's Preserved Wood Foundation drawings "lacked" sufficient detail.

15. The Member has fully cooperated with the APEGA investigation and:

- a. Admitted that the complaints brought about by the homeowners regarding the engineering services provided, (specifically stamped documentation) brought awareness to his practice that was misleading and needed revising.
- b. Indicated he has discontinued his business relationship with [REDACTED] and did so to avoid future issues.
- c. Admitted that he did not adhere to his own standard, outlined in his professional practice management plan (PPMP), to ensure that all his professional documents were handled with the appropriate controls to maintain accuracy and completeness.
- d. Has taken full responsibility for his actions and has taken steps to improve his practice so it is in alignment with his PPMP.
- e. Expressed an interest in dealing with the APEGA complaint by way of a Recommended Order.

Conduct

The Member freely and voluntarily admits that his conduct constitutes unprofessional conduct and that the Complaints (#1 & #2) set out above are admitted and proven. The Member has therefore engaged in unprofessional conduct that contravenes a code of ethics of the profession as established under the regulations contrary to Section 44(1) (a) and (b) of the Act and Rules of Conduct #1 and #4 of the Code.

With regards to Complaint (#3) set out above, the Member has demonstrated competence as it relates to the scope of work he was engaged to perform and therefore the conduct does not contravene Section 44(1) (e) of the Act or Rule of Conduct #2 of the Code.

Section 44(1) of the Act states:

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.

Rules # 1 and # 4 of the APEGA Code of Ethics state:

1. Professional engineers and geoscientists shall, in their areas of practice, hold paramount the health, safety and welfare of the public and have regard for the environment;
4. Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.

Orders

On the recommendations of the Investigative Committee, and by agreement of [REDACTED] P.Eng., with those recommendations, following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:

1. The Member shall receive a letter of reprimand;
2. That the case be published in the PEG without names

[REDACTED]

Panel Chair J. T. (Jim) Graves, P.Eng.
APEGA Investigative Committee

[REDACTED]

[REDACTED], P.Eng.

APEGA Discipline Committee

Approved this 28 day of JANUARY, 2016

By: [REDACTED]
Case Manager

CHRIS GOWLAND