



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.

Date: July 19, 2023

Discipline Case Number: 23-014

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT
AND
IN THE MATTER OF THE CONDUCT OF [AN APEGA MEMBER]
AND [A PERMIT HOLDER]**

Pursuant to the Engineering and Geoscience Professions Act,
being Chapter E-11 of the Revised Statutes of Alberta 2000
Regarding the Conduct of [an APEGA Member] and [a Permit Holder]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of [Name Withheld] (the Registrant) and [Name Withheld] (the Permit Holder) with respect to a complaint initiated by [Name Withheld] (the Complainant) dated October 17, 2022 (the Complaint).

A. THE COMPLAINT

The Complainant filed a complaint alleging the Registrant and Permit Holder engaged in unprofessional conduct and/or unskilled practice, as defined at section 44(1) of the Engineering and Geoscience Professions Act, RSA 2000, c E-11 (EGP Act) in relation to Professional Work Products (PWP) submitted via BuildWorks by the Permit Holder, for a project called [Project Name], to install a dewatering system, and remediation and reconstruction of effected areas (the Project), and that the drawings fall short of APEGA standards and good engineering practice.

The Investigative Committee's investigation focused on the following allegations which can be summarized as follows.

Whether the Registrant and Permit Holder engaged in unprofessional conduct and/or unskilled practice in that:



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1. The drawings do not provide the level of detail, information and complexity that would be required to complete the intended scope of work.
2. The drawings do not display the Engineering seal as is typical of approved Engineered drawings.
3. The drawings present a very incomplete and potentially dangerous document to work off and apply in the field.

The Investigative Committee investigated two (2) other allegations outlined in the complaint. The Investigative Committee determined that there was insufficient evidence of unprofessional conduct/unskilled practice in relation to those other allegations.

B. AGREED STATEMENT OF FACTS

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

(i) Background:

1. The Registrant has been an APEGA Professional Member in good standing since January 30, 2017. The Registrant is a Mechanical Engineer and the Responsible Member for the Permit Holder.
2. The Registrant obtained a bachelor's degree in Mechanical Engineering in 1974, a Master's in Mechanical Engineering in 1982 and a PhD in Mechanical Engineering in 1989.
3. The Permit Holder has been an APEGA Permit Holder in good standing since November 1, 2018.
4. The Registrant and Permit Holder, accordingly, were bound by the Engineering and Geoscience Professions Act and the APEGA Code of Ethics during the relevant time.
5. The Registrant and Permit Holder cooperated with the investigation.
6. The Complainant has been an APEGA Professional Member in good standing since August 17, 2007.

(ii) Facts Relating to the Allegations 1 through 3:



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7. The concerns arise from a Government of Alberta (GoA) Tender seeking bids for a project to install a dewatering system, remediation, and reconstruction of effected areas on a Seniors Complex in [Location].
8. The Complainant is a Civil Engineer with a variety of work experience (consulting, construction, project management, estimation, and costing). He works with [Complainant Employer] in the capacity of an Estimations Manager. In reviewing projects, they came across the Permit Holders bid submission for the Project which was publicly available on BuildWorks; upon review, they noted concerns which they believed did not meet APEGA's standards and requirements, namely:
 - a. There was a lack of information and detail in the professional work product submitted by the Permit Holder for the required scope, inclusive of a lack of structural and geotechnical information.
 - b. Under the framework and pretext of the drawings they required an engineering seal, which was not present on the PWP's.
 - c. The lack of required information concerning the bid and submitted PWP's lacked enough detail, clarity, and insufficient information on their intended purpose, that one could easily rely on the information to be complete and proceed with the drawings as is, which could reasonably lead to a safety issue leading to potential hazardous situations.
9. As the RM and 'Manager of Engineering' for the Permit Holder, the Registrants duties include supervising engineering output, supervising new projects and review of mechanical components of buildings which are similar in scope to the Project.
10. The Permit Holder's main scope is mechanical systems designs, sprinkler system designs, and structural cable systems.
11. It was the Registrant's and Permit Holder's position that their PWP's and documents submitted for the Project were not intended for construction, rather they were only draft documents which did not require the level of detail suggested by the Complainant, and that under those circumstances did not require Authentication. The Permit Holder also asserted that the client was not supposed to upload their PWP's that were on BuildWorks without their consent.
12. However, the Registrant and the Permit holder admit that the PWP's were prepared, reviewed, and approved by the CEO and COO (both E.I.T.'s at the time). The Registrant did not review the tender submission and was not aware the PWP's were submitted for the Project.



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13. The Permit Holder admits the PWP's were prepared with a template that the Permit Holder used in the past, and that through an oversight the PWP's were not reviewed/ approved by the Registrant.
14. The Registrant and Permit Holder acknowledge the lack of detail described by the Complainant, asserting the PWP's were in draft form. They admit, however, that there were no limitations on the PWP's to indicate the PWP's were draft/not for construction.
15. The Registrant and Permit Holder admit their lack of clarity could reasonably cause confusion to a reviewer and subsequently leave a reviewer to its own interpretation and use of the PWP's intentions.
16. The Registrant and Permit Holder admitted they could improve their messaging/ communication with external clients to ensure clarity.
17. The Registrant and Permit Holder admitted that internally, they needed to improve process and project implementation to ensure they meet APEGA standards on a consistent basis.
18. The Registrant and Permit Holder also admit that they lacked a properly documented Professional Practice Management Plan (PPMP) per APEGA's requirements. The Registrant and Permit Holder admit a proper PPMP would have helped ensure appropriate processes and procedures were in place to prevent the noted confusion on the project.

C. CONDUCT BY THE REGISTRANT AND PERMIT HOLDER

19. The Registrant and Permit Holder freely and voluntarily admit that at all relevant times the Registrant and Permit Holder were a professional member and Permit Holder of APEGA, and thereby bound by the Engineering and Geoscience Professions Act and the APE GA Code of Ethics.
20. The Registrant and Permit Holder acknowledge that 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;



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- (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 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 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.
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21. The Registrant and Permit Holder acknowledge that the conduct described above is conduct that is detrimental to the best interests of the public, displays a lack of judgment in the practice of the profession, and contravenes the Code of Ethics as established under the regulations.
 22. Further, the Registrant and Permit Holder acknowledge that the conduct described above constitutes a breach of Rules 1, 4 and 5 of the Code of Ethics.



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D. RECOMMENDED ORDERS WITH RESPECT TO THE REGISTRANT AND PERMIT HOLDER

23. On the recommendation of the Investigative Committee, and by agreement of the Registrant and Permit Holder with that recommendation, and following a discussion and review with the Discipline Committee Case Manager, the Discipline Committee hereby orders that:

- a. The Registrant and Permit Holder shall be reprimanded for their conduct and this order shall serve as the reprimand.
- b. The Registrant and Permit Holder shall each pay a fine in the amount of \$500.00. The fines are debts owing to APEGA and shall be paid within six (6) months of the date this order is approved by the Discipline Committee Case Manager.
- c. The Registrant and the Permit Holder Designate shall each provide the Director, Enforcement, with six (6) months of the date this order is approved by the Discipline Committee Case Manager, written confirmation that they have reviewed the following APEGA publication and that the Registrant and Permit Holder will comply with the requirements therein:
 - i. 'Authenticating Professional Work Products Practice Standard' (January 2022).
- d. The Registrant and Permit Holder Designate both shall provide the Director, Enforcement, within twelve (12) months of the date this order is approved by the Discipline Committee Case Manager, written confirmation/proof of successful completion of the following training:
 - i. The APEGA 'Ethical Practice Self-Directed Learning Module', available on my APEGA.
 - ii. The APEGA Permit to Practice Seminar (Either the Self-directed Learning Module or the Facilitated Live (Webinar)).
- e. If there are extenuating circumstances, the Registrant and Permit Holder may apply to the Director, Enforcement, for an extension prior to the noted deadlines. If such an application is made, the Registrant and Permit Holder shall provide the Director, Enforcement, the reason for the request, a proposal to vary the schedule, and any other documentation requested by the Director, Enforcement.



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- f. If the Registrant and Permit Holder fail to provide the Director, Enforcement with proof that they have completed the requirements noted above in Paragraphs 23 (b), (c) and (d) within the timelines specified, the Registrant and Permit Holder shall be suspended from the practice of engineering until the requirements are met. If the requirements with respect to Paragraphs 23 (c) and (d) are not completed within six (6) months of the suspension date, the Registrant and Permit Holder shall be cancelled.

- g. Although the Investigative Committee and the Registrant and Permit Holder understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies the Registrant and Permit Holder 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:
 - i. The admission by the Registrant and Permit Holder to unprofessional conduct.
 - ii. The Registrant's and Permit Holder's cooperation with the investigation.
 - iii. The Panel's finding that the safety of the public was not at issue.

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

Signed,

[PERMIT HOLDER]

[REGISTRANT]

PETER CHAN, P.Eng., MBA, LEED AP, FEC, FGC (Hon)
Panel Chair, APEGA Investigative Committee

KIM MADDIN, P.Eng.
Case Manager, APEGA Discipline Committee

Date: July 19, 2023