



# APEGA Recommended Discipline Order

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](http://www.apega.ca/enforcement/discipline-decisions).

**Please note: This document contains strong and offensive language**

**Date:** December 7, 2021

**Discipline Case Number:** 21-018

**IN THE MATTER OF A RECOMMENDED DISCIPLINE ORDER 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  
Regarding the Conduct of OF [AN APEGA REGISTRANT]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of a Registrant (the “Registrant”) with respect to a complaint initiated by [Name Withheld] (the Complainant) dated February 22, 2021 (the Complaint). allegations of unprofessional conduct and / or unskilled practice pursuant to section 44(1) of the *Engineering and Geoscience Professions Act*.

## **A. THE COMPLAINT**

The Complainant filed a complaint alleging the Registrant, engaged in unprofessional conduct, as defined at section 44(1) of the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11 (EGP Act) with respect to their Off Duty Conduct related to several social media posts that were directed at the Complainant.

The Investigative Committee’s investigation focused on the following allegation which can be summarized as follows:

1. Whether the Registrant, engaged in unprofessional conduct and/or unethical conduct by making abusive, demeaning, and threatening statements on social media posts and messages directed towards the Complainant.

The Investigative Committee investigated one other allegation outlined in the complaint. The Investigative Committee determined that there was insufficient evidence of unprofessional conduct in relation to the one other allegation.



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### B. AGREED STATEMENT OF FACTS

As a result of the investigation, it is agreed by and between the Investigative Committee and the Registrant that:

**(i) Background:**

1. The Registrant is an APEGA Professional Member and was thus bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
2. The Registrant holds a Bachelor of Science degree in Geology from the University of Alberta (1991) and a Master of Science degree in Integrated Petroleum Geosciences from the University of Alberta (2010).
3. The Registrant owns [Name Withheld], located in Edmonton Alberta. The Registrant is a Professional Wellsite Geologist and is the Responsible member for his company. The Registrant has an APEGA registration date of May 19, 2004.
4. The Registrant has cooperated with the APEGA investigation.

**(ii) Facts Relating to the Allegation:**

**Whether the Registrant, engaged in unprofessional conduct and/or unethical conduct by making abusive, demeaning, and threatening statements on social media posts and messages directed towards the Complainant.**

5. The Complainant has resided in United States since 2000. They and the Registrant were previously acquainted from the time they grew up in Edmonton. The Complainant and the Registrant re-established contact with each other a few years ago via social media, which resulted in their relationship becoming closer about the May 2019 timeframe.
6. The Complainant knew the Registrant was a geologist and member of APEGA. The Complainant was also aware the Registrant was going through some serious personal relationship difficulties at the time of their association with him. Despite this, their relationship continued but with the restrictions on travel due to the COVID pandemic, some notable portion of this was done via social media and electronic means.
7. Between October/November 2020 and December 2020, the Complainant and the Registrant alternated between being in, and out of, contact (a relationship). This relationship eventually deteriorated due to inappropriate and offensive



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communications, and/or postings about the Complainant by the Registrant, ultimately resulting in an apparent final severing of contact around about late 2020, or early 2021.

8. In February of 2021, the Complainant became aware of inappropriate/offensive social media (Facebook) public postings directed at them by the Registrant, which led them to file a formal complaint with APEGA. Examples of these posts occurred on February 15, 20 and 21, 2021.
  - a. Photos of the Complainant and the message *“Bad memories, when this meme disappears...she has disappeared...”*
  - b. Photos of a woman holding a mask to her face with comments below:
    - i. *“When my Monster”*
    - ii. *“I feel like I have been raped”*
    - iii. *“Dear Miss. Narcissist. How many relationships have you had? Did you find yourself smoking cigarettes and drinking alcohol well into your fifties? Do you take...”*
    - iv. *“A sack of shit is just a sack of shit. I definitely know a sack of shit”.*
9. The Registrant was notified of the Complaint on March 10, 2021. This notification included advisement by APEGA’s Director of Investigations for the Registrant not to contact the Complainant. The Complainant’s lawyer also advised the Registrant on March 12, 2021, to cease contact with the Complainant with a formal “cease and desist” order.
10. Despite the cease-and-desist warnings from the Director, and Counsel for the Complainant, and during the Registrant’s interview on June 2, 2021, with their counsel present, they continued to make unprofessional public posts directed at the Complainant on Facebook between June 4 and 7, 2021.
  - a. Posted a character of a young woman holding a ‘spiked bat’ behind her back facing a young man holding ‘flowers’ behind his back.
  - b. The same image then appeared with the comment from the Registrant *“Yes / met one of these”.*
11. The Registrant did not initially believe their communications with the Complainant were unprofessional (although later admitted they were), and they regretted the tone of some posts. The Registrant confirmed that their relationship with the Complainant occurred at a very difficult time, personally and emotionally (e.g., divorce proceedings with an estranged spouse; estranged spouse then passing away).



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12. The Registrant confirmed that the unprofessional messages and posts originated from their accounts. The Registrant says they were emotional when they made the inappropriate communications/posts and admits that they were a mistake.
13. The Registrant identified themselves as a geologist (though not a member of APEGA) on the same social media platform they used to post the unprofessional comments directed at the Complainant.
14. The Registrant agreed that the unprofessional social media messages and posts raise ethical concerns/issues in the manner of their use of social media.
15. The Registrant stated that they have undergone psychological counselling to deal with the challenges with their relationship with the Complainant and provided a letter from his psychologist pertaining to this.
16. The Registrant admitted to the allegation and stated they were “guilty”. They further stated they *“engaged in unprofessional conduct and/or unethical conduct by making abusive, demeaning, and threatening statements on social media posts and messages directed towards the Complainant”*.
17. The Committee through its investigation determined there was a consistent direct and indirect theme towards the Complainant with several forms of communication used. The Committee considered all the communications both private and public to establish an overall pattern of behavior and relied on the public posts in determining the Registrants conduct, which was deemed to rise to the level of unprofessional conduct.
18. The Committee determined with respect to the impugning comments and the application of Charter values, the purpose of the EGPA with respect to the regulation of professional members is to ensure that those members meet basic standards of professional conduct. Those standards apply in certain circumstances when a member is not engaged in the practice of engineering, as here. The Registrant has acknowledged responsibility for their statements on their Facebook page that were abusive and demeaning to the Complainant. These kinds of statements fall far outside the core elements of free expression, and when compared to the objective of maintaining the honor and dignity of the profession of geoscience, such statements are less deserving of Charter protection.
19. The Committee assessed the rationale for why ‘Off Duty’ conduct might amount to unprofessional conduct and determined that society’s expectation is that professionals conduct themselves in their affairs in a manner that does not have to the potential to reflect negatively on their profession. The Committee examined what type of ‘Off Duty’ conduct was likely to constitute *“Unprofessional Conduct”*



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and considered factors such as the fact the Registrant's communications occurred in multiple instances over several months; the general offensive tone of some of these communications; and that despite attempts made by APEGA's Director of Investigations and the Registrant's own legal counsel advising against such communications, the communications continued. These points contributed to the establishment of a pattern of unprofessional conduct.

### C. CONDUCT BY THE REGISTRANT

20. The Registrant freely and voluntarily admits that at all relevant times the Registrant was a professional member of APEGA, and thereby, was bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
21. The Registrant acknowledges the conduct described above constitutes unprofessional conduct 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 a lack of skill or judgment in the practice of the profession or;*
- (e) displays a lack of knowledge 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.*

*The Rules of Conduct of the APEGA Code of Ethics state:*

- 1. Professional engineers and geoscientists shall, in their areas of*



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*practice, hold paramount the health, safety and welfare of the public and have regard for the environment.*

2. *Professional engineers and geoscientists shall undertake only work that they are competent to perform by virtue of their training and experience.*
  3. *Professional engineers and geoscientists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*
  4. *Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.*
  5. *Professional engineers and geoscientists shall uphold and enhance the honour, dignity and reputation of their professions and thus the ability of the professions to serve the public interest.*
22. The Registrant acknowledges that the conduct described above is conduct that is detrimental to the best interests of the public, and contravenes the Code of Ethics as established under the regulations.
23. The Registrant further acknowledges and admits that their conduct was contrary to Rules of Conduct 3 and 5 of the *APEGA Code of Ethics*.

### **D. RECOMMENDED ORDERS**

24. On the recommendation of the Investigative Committee, and by agreement of the Registrant with that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:
- a. The Registrant shall be reprimanded for their conduct and this order shall serve as the reprimand.
  - b. The Registrant shall provide written confirmation to the Director, Enforcement, within thirty days of being notified that the Recommended Order has been approved, that they have reviewed the following APEGA publications and that the Registrant will comply with the requirements therein:
    - i. APEGA Guideline for Ethical Practice (v2.2, February 2013).
    - ii. APEGA Guideline Concepts of Professionalism (2004).



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Failure to meet the noted deadline shall result in the Registrant being suspended from the practice of engineering until the requirements set out in this paragraph are met. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement, for an extension prior to the noted deadline.

- c. The Registrant shall pay a fine in the amount of six hundred dollars (\$600.00). The fine is a debt owing to APEGA and shall be paid within three months of the date this order is approved by the Discipline Committee Case Manager. Failure to pay the fine by the noted three-month deadline will result in the Registrant being suspended from the practice of engineering until the fine is paid. Further, failure to pay the fine within six months of the date this order is approved shall result in the cancellation of the Registrant's APEGA membership. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement, for an extension prior to the noted deadlines.
  - d. This matter and its outcome will be published by APEGA as deemed appropriate, and such publication will not name the Registrant.
25. Although the Investigative Committee and the Registrant understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies the Registrant by name, the parties understand that the decision to publish with or without name is discretionary. The parties submit that publication without name is appropriate given the specific facts in this case, including the following:
- i. The admission by the Registrant of unprofessional conduct.
  - ii. The Registrant's cooperation with the investigation.
  - iii. The requirement to protect the identity of the Complainant.
  - iv. The Registrant on his own volition is under the care of a psychologist.



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IN WITNESS WHEREOF the undersigned agrees with the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct in its entirety.

Signed,

**[REGISTERED MEMBER]**

**MR. WAYNE BAIRD**, P.Eng.  
APEGA Investigative Committee

**MS. DIANA PURDY**, P.Geol.  
Case Manager, APEGA Discipline Committee

Date: December 7, 2021