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## DECISION OF THE APEGA DISCIPLINE COMMITTEE

*REGARDING PETER GEOFFREY PYBUS,  
P.ENG., AND DFK ENGINEERING*

Date: July 5, 2016 Case No.: 12-015-FH

In the matter of of an APEGA Discipline Committee Hearing into the conduct of Peter Geoffrey Pybus, P.Eng. and DFK Engineering Canada Ltd. pursuant to the Engineering and Geoscience Professions Act, being Chapter E-11 of the Revised Statutes of Alberta 2000.

A hearing into this matter was held by a Hearing Panel of the Discipline Committee on October 19, 20 and 21, 2015. Peter Pybus, P.Eng. was at the material time in regard to this hearing, the Responsible Member for Permit Holder DFK Engineering Canada Ltd. (“DFK Engineering”) and the complaint that initiated the investigation that resulted in this hearing was received while he was a Professional Member.

The hearing dealt with the following charges:

1. On or about 2006-2011, Peter Pybus authenticated or permitted DFK Engineering to authenticate on his behalf a number of final plans, specifications, reports or documents of a professional nature relating to fire sprinkler systems when it was inappropriate for him to do so for one or more of the following reasons:
  - a. Pybus was not competent to perform or oversee work relating to the fire sprinkler systems; and
  - b. Pybus relied on other persons to conduct the inspections and failed to exercise adequate supervision and control over their work prior to authenticating the final plans, specifications, reports, or documents; or
  - c. relied on plans, specifications, reports or documents that were prepared by other persons, without conducting an adequate or thorough review.
2. Peter Pybus inappropriately issued or permitted DFK Engineering to issue a number of final plans, specifications, reports or documents of a professional nature dated February–December, 2010, bearing a photocopied reproduction of Pybus’s stamp.
3. On or about 2006-2011, DFK Engineering inappropriately issued a number of final plans, specifications, reports or documents of a professional nature relating to fire sprinkler systems particulars of which include:
  - a. DFK Engineering issued final plans, specifications, reports or documents of a professional nature that were not personally stamped and/or signed by Peter Pybus; and
  - b. DFK Engineering issued final plans, specifications, reports or documents of a professional nature without ensuring that the documents were thoroughly reviewed by Peter Pybus or another professional licensee or member.
4. On or about 2011-2012, DFK Engineering failed to comply with its duty to cooperate with the investigation of a complaint initiated by Dale Burton by:

- a. Failing to submit to an interview despite requests to do so on behalf of the Investigative Committee; and
- b. Failing to provide all documents related to fire sprinkler system designs, installation, inspections and verifications performed by DFK Engineering since February 1, 2001 despite being directed to do so on behalf of the Investigative Committee.

It was alleged that the above-referenced conduct constituted unprofessional conduct or unskilled practice as set out in s. 44 of the *Engineering and Geoscience Professions Act* and contravenes the Rules of Conduct #1, #2, #3, #4, and/or #5 of APEGA's Code of Ethics.

In its decision the Hearing Panel noted that Peter Pybus and DFK Engineering pled guilty to all charges and the evidence and testimony presented including the admissions made by Peter Pybus in his cross-examination provided compelling reasons to accept the pleas of guilty to all charges made by Peter Pybus and DFK Engineering.

The Hearing Panel stated that it was concerned about the gravity of the allegations, charges, and findings, coupled with the uncertainty around how many documents were not properly authenticated. The absence of full and complete records, including lost records, was such that the Hearing Panel acknowledged that it did not know actual numbers and that the total number of alleged unauthenticated documents was uncertain but could be substantial.

The Hearing Panel also stated that the defective designs, deficient construction, and inadequate site reviews in any identified or unidentified documents lead the Hearing Panel to recommend that appropriate mitigation measures are to be undertaken to ensure that the level of safety offered by sprinkler systems installed by DFK Engineering should be reviewed to determine that they meet the requirements of the Building Codes of the jurisdictions having authority.

The Hearing Panel therefore found Peter Pybus and DFK Engineering guilty of unprofessional conduct and unskilled practice.

After hearing submissions on sanctions, the Hearing Panel ordered that the following sanctions apply to Mr. Pybus.

1. Mr. Pybus is ineligible to apply for registration from APEGA for a period of five years from the date of this decision. This is a serious sanction and was given careful consideration by the Discipline Panel. It was based on the seriousness of the charges, the potential safety risk to the public, and a pattern of behavior inconsistent with APEGA membership.
2. If Mr. Pybus satisfies all of the sanctions in this decision and applies for reinstatement of his APEGA membership and if he receives a license, the Discipline Panel orders that he will be required to work under the supervision of a Professional Engineer for two years.
3. Mr. Pybus will pay the maximum allowable fine of \$10,000.
4. Mr. Pybus, as a Professional Member and the Responsible Member of DFK Engineering's Permit to practice, will pay 50% of hearing costs to a maximum of \$53,755.89.
5. APEGA will prepare a Letter on Sanctions and retain the letter on Mr. Pybus's file.
6. APEGA will notify the Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS) about this decision and forward a copy.

The Hearing Panel ordered that the following sanctions apply to DFK Engineering:

1. The Permit Holder license is permanently revoked for DFK Engineering Canada Ltd. This is a serious sanction and was given careful consideration by the Discipline Panel. It was based on the seriousness of the charges, the potential safety risk to the public, and a pattern of behavior inconsistent with APEGA membership.
2. DFK Engineering will pay the maximum allowable fine of \$10,000.
3. DFK Engineering will pay 50% of hearing costs to a maximum of \$53,755.89.
4. APEGA will prepare a Letter on Sanctions as to DFK Engineering and retain the letter on the DFK file.

The Hearing Panel ordered that its decision should be published or circulated as set out below:

- i. A written summary of the decision shall be published in the PEG, in a manner that identifies Mr. Pybus, DFK Engineering and its principal, Dennis Burton;
- ii. APEGA will provide a copy of the Discipline Committee's decision to the individuals and companies referred to in the documents contained at TAB 25 of the Investigative Committee's Index of Documents;
- iii. APEGA will provide a copy of the Discipline Committee's decision to all municipalities in the Province of Alberta; and
- iv. If any member of the public inquires with APEGA as to whether Mr. Pybus, DFK or its principal, Dennis Burton, was the subject of a discipline hearing or was found guilty of any charges under the *Engineering and Geoscience Professions Act*, APEGA shall be at liberty to provide the member of the public with a complete copy of the Discipline Committee's decision.

The Hearing Panel included in its decision the following message for members:

Members are reminded that adequate knowledge and skill in a field of practice are of paramount importance in being a Professional Engineer or a Professional Geoscientist. Being an engineer or geoscientist alone does not grant right or hold privilege to authenticate and sign-off on professional documents for work that they are not competent to perform.

The "chain of custody" of documents, sometimes called the paper trail, from professional to professional is a mandatory function of a Member and a Permit Holder under the *Engineering and Geoscience Professions Act* ("EGP Act").

For an APEGA investigation, failure by an investigated member or permit holder to provide requested documentation and refusal to attend an interview are both unacceptable. These requests are critical and necessary for a self-governing body to make. Such refusals

are unprofessional and may lead to charges under the *EGP Act* or the *Code of Ethics*.

The Responsible Member for a Permit to Practice has the responsibility to ensure that the professional practice of the Permit Holder is in strict accordance with the *EGP Act* and the *Code of Ethics*.

In closing, the Hearing Panel also requested that APEGA review the *EGP Act*, General Regulations and Bylaws and the Code of Ethics and all APEGA policies regarding its stamps, the photocopying of stamps, and the authentication of documents with respect to the technologies being used in the distribution of stamped documents. The

Hearing Panel also requested that APEGA provide short form guidance on the various acceptable methods of applying stamps and on the authentication of documents and suggested that this guidance should be of a form suitable for distribution to the public and other institutions and organizations that require or utilize a professional stamp.