

Date: March 29, 2019

Case No.: 19-001-RDO

## IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT AND IN THE MATTER OF THE CONDUCT OF GINGER ROGERS (P.GEO.-RESIGNED)

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has conducted an investigation into the conduct of Ginger Rogers ("Ms. Rogers").

The investigation was conducted with respect to a complaint initiated by Matthew Oliver CD, P.Eng., APEGA Deputy Registrar and Chief Regulatory Officer, ("the Complainant"), dated October 3, 2018 ("the 'Complaint'").

### A. THE COMPLAINT

The Complainant alleged that Ms. Rogers engaged in unprofessional conduct and unskilled practice and violated the *Engineering and Geoscience Professions Act* ("the Act") and *Code of Ethics* ("the Code") by contravening the *Environmental Protection and Enhancement Act*, Sections 227(a) and 227(b), knowingly providing false or misleading information pursuant to a requirement to provide information.

The Investigative Committee conducted an investigation into whether Ms. Rogers had been charged and convicted under the *Environmental Protection and Enhancement Act*, Sections 227(a) and 227(b), knowingly providing false or misleading information pursuant to a requirement to provide information.

### B. AGREED STATEMENT OF FACTS

#### (a) Background

1. Ms. Rogers was a professional member of APEGA (P.Geo.) in good standing from February 26, 2004, until September 27, 2017, when she voluntarily resigned her APEGA professional membership.
  2. Ms. Rogers cancelled the APEGA Permit to Practice for her consulting firm, Acer Environmental Solutions Inc., on September 20, 2016.
  3. Ms. Rogers does not intend to pursue a further career in geoscience.
  4. At all relevant times Ms. Rogers was bound by the Act and the Code.
  5. Ms. Rogers has cooperated fully with all aspects of the APEGA investigation into this matter.
- (Substantial portions of the following are taken from the agreed statement of facts presented to the Provincial Court of Alberta)
6. At all material times, Ms. Rogers was the sole director and shareholder of ACER Environmental Solutions Inc. (ACER), an Alberta corporation that was dissolved in August 2016.
  7. At all material times, Ms. Rogers was licensed to practise as, and held herself out as, a professional geologist.
  8. [Company A] is an Alberta corporation that owns and operates [an Alberta meat processing plant]. The plant operates under an approval issued by Alberta Environment and Parks ("the Approval").
  9. The Approval provides for disposal of wastewater from the meat processing plant. The Approval permits the use of wastewater to irrigate nearby lands if the receiving soil meets specific parameters as specified in the Approval.
  10. The Approval required [Company A] to submit an *Annual Industrial Wastewater and Industrial Runoff Report* to Alberta Environment and Parks (AEP).
  11. Ms. Rogers and ACER were retained by [Company A] to conduct its soil testing in 2013, 2014, and 2015.
  12. On March 31, 2016, Ms. Rogers submitted to AEP the *2015 Annual Industrial Wastewater, Industrial Runoff and Waste Management Report* on behalf of [Company A]. This report contained soil testing results.
  13. An AEP soil specialist reviewed the 2015 report and noted that numerous soil sample analysis results in the 2015 report were identical to what was reported in 2013, even though the soil samples were taken from different locations and two years apart.

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14. AEP contacted Ms. Rogers and asked her to explain the anomalous identical results. Ms. Rogers stated that the identical results were an "unusual occurrence" but did not provide any explanation for the identical results.
15. Ms. Rogers falsified the information submitted to AEP in the 2015 report. Ms. Rogers submitted data taken from the 2013 soil testing results. The falsification led to an appearance that the soil parameters were not exceeded and that [Company A] could continue to discharge wastewater on land through irrigation. In reality the parameters had been exceeded for 2015 and [Company A] would not have been permitted to discharge the wastewater.
16. Ms. Rogers pled guilty and fully admitted the conduct as alleged and received a fine of \$28,750 and was barred from submitting any documents or reports to AEP where she is the responsible professional member for a period of three years.

**C. CONDUCT**

17. Ms. Rogers freely and voluntarily admits that her conduct constitutes unprofessional conduct and that the Complaint set out above is admitted and proven.
18. Ms. Rogers has therefore engaged in unprofessional conduct and unskilled practice that contravenes the Code, as established under APEGA's regulations and is detrimental to the best interests of the public, harms or tends to harm the standing of the profession generally, displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, and 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, contrary to Section 44(1) (a), (b), (c), (d), and (e) of the Act and Rules of Conduct #1, #3, #4, and # 5 of the Code.

Section 44(1) of the Act states:

*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 lack of skill or judgment in the practice of the profession;*
- e) *displays a lack of knowledge of or lack of skill or judgment in the carrying out any duty or obligation undertaken in the practice of the profession,*

*whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.*

Rules of Conduct #1, #3, #4, and # 5 of the Code 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.*
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.*

**D. RECOMMENDED ORDERS**

19. The Investigative Committee defers to the wisdom of the court in this matter and has determined that there is no need to further address the conduct of Ms. Rogers with additional punitive sanctions. The Investigative Committee, in its legislated role as the body responsible for the investigation of complaints against APEGA members, must, however, act in the public interest and regulate the professions of engineering and geoscience.

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20. On the recommendations of the Investigative Committee, and by agreement of Ms. Rogers with that recommendation, following a discussion and review with the Discipline Committee Case Manager, the following recommended orders are issued pursuant to Section 52 of the Act:

1. Ms. Rogers shall be ineligible to reinstate her APEGA membership or the permit to practice for ACER Environmental Solutions Inc. or any new corporate entity for a period of three years from the date this order is approved by a Discipline Committee case manager and shall not apply or attempt in any way to reinstate her APEGA membership or ACER's Permit to Practice or any new corporate entity until the three-year period has elapsed.
2. If after three years Ms. Rogers intends to apply for APEGA membership she must first rewrite and pass the National Professional Practice Exam.
3. APEGA, at its sole discretion, will share the

information contained in this recommended discipline order with sister Canadian engineering and geoscience regulators.

4. Ms. Rogers shall be issued a letter of reprimand, a copy of which will be placed permanently in her APEGA registration file and be considered at any future date by APEGA.
5. This matter and its outcome will be published by APEGA in any form or media deemed appropriate. Such publication will name Ms. Rogers.

Signed,

**GINGER ROGERS, P.GEO.-retired,**

**GERALD LANGILLE, P.GEO.**

Panel Chair, APEGA Investigative Committee

**WANDA GOULDEN, P.ENG., P.GEO.**

Case Manager, APEGA Discipline Committee

*Date: March 29, 2019*