



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: Feb. 24, 2022

Discipline Case Number: 21-007

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT
AND
[AN APEGA REGISTRANT]**

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 REGISTRANT]

The Investigative Committee (IC) of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of [Name Withheld] (Registrant) with respect to allegations of unprofessional conduct and / or unskilled practice pursuant to Section 44(1) of the *Engineering and Geoscience Professions Act*.

A. THE COMPLAINT

This investigation related to an allegation that the Registrant engaged in unprofessional conduct in the role as the Production Engineer and Operations Manager for a heavy-oil operator in Western Canada (Operator), and for the role as an employee with the Registrant's current employer (Employer).

The Investigative Committee (IC) investigated the following two (2) allegations outlined in the Complaint:

Allegation 4:

Employer – July 21, 2018

The Registrant asked if there was any way they could manipulate the thermocouples on the incinerator to read a higher temperature and vent excess sour gas.



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Allegation 5:

Operator – 2016 Mar – 2017 Feb

The Registrant improperly converted taxable employee overtime claims to no-taxable expense claims.

The IC investigated four (4) additional allegations outlined in the Complaint. The IC determined that there was insufficient evidence of unskilled practice and / or unprofessional conduct in relation to the additional four (4) allegations.

B. AGREED STATEMENT OF FACTS

(i) Background:

1. The Registrant holds a degree in chemical engineering and became a member of APEGA in 2012. The Registrant has maintained their membership in APEGA since then, except for a short period of time when their membership lapsed.
2. The Registrant was the Production Engineer and Operations Manager for the Operator responsible for the heavy oil operation in Western Canada involving an innovative enhanced oil recovery project (Project) between Feb. 1, 2016, and Feb. 2, 2017.
3. The Registrant is an employee with the subsequent owner of the Project, responsible for the Project from September 2017 to the present.
4. The Complainant was the Senior Foreman, Field and Facilities for the Project from March 1, 2016, to October 2018. The Complainant submitted the APEGA Complaint after the Complainant was let go (while the Registrant was kept on).
5. Neither the Operator nor Employer hold permits with APEGA.

(ii) Facts Relating to Allegation #4:

6. During the July 2018 timeframe the Employer was experiencing financial difficulties. The natural gas which supplied the Project's incinerator was suspended by the supplier. The Complainant arranged for a supply of propane to temporarily fuel the incinerator.
7. On July 21, 2018, the Complainant, the Registrant, and the Chairman of the Employer met on site at the Project. During a brief walk about the site, the Registrant



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asked the Complainant questions in respect of the effects on the thermocouples on the incinerator while operating the incinerator at a lower temperature or 'no-flame' (i.e., Venting) to save money on makeup gas and operate the facility in a more environmentally friendly manner.

8. Although the facility was producing gas with negligible H₂S content, the questions posed by the Registrant, in the casual "walk about" setting and without further context, meant the questions could be perceived as contrary to the regulations and the license of the facility which require incineration.
9. The Registrant's questions of July 21, 2018, albeit maybe well intended to identify efficiencies and more environmentally friendly processes, rise to the level of unprofessional conduct, given without further context and in a casual "walk about" setting, the questions could be perceived as contemplating manipulating facility records, venting gas contrary to the facility license which requires incineration and could be perceived as demonstrating a disregard for public safety.

Facility records were never manipulated, and gas was never vented contrary to the facility license and at no time was there a public safety risk.

(iii) Facts Relating to Allegation #5:

10. One of the responsibilities of the Registrant was to verify overtime on the timesheets of the Operator's operations staff.
11. On two occasions in October 2016, the Registrant engaged in unprofessional conduct by categorizing taxable employee overtime claims to non-taxable expense claims as instructed, but without questioning these instructions given by the accounting professionals, including the Chief Financial Officer of the Operator (with the CAPP accounting designation), who were the Registrant's superiors:
 - a) Timesheet in the name of the Complainant which documents 45 hours of taxable overtime wages totaling \$2,700 which was improperly categorized to a non-taxable operational expense.
 - b) Timesheet in the name of another employee of the Operator which documents 15 hours of taxable overtime wages totaling \$825.00 which was improperly categorized to a non-taxable operational expense.
12. The Complainant asked questions about the timesheets and the Registrant referred the Complainant to direct these questions to the CEO and CFO.



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13. Although the Registrant was following the directions of the accounting professionals of the Operator, including directions from the CEO and CFO, the Registrant has an ethical duty to intervene.

C. CONDUCT

14. The Registrant freely and voluntarily admits that as a Professional Member of APEGA, the Registrant was bound by the *Engineering and Geoscience Professions Act* and the APEGA Code of Ethics.
15. The Registrant acknowledges 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;

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



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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.*
16. The Registrant also acknowledges the conduct described above relating to Allegation 4 breaches Rules of Conduct #1, 3 and 4 of the APEGA Code of Ethics.
17. The Registrant also acknowledges the conduct described above relating to Allegation 5 breaches Rules of Conduct #3 and 4 of the APEGA Code of Ethics.

D. RECOMMENDED ORDERS

18. 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 receive a Letter of Reprimand, a copy of which will be maintained permanently in your APEGA registration file and be considered at any future date by APEGA.
 - b) The Registrant, at the Registrant's expense, shall successfully complete (provide proof of passing grade to the Director, Enforcement) the following University-level course: University of Calgary Continuing Education ADL 213 – Ethics for Professional Practice (or similar course at the discretion of the Director, Enforcement), within one (1) year from the date this Recommended Order has been approved by the Discipline Committee Case Manager.
 - c) The Registrant may apply to the Director of Enforcement for an extension prior to the one (1) year deadline. If the above noted course is not successfully completed within one (1) year or after the agreed upon extension, the Registrant shall be suspended from the practice of engineering until the above noted course is successfully completed.



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- d) The Registrant shall pay a fine in the amount of \$2,000.00 pursuant to s.64(1) (b) of the Act. The fine shall be paid within 90 days of the date this Order is approved by the Discipline Committee Case Manager.
 - e) The Registrant may apply to the Director of Enforcement for an extension prior to the 90-day deadline. If the fine is not paid within 90-days or after the agreed upon extension, the Registrant shall be suspended from the practice of engineering until the fine is paid in full.
 - f) The Registrant shall disclose that they were the subject of APEGA disciplinary procedures to all other engineering regulatory bodies to which they hold memberships and provide each regulator with a copy of this Order.
 - g) The Registrant will be considered a Registrant in good standing while completing the above noted sanctions.
 - h) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not identify the Registrant.
19. Although the Investigative Committee and the Registrant understand and acknowledge that Recommended Orders should be published in a manner that identifies the Registrant by name, the parties understand that the decision to publish with or without identifying information is discretionary. Publication without identifying information is recommended in this case. The parties submit that publication without identifying information is appropriate given the specific facts in this case, including the following considerations:
- a) The admission by the Registrant of unprofessional conduct
 - b) The Committee's view that although the Registrant's conduct demonstrated a lapse in judgement, it was isolated and is unlikely to be repeated in the future.
 - c) The suggestion to vent rather than incinerate was never acted upon and accordingly there was no risk to the public.
 - d) The Registrant's commitment to undertake the noted training in Ethics.



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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. G. ANDERSON, P. Eng.
APEGA Investigative Committee

MR. T. GREENWOOD-MADSEN, P. Eng.
Case Manager, APEGA Discipline Committee

Date: February 24, 2022