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Date: March 23, 2016

Case No.: 16-005-SO

**IN THE MATTER OF THE ENGINEERING,  
AND GEOSCIENCE PROFESSIONS ACT,  
AND  
IN THE MATTER OF THE CONDUCT OF  
[PROFESSIONAL MEMBER A]. P.ENG.**

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Professional Member A], P.Eng., (Member) with respect to a letter of complaint received by APEGA from [Complainant B] (Complainant).

[Complainant B] retained the services of [Professional Member A] and his firm [Company C], to design and provide field inspections for a mezzanine area.

The Complainant alleges that the Member took too long to complete his work and caused unnecessary delays to the project. The delays she alleges caused her significant cost overruns. The complainant claims that [Professional Member A] was not familiar or competent in structural engineering and was over cautious in his design plans and field reviews.

**A. COMPLAINTS**

1. The Member has engaged in unskilled practice that displayed a lack of skill in the work undertaken contrary to Section 44(1) (d) of the *Engineering and Geoscience Professions Act* ("Act") and

Rule of Conduct #2 of the APEGA Code of Ethics ("Code"). The Member did not have the training and experience necessary to recommend appropriate repairs to correct framing deficiencies.

2. The Member has engaged in unprofessional conduct that displayed a lack of judgement contrary to Section 44(1) (b) of the Act and Rule of Conduct #3 of the Code. The Member did not conduct himself with integrity, honesty, fairness and objectivity.
3. The Member has engaged in unprofessional conduct that displayed a lack of judgement, contrary to Section 44(1) (a) of the Act and Rule of Conduct #4 of the Code. The Member's design of the mezzanine and the application of construction details were not typical of industry practice.
4. The Member has engaged in unprofessional conduct that did not uphold the honor, dignity and reputation of the profession in the carrying out of a duty contrary to Section 44(1) (b) of the Act and Rule of Conduct #5 of the Code. The Member caused unnecessary delays and expense to his client's detriment.

## B. AGREED STATEMENT OF FACTS

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

1. The Member was a professional member of APEGA, and was thus bound by the APEGA Code of Ethics, at all relevant times.
2. The Member holds a Bachelor of Science in Civil Engineering from the University of [Redacted] (2003).
3. [Company C] held a valid Permit to Practice at all relevant times.
4. The Member agreed that in February of 2013 he was awarded a contract to design a mezzanine for the complainant.
5. The Member completed the project in June 2013 when he submitted final stamped, ready for construction drawings.
6. The drawings were clear and the design proper.
7. The Member conducted a framing inspection, many deficiencies were discovered and he provided repair methodologies to correct those deficiencies.
8. The Investigative Panel found that the repair methodologies, although technically adequate, were impractical, excessive in cost and not in accordance with common industry practice.
9. The Member has fully cooperated with the APEGA investigation and admitted that he lacked knowledge of common repairs in general wood framing.
10. The member agreed that he did not possess the required training and experience to correct the deficiencies identified during the framing inspection.
11. The member has not received any reimbursement from the complainant for his work on the mezzanine.

## C. CONDUCT

The Member freely and voluntarily admits that his conduct displayed a lack of skill in the work undertaken and that the complaint (#1) set out above is 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) (b) & (d) of the Act and Rule of Conduct #2 of the Code.

With regards to the complaints (#2, #3 & #4) set out above, there is no evidence that the Member has contravened Sections 44(1) (a) & (b) of the Act and Rules of Conduct #3, #4 and #5.

## D. SECTION 44(1) OF THE ACT AND THE CODE OF ETHICS

### 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

- d. displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, or;

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.

### Rule of Conduct #2 of the APEGA Code of Ethics:

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

## E. ORDERS

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

1. That [Professional Member A] receive a letter of reprimand;
2. That the case be published in the PEG without names;
3. That [Professional Member A] practice wood structure engineering under the direct supervision of another engineer, approved by the Investigative Panel, for a period of 2 years from the time this RDO is case manager approved;
4. That during the two year time frame [Professional Member A] advise the Investigative Committee of each wood structure project he is involved in (outside of his primary employment) and advise the Investigative Committee of the name of the supervising engineer;
5. That [Professional Member A] waive his engineering fees, \$2750. (The Investigative Panel advises that this fee waiver has already been completed.)

**ALLAN YUCOCO, P.L.(ENG.)**

PANEL CHAIR, APEGA INVESTIGATIVE COMMITTEE

**[PROFESSIONAL MEMBER A], P.ENG.**

*APEGA Discipline Committee*

*Approved this 23rd day of March, 2016*

*By Case Manager D.S. Evans, P.Geol.*