



The Association of Professional
Engineers and Geoscientists of Alberta

APEGA DISCIPLINE COMMITTEE DECISION

Date(s) of Hearing: April 17, 2024

Date of Decision: May 17, 2024

APEGA Discipline Case Number: 23-012-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

**Regarding the Conduct of MOHAMMAD SADAGHEH, P.ENG., and
PETRO ENGINEERING CANADA LTD.**

INTRODUCTION

The hearing of the Discipline Committee took place on April 17, 2024, via videoconferencing.

Appearances

The members of the Hearing Panel of the Discipline Committee (the “Hearing Panel”) of the Association of Professional Engineers and Geoscientists of Alberta (“APEGA”):

- T. Moran, Discipline Committee Panel Chair
- A. Whiting, Discipline Committee Panel Member
- K. Liu, Discipline Committee Panel Member
- M. Zaman, Discipline Committee Panel Member
- M. Dunnigan, Discipline Committee Public Member

V. Wensel and K. Haymond, Legal Counsel for the Investigative Committee of APEGA (the “Investigative Committee”)

S. Beckett, APEGA Staff Investigator

M. Sadagheh, P. Eng.

A. Sadagheh, Legal Counsel for M. Sadagheh

A. Reid, Independent Legal Counsel for the Hearing Panel

Several of APEGA's staff attended to provide administrative support for the hearing.

OPENING OF THE HEARING

1. The hearing opened on April 17, 2024. All participants introduced themselves and confirmed that they were in a private space. The parties advised there were no objections to the constitution or jurisdiction of the Hearing Panel.
2. The parties presented the following documents over the course of the hearing:
 - Exhibit 1: Agreed Statement of Facts and Admission of Unprofessional Conduct
 - Exhibit 2: Index of Documents enclosing 24 tabs of documents
 - Exhibit 3: Joint Submission on Penalty dated April 11, 2024

Notice of Hearing

3. The Notice of Hearing listed the following Charges:
 1. M. Sadagheh in his role as Responsible Member for the permit holder Petro Engineering Canada Ltd. and/or Petro Engineering Canada Ltd. ("Petro") in its role as permit holder breached their obligations to respond promptly and appropriately to communications of a regulatory nature on behalf of APEGA's Practice Review Board ("PRB"), particulars of which include:
 - a. On or about September 10, 2021, staff from APEGA's Professional Practice Department ("Professional Practice") forwarded correspondence to M. Sadagheh on behalf of the PRB advising that Petro had been selected for Practice Review and requesting a response and receipt of supporting documents, including a copy of Petro's Professional Practice Management Plan ("PPMP") by October 10, 2021;
 - b. After being granted an extension until November 1, 2021, M. Sadagheh provided some of the requested documents but failed to provide a copy of Petro's PPMP; and
 - c. Despite further communications with Professional Practice about the requirement to submit a PPMP, and despite advising Professional Practice that the PPMP would be provided, failed to provide a copy of Petro's PPMP by the further amended deadline of April 19, 2022.

2. After a permit to practice was issued to Petro on or about February 2, 2016, Petro and M. Sadagheh in his role as Responsible Member breached the obligation to develop and implement a PPMP.
3. On or about October 2022 – February 2023, M. Sadagheh failed to cooperate with the Investigative Committee’s investigation regarding a complaint received on behalf of the PRB on July 12, 2022 (the “Complaint”) by failing to provide a substantive response to the Complaint, particulars of which include:
 - a. Failed to provide a response to the Complaint by the initial deadline of November 11, 2022, referenced in a letter from S. Beckett, APEGA Staff Investigator (the “Investigator”) dated October 28, 2022;
 - b. Failed to provide a response to the Complaint by November 25, 2022, the amended deadline for a response set out in a Notice to Produce issued to M. Sadagheh on or about November 15, 2022;
 - c. Failed to provide a response to the Complaint by the further amended deadline of January 27, 2023, set out in a letter from the Investigator dated January 20, 2023; and
 - d. Failed to provide a written response to the Complaint following further communications with the Investigator in February 2023.

IT IS FURTHER ALLEGED that the above-referenced conduct constitutes unprofessional conduct or unskilled practice of the profession, or both, as set out in one or more of subsections 44(1)(a)(b)(c) and (e), and is further contrary to one or more of the following:

- a. Section 32.1 of the Bylaws;
- b. Section 48(1)(d) of the *Engineering and Geoscience Profession General Regulation* (the “*Regulation*”);¹
- c. APEGA Practice Guideline for Professional Management Plans, v. 1.4 (the “PPMP Guideline”), and
- d. APEGA’s Code of Ethics, Rules of Conduct 3 and 4.

SUBMISSIONS ON UNPROFESSIONAL CONDUCT

Submissions of the Investigative Committee

8. V. Wensel advised the Hearing Panel that the parties were presenting an Agreed Statement of Facts and Admission of Unprofessional Conduct. She thanked M. Sadagheh and A. Sadagheh for their role in preparation of the same. V. Wensel indicated that the Charges

¹ The list of charges noted in the Notice of Hearing referred to section 48(1)(d) of the *EGP Act*, or the *Engineering and Geoscience Professions Act*. The Hearing Panel accepts that this is a typographical error and that the reference should be to section 48(1)(d) of the *Engineering and Geoscience Professions General Regulation*.

against M. Sadagheh involved a failure to comply or respond to the PRB in developing a PPMP and a failure to comply or respond during the subsequent disciplinary investigation.

9. V. Wensel described the Hearing Panel's two-fold task as involving determinations of whether the allegations in the Notice of Hearing are established and whether the conduct is unprofessional conduct. This task was simplified, as M. Sadagheh admitted that he engaged in the conduct alleged and agreed that his conduct was unprofessional conduct. If the Hearing Panel made findings of unprofessional conduct, it would then consider an appropriate penalty.

10. V. Wensel advised that M. Sadagheh is a professional engineer in Calgary, Alberta. He has been a member of APEGA since 2009 and was in good standing at the relevant times. He is also the Responsible Member for the Permit Holder, Petro Engineering Canada Ltd. (the "Permit Holder"). The Permit Holder was issued a permit in 2016.

11. V. Wensel described each of the Charges in the Notice of Hearing. Charge 1 alleged that M. Sadagheh failed to respond promptly and appropriately to communications of a regulatory nature from the PRB between 2021 and 2022. Charge 2 alleged breaches of obligations to develop and implement a PPMP.

12. V. Wensel explained that under the *Regulation*, all permit holders must develop and implement a PPMP. A PPMP is a description of corporate policies, procedures, and systems to ensure appropriate standards of professional practice are maintained. A PPMP is a safety and management tool that ensures maintenance of professional obligations within the scope of engineering practice under the Permit Holder. The obligation to have a PPMP was, at the time of M. Sadagheh's and the Permit Holder's conduct, guided by APEGA's PPMP Guideline. She noted that the underlying purpose of PPMPs relates to public confidence in the quality of services offered by professional engineers and the need for structured work.

13. V. Wensel stated that in June 2021, M. Sadagheh was asked to do a practice review. He was asked to provide documents including a PPMP and a questionnaire by a given deadline. M. Sadagheh provided the questionnaire in November 2021 and indicated that he was developing a PPMP. However, he did not provide a PPMP. Ultimately, M. Sadagheh did not provide a PPMP nor a response by April 19, 2022. The PRB submitted this information as a complaint to be addressed through APEGA's discipline process.

14. V. Wensel indicated that Charge 3 related to M. Sadagheh's conduct after the discipline investigation commenced in July 2022. M. Sadagheh was asked to provide a response, but by November 2022 he had not done so. APEGA issued a formal Notice to Produce which invoked statutory authority and asked M. Sadagheh to provide a response to the allegations. When M. Sadagheh failed to provide a response as required, the scope of the investigation was expanded to include allegations of a failure to respond to the investigator. Ultimately, M. Sadagheh did not provide a formal response, nor did he provide a PPMP to APEGA.

15. V. Wensel submitted that M. Sadagheh's conduct was unprofessional conduct under section 44(1)(a), (b), (c), and (e) of the *Engineering and Geoscience Professions Act* (the "EGP

Act”). She described M. Sadagheh’s acknowledgements made in this regard, and the basis upon which the Hearing Panel could find M. Sadagheh’s conduct was unprofessional conduct.

Submissions of the Investigated Member

16. A. Sadagheh did not have additional submissions regarding proof of the Charges. He reiterated that the facts of the matter were before the Hearing Panel in the Agreed Statement of Facts and Admission of Unprofessional Conduct.

DECISION OF THE HEARING PANEL REGARDING UNPROFESSIONAL CONDUCT

17. The Hearing Panel adjourned to review the Agreed Statement of Facts and Admission of Unprofessional Conduct and to consider the parties’ submissions. The Hearing Panel found that M. Sadagheh’s conduct alleged in the Charges was proven and constituted unprofessional conduct under section 44(1) of the *EGP Act*. The Hearing Panel’s reasons are detailed below.

Charge 1: M. Sadagheh in his role as Responsible Member for the permit holder Petro and/or Petro in its role as permit holder breached their obligations to respond promptly and appropriately to communications of a regulatory nature on behalf of APEGA’s PRB, particulars of which include: [Particulars a – c not reproduced].

Charge 2: After a permit to practice was issued to Petro on or about February 2, 2016, Petro and M. Sadagheh in his role as Responsible Member breached the obligation to develop and implement a PPMP.

18. M. Sadagheh acknowledged that the allegations in Charges 1 and 2 were factually proven. The Agreed Statement of Facts and Admission of Unprofessional Conduct and the supporting documents are consistent with M. Sadagheh’s acknowledgement. Together, the evidence before the Hearing Panel established the following:

- a. M. Sadagheh, P. Eng., is a professional engineer based in Calgary, Alberta. M. Sadagheh became a registered member of APEGA in March 2009 and was a registered member in good standing at all relevant times.
- b. M. Sadagheh is the responsible member and designated senior officer of Petro Engineering Canada Ltd., the Permit Holder. The Permit Holder was issued a permit to practice on February 2, 2016.
- c. On June 21, 2021, the PRB selected the Permit Holder for a practice review. M. Sadagheh and the Permit Holder were notified of the practice review on September 10, 2021. They were asked to provide a PPMP and supporting documents, including a questionnaire, within 30 days (by October 10, 2021).
- d. On October 5, 2021, the Professional Practice Review Coordinator sent an email to M. Sadagheh reminding him of the upcoming deadline.

- e. M. Sadagheh and the Permit Holder did not reply by October 10, 2021. On October 29, 2021, a member of the PRB spoke to M. Sadagheh. During the phone call, M. Sadagheh asked what a PPMP was and what was required to be submitted. M. Sadagheh was given an extension until November 1, 2021, and he confirmed via email that he would submit the questionnaire by November 1, 2021.
- f. On November 1, 2021, M. Sadagheh submitted the questionnaire and other documents as an example of a work product. On page 5 of the questionnaire, M. Sadagheh indicated that his PPMP was being developed. M. Sadagheh did not provide a PPMP to the PRB, as requested.
- g. On January 25, 2022, a Professional Practice Review Advisor (the “Advisor”) called M. Sadagheh to inquire about the outstanding PPMP and M. Sadagheh represented that it would be available in mid-February 2022.
- h. On February 24, 2022, the Advisor left a voicemail for M. Sadagheh regarding the outstanding PPMP. M. Sadagheh responded via email and asked for clarification. The Advisor responded on February 28, 2022.
- i. On April 11, 2022, the Advisor sent a letter to M. Sadagheh requesting that M. Sadagheh submit the PPMP by April 19, 2022.
- j. On April 12, 2022, the Advisor called M. Sadagheh to inquire whether he had reviewed his correspondence from the previous day. M. Sadagheh indicated that he had not seen the email but would read it later.
- k. M. Sadagheh did not provide a response to the Advisor’s correspondence and did not provide a PPMP by the deadline of April 19, 2022.

19. Based on the above, the Hearing Panel finds that Charge 1 is proven, as M. Sadagheh and the Permit Holder failed respond promptly and appropriately to regulatory communications from APEGA’s PRB as described in Particulars 1a. – 1c. The Hearing Panel also finds that Charge 2 is proven as M. Sadagheh and the Permit Holder failed to develop and implement a PPMP after the Permit Holder’s permit was issued on February 2, 2016.

20. The Hearing Panel also finds that M. Sadagheh’s conduct and the Permit Holder’s conduct under Charges 1 and 2 is unprofessional conduct. M. Sadagheh’s conduct is unprofessional conduct under section 44(1)(a) of the *EGP Act*, as it is detrimental to the best interests of the public. It is in the best interests of the public for professional members to adhere to and satisfy professional obligations. M. Sadagheh and the Permit Holder did not perform their obligations under APEGA’s Bylaws, the *Regulation*, and APEGA’s PPMP Guideline.

21. APEGA’s Bylaws require professional members and Permit Holders to respond to communications of a regulatory nature:

Onus to respond

32.1 Professional members, licensees, permit holders, life members, professional licensees, provisional licensees, members-in-training, joint firms, or certificate holders, shall respond promptly and appropriately to any duly served communication of a regulatory nature received from the Association that contemplates a reply.

22. M. Sadagheh and the Permit Holder failed to comply with APEGA Bylaws when they did not respond promptly or appropriately to communications sent on behalf of the PRB. The obligation to respond to regulatory communications is very important for APEGA's mandate to protect of the public and serve the public interest. M. Sadagheh's and the Permit Holder's failure to respond to APEGA's communications is therefore detrimental to the public's best interests.

23. The *Regulation* requires Permit Holders to develop and implement a PPMP:

Requirements for issue of permit

48(1) The Council may issue to a partnership, corporation or other entity a permit to practice engineering or geoscience in its own name if

(d) the professional member or licensee certifies to the satisfaction of the Council that the partnership, corporation or other entity has in place and will follow a professional management plan that is appropriate to its professional practice.

The PPMP Guideline described APEGA's expectations for PPMPs at the time of M. Sadagheh's and the Permit Holder's conduct.

24. M. Sadagheh and the Permit Holder did not satisfy the obligations in the *Regulation* and the PPMP Guideline when they failed to develop and implement a PPMP. PPMPs are a management tool that require Permit Holders to identify corporate policies, procedures, and systems in place that ensure professional standards are met. M. Sadagheh's and the Permit Holder's lack of a PPMP is detrimental to the best interests of the public.

25. The Hearing Panel also accepts that M. Sadagheh's and the Permit Holder's conduct is unprofessional conduct under section 44(1)(b) of the *EGP Act* as it contravenes the Code of Ethics, and specifically Rules of Conduct 3 and 4. The Rules are as follows:

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.

26. M. Sadagheh's and the Permit Holder's conduct under Charges 1 and 2 contravenes Rule of Conduct 3 as it demonstrates a lack of integrity, honesty, fairness, and objectivity. An honest engineer acting with integrity and objectivity would have responded to the PRB's communications. They also would have developed and implemented a PPMP as required.

Further, M. Sadagheh and the Permit Holder contravened Rule of Conduct 4 when they failed to comply with the *Regulation* and APEGA's Bylaws as described above.

27. M. Sadagheh's conduct and the Permit Holder's conduct is also unprofessional conduct under section 44(1)(c) of the *EGP Act* as it is conduct that harms or tends to harm the standing of the profession generally. The public expects that professional members of APEGA will perform their statutory obligations and respond to regulatory communications from APEGA in a prompt and appropriate manner.

28. The Permit Holder's failure to implement a PPMP and to respond to communications sent on behalf of the PRB also displays a lack of knowledge or judgment in carrying out duties undertaken in the practice of profession and is unprofessional conduct under section 44(1)(e) of the *EGP Act*. As Responsible Member, M. Sadagheh's failure to ensure the Permit Holder satisfied their obligations is similarly unprofessional conduct under section 44(1)(e).

Charge 3: On or about October 2022 – February 2023, M. Sadagheh failed to cooperate with the Investigative Committee's investigation regarding the Complaint by failing to provide a substantive response to the Complaint, particulars of which include: [Particulars a. – d. not reproduced].

29. M. Sadagheh acknowledged that the allegations in Charge 3 were proven. The Hearing Panel accepts that the Agreed Statement of Facts and Admission of Unprofessional Conduct and the supporting documents are consistent with M. Sadagheh's acknowledgement, and finds that the following events occurred:

- a. M. Sadagheh was notified of the complaint and the investigation on July 19, 2022.
- b. On October 27, 2022, the investigator had a telephone call with M. Sadagheh to confirm his email address and current mailing address. Later that day, the investigator emailed M. Sadagheh indicating that further correspondence would be sent the following week seeking a response to the allegations.
- c. On October 28, 2022, the investigator sent M. Sadagheh a letter that requested a formal response to the complaint by November 11, 2022.
- d. On November 9, 2022, the investigator emailed M. Sadagheh to remind him of the November 11, 2022 deadline. M. Sadagheh replied and asked what he was required to do and whether there was a template. The investigator replied and indicated that there was no template, but that a response was still required.
- e. M. Sadagheh did not provide a response to the complaint by November 11, 2022.
- f. On November 15, 2022, the investigator sent M. Sadagheh a formal Notice to Produce, which requested a response to the complaint by November 25, 2022.
- g. M. Sadagheh did not provide a response by November 25, 2022.

- h. On January 20, 2023, the scope of the investigation was expanded to include an allegation that M. Sadagheh failed to provide a response to the Complaint. The investigator sent a letter to M. Sadagheh requesting a response to the Complaint and to the new allegation by January 27, 2023.
- i. M. Sadagheh did not provide a response by January 27, 2023.
- j. On February 2, 2023, the investigator had a telephone call with M. Sadagheh and M. Sadagheh agreed to respond to the Complaint in a few days.
- k. The investigator sent follow up correspondence and asked for M. Sadagheh's response by February 6, 2023. M. Sadagheh subsequently exchanged correspondence with the investigator but ultimately did not provide a substantive response to any of the allegations by February 6, 2023.

30. After reviewing the Agreed Statement of Facts and Admission of Unprofessional Conduct and the supporting documents, the Hearing Panel finds that the conduct alleged in Charge 3 is proven. M. Sadagheh failed to cooperate with the Investigative Committee's investigation by failing to provide a substantive response to the allegations by the deadlines of November 11, 2022, November 25, 2022, January 27, 2023, and February 6, 2023.

31. M. Sadagheh's conduct under Charge 3 is also unprofessional conduct under section 44(1)(a), (b), (c), and (e) of the *EGP Act*. He failed to satisfy his obligations under section 32.1 of APEGA's Bylaws, which is conduct that is detrimental to the best interests of the public. Professional members must take their obligations to respond to APEGA's communications during a disciplinary investigation seriously and reply appropriately and promptly.

32. M. Sadagheh's conduct also contravenes Rule of Conduct 3 of the Code of Ethics. A professional engineer acting with integrity would have provided a response to the allegations as requested in the investigation correspondence. M. Sadagheh also contravened Rule of Conduct 4 by failing to comply with section 32.1 of APEGA's Bylaws.

33. M. Sadagheh's conduct is conduct that harms or tends to harm the standing of the profession generally. As discussed previously, the public expects that professional members will respond to regulatory communications from APEGA in a prompt and appropriate manner. The failure to do so is conduct that tends to harm the standing of the profession.

34. Lastly, M. Sadagheh's conduct under Charge 3 displays a lack of knowledge or judgment in carrying out his duties as a Responsible Member for the Permit Holder and his duties as a professional member of APEGA. He ought to have known of the obligation to respond to regulatory communications during the disciplinary investigation, and if he did know, his conduct displays a lack of judgment as he failed to provide an appropriate and prompt response.

SUBMISSIONS ON PENALTY

Submissions of the Investigative Committee

35. V. Wensel began her submissions by referring the Hearing Panel to sections 63 and 64 of the *EGP Act*, which set out the Hearing Panel's broad authority to make penalty orders.

36. She explained that the primary purposes of penalty orders are to ensure that the public is protected from unprofessional conduct in the future. Penalty orders should also ensure that the public has confidence in the profession by sending a message to the profession and the public that the unprofessional conduct found in this case is unacceptable. V. Wensel reminded the Hearing Panel that penalty orders should be guided by public protection and public interest.

37. V. Wensel advised that the parties were jointly recommending that the Hearing Panel make the orders listed in the Joint Submission on Penalty:

1. M. Sadagheh and the Permit Holder shall be reprimanded for their conduct, and the Discipline Committee's written decision (the "Decision") shall serve as the reprimand.
2. Within 90 days of receiving the Decision, M. Sadagheh shall pay a fine in the amount of \$2,000 (the "Fine") on the following terms and conditions:
 - a. The Fine is a debt owed to APEGA regardless of whether M. Sadagheh, and/or the Permit Holder are suspended or cancelled; and
 - b. If the Fine is not paid by the timeline indicated, or any extended timeline granted by the Director, Enforcement, the Registrant shall be suspended pursuant to paragraph 5 of this order.
3. Within six months of receiving the Decision, M. Sadagheh, on behalf of the Permit Holder, shall attend a facilitated live webinar of the "Permit to Practice seminar", available online at <https://www.apega.ca/members/responsible-members/permit-seminars>;
4. The Permit Holder shall undergo an APEGA Practice Review to the satisfaction of the Director, Professional Practice and shall comply with the Findings of the Practice Review, which shall include compliance requirements and a compliance timeline.
5. If the requirements in paragraphs 2, 3, and 4 of this order are not completed within the timelines specified, compliance timelines for the Practice Review as set by the Director, Professional Practice or any extended timeline granted, the Registrant's registration and the Permit Holder's practice permit shall be suspended for a minimum of 90 days and shall remain suspended until the Registrant and the Permit Holder have demonstrated compliance.
6. If the requirements in paragraphs 3 and 4 of this order are not completed within six months of the suspension date imposed pursuant to paragraph 5 of this order, M. Sadagheh's registration and the Permit Holder's practice permit shall be cancelled.

- a. In the event of cancellation, M. Sadagheh and/or the Permit Holder will be bound by APEGA's reinstatement policy.

7. This matter and the Decision shall be published by APEGA, at the sole discretion of the Director, Enforcement, and shall name M. Sadagheh and the Permit Holder.

38. V. Wensel summarized the law on joint submissions as set out in *R v Anthony-Cook*, 2016 SCC 43 and *Timothy Edward Bradley v Ontario College of Teachers*, 2021 ONSC 2303. She advised that a joint submission on penalty means that the parties have come together to propose an appropriate penalty, and that there must be assurances in place. The Hearing Panel should consider the proposed penalties as a whole and should only depart from the Joint Submission on Penalty if the penalties will bring the administration of justice into disrepute or would otherwise be contrary to the public interest. The high threshold for rejection reflects and recognizes the benefits of joint submissions on penalty.

39. V. Wensel submitted that the Joint Submission on Penalty was appropriate in the circumstances. She referred the Hearing Panel to the case of *Jaswal v Medical Board (Nfld.)*, 1996 CanLII 11630 ("*Jaswal*"), which describes a non-exhaustive list factors that discipline tribunals can consider when evaluating an appropriate penalty. She made the following submissions in respect of the relevant *Jaswal* factors:

- The nature and gravity of the proven allegations: M. Sadagheh's conduct reflects a lack of compliance and a lack of understanding or agreement to follow professional obligations flowing from legislation and APEGA's bylaws. While the Investigative Committee was not alleging that M. Sadagheh's conduct directly harmed the public, it suggested his conduct was on the higher end of non-compliance. M. Sadagheh's conduct impacts the standing of the professional, the integrity of the profession, and the public's trust in the profession. If permit holders do not have a PPMP, the public lacks the assurance that permit holders or professional engineers are bound by policies and guidelines in their professional practice. Further, regulatory bodies cannot properly function unless professional members comply with their obligations. There is a balance between the privilege of being a professional engineer and the responsibility to adhere to professional obligations.
- Presence or absence of prior complaints or convictions: M. Sadagheh does not have any previous disciplinary findings.
- Role of the member in acknowledging what had occurred: M. Sadagheh admitted his conduct, which allowed the hearing to proceed by Agreed Statement of Facts and Admission of Unprofessional Conduct, and Joint Submission on Penalty. This is a mitigating factor.
- The need to promote deterrence: There are two types of deterrence. Firstly, specific deterrence suggests that the penalties should deter M. Sadagheh from engaging in this conduct again. Second, general deterrence suggests that penalties should deter

the profession as a whole from acting as M. Sadagheh did. From the Investigative Committee's view, deterrence is important in this case because of M. Sadagheh's lack of compliance and cooperation with regulatory requirements.

- The range of sentences in other similar cases: Penalties are responsive to the particular circumstances of a case. However, V. Wensel provided two previous cases that involved similar circumstances and supported the proposed penalty orders: APEGA DC 22-014 and DC 17-015-FH. In DC 22-014, the Discipline Committee ordered a reprimand, a \$500 fine, and education. In DC 17-015-FH, the Discipline Committee ordered cancellation and a \$2,500 fine.

40. V. Wensel advised that the fine and the reprimand would deter M. Sadagheh specifically and the profession generally from engaging in similar conduct in the future. A reprimand is not an insignificant sanction, as it shows the public that M. Sadagheh engaged in unprofessional conduct. The practice review and seminar will serve remedial purposes, which also protects the public. By ensuring that M. Sadagheh is required to undergo a practice review, there is confidence that M. Sadagheh will develop and implement a PPMP.

41. V. Wensel concluded by encouraging the Hearing Panel to find that the proposed penalties were appropriate and to accept Joint Submission on Penalty.

Submissions of M. Sadagheh on Penalty

42. A. Sadagheh submitted that it has been a difficult time for Canadian engineers, and particularly in Alberta. Senior engineers struggle to find employment and struggle to be rehired given their higher wages and proximity to retirement. While many engineers left the profession, M. Sadagheh has remained and upheld the profession's integrity since 2009.

43. A. Sadagheh noted that M. Sadagheh started his own engineering company without any other support. He bids on projects against multinational projects, works for the public, and creates projects at a lower cost for them. M. Sadagheh successfully supported his family.

44. A. Sadagheh submitted that M. Sadagheh's conduct does not reflect a lack of respect for APEGA or a failure to take the matter seriously. Rather, M. Sadagheh's conduct reflects his efforts to survive and to support his family. A. Sadagheh advised that M. Sadagheh is willing to comply with his professional obligations and requirements, but merely requires more time and support to do so. A. Sadagheh noted there are no concerns about M. Sadagheh's engineering abilities. M. Sadagheh has not been the subject of complaints since he became a member.

45. A. Sadagheh asked that the Hearing Panel view the proposed penalties as appropriately endorsing a collaborative approach rather than an adversarial one.

DECISION OF THE HEARING PANEL ON PENALTY

46. The Hearing Panel adjourned to consider the Joint Submission on Penalty and the parties' submissions on the same. When the hearing reconvened, the Hearing Panel advised

the parties of its decision to accept the Joint Submission on Penalty. The Hearing Panel recognized that it owed to deference to the parties' Joint Submission on Penalty and should not lightly deviate from the proposed orders. After considering the Joint Submission on Penalty, the Hearing Panel finds that the penalties would not cause APEGA's discipline process to fall into disrepute and are not otherwise contrary to the public interest.

47. The Hearing Panel's view is that M. Sadagheh's unprofessional conduct is serious and he did not meet the expectations of a professional engineer. However, his conduct was not at the most egregious end of the spectrum. The penalties are proportionate to the nature and gravity of the unprofessional conduct. The Hearing Panel also acknowledged that M. Sadagheh does not have any prior findings of unprofessional conduct against him, which is mitigating.

48. The Hearing Panel finds that the reprimand and fine appropriately reflect the need for specific and general deterrence. M. Sadagheh recognizes that his conduct is inappropriate and is unprofessional conduct, and the reprimand and fine will deter him from acting similarly in the future. Members of the profession will understand that they must respond appropriately to communications of a regulatory nature from APEGA, and that permit holders must develop and implement a PPMP. If they fail to satisfy these obligations, they can expect punitive consequences such as the fine and a reprimand ordered in this case.

49. The Hearing Panel agrees that the public can be protected by educating M. Sadagheh about his obligations through the "Permit to Practice seminar." M. Sadagheh will also be educated about his obligations by participating in a practice review. The public will be protected by requiring M. Sadagheh to comply with the findings of the practice review.

CONCLUSION

50. For the reasons set out above, the Hearing Panel makes the following orders pursuant to sections 63 and 64 of the *EGP Act*:

1. M. Sadagheh and the Permit Holder shall be reprimanded for their conduct, and the Discipline Committee's written decision (the "Decision") shall serve as the reprimand.
2. Within 90 days of receiving the Decision, M. Sadagheh shall pay a fine in the amount of \$2,000 (the "Fine") on the following terms and conditions:
 - a. The Fine is a debt owed to APEGA regardless of whether M. Sadagheh, and/or the Permit Holder are suspended or cancelled; and
 - b. If the Fine is not paid by the timeline indicated, or any extended timeline granted by the Director, Enforcement,² the Registrant shall be suspended pursuant to paragraph 5 of this order.

² At the hearing, the Hearing Panel advised the parties that the Discipline Manager would fulfill the Director, Enforcement's responsibilities in respect of the Joint Submission on Penalty.

3. Within six (6) months of receiving the Decision, M. Sadagheh, on behalf of the Permit Holder, shall attend a facilitated live webinar of the "Permit to Practice seminar", available online at <https://www.apega.ca/members/responsible-members/permit-seminars>.
4. The Permit Holder shall undergo an APEGA Practice Review to the satisfaction of the Director, Professional Practice and shall comply with the Findings of the Practice Review, which shall include compliance requirements and a compliance timeline.
5. If the requirements in paragraphs 2, 3, and 4 of this order are not completed within the timelines specified, compliance timelines for the Practice Review as set by the Director, Professional Practice or any extended timeline granted, the Registrant's registration and the Permit Holder's practice permit shall be suspended for a minimum of 90 days and shall remain suspended until the Registrant and the Permit Holder have demonstrated compliance.
6. If the requirements in paragraphs 3 and 4 of this order and not completed within six (6) months of the suspension date imposed pursuant to paragraph 5 of this order, M. Sadagheh's registration and the Permit Holder's practice permit shall be cancelled.
 - a. In the event of cancellation, M. Sadagheh and/or the Permit Holder will be bound by APEGA's reinstatement policy.
7. This matter and the Decision shall be published by APEGA, at the sole discretion of the Director, Enforcement, and shall name M. Sadagheh and the Permit Holder.

Dated this 17th day of May, 2024

On behalf of the Hearing Panel of the APEGA Discipline Committee

Tim Moran

Signed with ConsignO Cloud (2024/05/20)
Verify with verifio.com or Adobe Reader.



T. Moran, P.Eng.
Discipline Committee Panel Chair

Maliha Zaman

Signed with ConsignO Cloud (2024/05/22)
Verify with verifio.com or Adobe Reader.



M. Zaman, P.Eng.
Discipline Committee Panel Member

Muriel Dunnigan

Signed with ConsignO Cloud (2024/05/17)
Verify with verifio.com or Adobe Reader.



M. Dunnigan,
Discipline Committee Public Member

Adam Whiting

Signed with ConsignO Cloud (2024/05/17)
Verify with verifio.com or Adobe Reader.



A. Whiting, P.Eng.
Discipline Committee Panel Member

Signed by Ken Liu (2024/05/17)
Verify with verifio.com or Adobe Reader.



K. Liu, P.Eng.
Discipline Committee Panel Member