



# 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](http://www.apega.ca/enforcement/discipline-decisions).

**Date:** May 18, 2021

**Discipline Case Number:** 21-005

**IN THE MATTER OF A RECOMMENDED DISCIPLINE ORDER OF THE ASSOCIATION OF  
PROFESSIONAL ENGINEERS AND GEOSCIENTISTS  
OF ALBERTA**

Pursuant to the Engineering and Geoscience Professions Act,  
being Chapter E-11 of the Revised Statutes of Alberta 2000  
Regarding the Conduct of [A PROFESSIONAL MEMBER] P.ENG. AND  
[A PERMIT HOLDER]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (“APEGA”) has investigated the conduct of a Professional Member (the “Registrant”) and a Permit Holder (the “Permit Holder”) with respect to a complaint initiated by a complainant (the “Complainant”). This matter was investigated pursuant to section 44(1) of the *Engineering and Geoscience Professions Act*, RSA 2000, c E-11 (the “Act”).

## A. COMPLAINT

This investigation related to an allegation that the Registrant and the Permit Holder engaged in unprofessional conduct with respect to a presentation given by the Registrant, a former employee of the Complainant, in 2019. The Complainant filed a complaint with APEGA in 2020.

The Investigative Committee’s investigation focused on an allegation (the “Allegation”) which can be summarized as follows:

Whether the Registrant improperly conducted an electronic presentation containing the Permit Holder’s brand information relating to the Complainant’s project at a symposium.

## B. AGREED STATEMENT OF FACTS

### (i) Background:

1. The Permit Holder has been an APEGA permit holder since 2010.
2. The Permit Holder offers services in the area of environmental consulting including



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contaminated site assessments, remediation and reclamation.

3. The Registrant holds a Bachelor of Science degree in geology from the University of Alberta (1983) and a Master of Science degree in hydrogeology from the University of London (1993).
4. The Registrant have been a professional member of APEGA since 1987.
5. The Registrant has been employed as a hydrogeologist at the Permit Holder since 2015. The Registrant is a principal and part owner of the Permit Holder.
6. The Registrant was employed by the Complainant from 2004 to 2015.
7. In 2008, a large diesel spill (the reclamation project) occurred in the Northwest Territories. Between 2008 and 2013 the Registrant was the lead geoscientist for the Complainant on the reclamation project.
8. In 2012, the Complainant received a Consulting Engineers of Alberta, Award of Merit, for their work on the reclamation project.
9. In 2014, the Registrant presented the reclamation project on behalf of the Complainant at a conference.
10. In 2015, the Registrant departed the Complainant and joined the Permit Holder.
11. In 2019, the Registrant presented the reclamation project on behalf of the Permit Holder at a symposium (the "Presentation").
12. Following the Presentation, the Complainant became aware that the Registrant did not give any acknowledgement to the Complainant and as such, filed a complaint with APEGA.
13. The Registrant and the Permit Holder have fully cooperated with the APEGA investigation.

**(ii) Facts Relating to the Allegation:**

**Whether the Registrant improperly conducted an electronic presentation containing the Permit Holder's brand information relating to the Complainant's project at a symposium.**

14. The Registrant relied upon the electronic presentation material he used in 2014, while employed by the Complainant, to create the Presentation.



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15. The Registrant provided the electronic presentation material to the marketing department of the Permit Holder. The Permit Holder took steps to remove all branding associated with the Complainant from the presentation material and replaced it with branding associated with the Permit Holder.
16. The Registrant did not provide any acknowledgement concerning the Complainant's leadership role on the reclamation project during his presentation.
17. Audience members attending the Presentation included other staff members of the Permit Holder.
18. The Permit Holder had no involvement in the reclamation project.
19. The *APEGA Guideline for Ethical Practice (2013)* states, in part, that *"Conduct towards all others in the practice of the profession, including other professional engineers and geoscientists should be courteous, fair and in good faith. A professional should be careful to give full credit due to others. This applies, for example, to sources of information used or referred to and to colleagues who contributed to the project success along with the professional. Likewise, it applies to other contributing firms, even if they currently may be rivals for another, similar engagement."*

### C. CONDUCT BY THE REGISTRANT

20. The Registrant acknowledges and admits that his conduct, as described in Section B of this Recommended Order, 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 lack of skill or judgment in the practice of the profession, or*
- e. 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*



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*Discipline Committee or the Appeal Board finds.*

21. With respect to the Allegation, the Registrant acknowledges and admits that by virtue of failing to acknowledge the Complainant's involvement as a leader of the reclamation project, they engaged in unprofessional conduct.
22. Further, the conduct described in the Allegation constitutes a breach of Rule #3 of the *Code of Ethics*, which states:
  3. *Professional engineers and geoscientists shall conduct themselves with integrity, honesty, fairness and objectivity in their professional activities.*

### **D. CONDUCT BY THE PERMIT HOLDER**

23. The Permit Holder acknowledges and admits that its conduct, as described in Section B of this Recommended Order, 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 lack of skill or judgment in the practice of the profession, or*
- e. *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.*

24. With respect to the Allegation, the Permit Holder acknowledges and admits that by supporting and facilitating the Registrant's presentation, which failed to acknowledge the Complainant's involvement as a leader of the reclamation project, the Permit Holder engaged in unprofessional conduct.

### **E. RECOMMENDED ORDERS WITH RESPECT TO THE REGISTRANT**

25. On the recommendation of the Investigative Committee, and by agreement of the



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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 for a period of one year in the Registrant's APEGA registration file and be considered at any future date by APEGA.
- b. The Registrant shall provide written confirmation to the Director, Enforcement within thirty (30) days of being notified that the RDO has been approved, that the Registrant has reviewed the following APEGA publication and that the Registrant will comply with the requirements therein:
  - i. *Guideline for Ethical Practice* (February 2013).
- c. The Registrant shall disclose that the Registrant is the subject of APEGA disciplinary proceedings to all other engineering regulatory bodies to which they hold membership and provide each regulator with a copy of this Order.
- d. While completing the above noted sanctions, the Registrant shall be considered to be in good standing.
- e. This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not name the Registrant.

### F. RECOMMENDED ORDERS WITH RESPECT TO THE PERMIT HOLDER

26. On the recommendation of the Investigative Committee, and by agreement of the 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 Permit Holder will receive a letter of reprimand, a copy of which will be maintained for a period of one year in the Permit Holder's APEGA registration file and be considered at any future date by APEGA.
  - b. The Permit Holder's Chief Operating Officer or designated senior officer shall provide written confirmation to the Director, Enforcement within thirty (30) days of being notified that the RDO has been approved, that he / she has reviewed the following APEGA publications in consultation with the appointed responsible member and that the Permit Holder will comply with the requirements therein:
    - i. *Guideline for Ethical Practice* (February 2013); and



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- ii. Guideline for Professional Practice Management Plans (February 2013).
  - c. The Permit Holder shall provide written confirmation to the Director, Enforcement within thirty (30) days of being notified that the RDO has been approved, that amendments have been made to the Permit Holder's Professional Practice Management Plan (PPMP) which reflect policies and procedures for conducting presentations on behalf of the Permit Holder. The PPMP shall also include policies and procedures for preventing plagiarism and copyright infringement.
  - d. The Permit Holder shall disclose that the Permit Holder was the subject of APEGA disciplinary procedures to all other engineering regulatory bodies to which the Permit Holder holds a permit to practice and provide each regulatory with a copy of this Order.
  - e. While completing the above noted sanctions the Permit Holder shall be considered to be in good standing.
  - f. This matter and its outcome will be published by APEGA as deemed appropriate and such publication shall not name the Permit Holder.
27. Although there is a presumption that Recommended Orders should be published in a manner that identifies the name of the Permit Holder or Registrant who is the subject of the Recommended Order, publication without names is being recommended in this case. Among the considerations that weighed into the recommendation not to publish the name of the Registrant or the Permit Holder in this case were the following: the Registrant's and Permit Holder's actions did not compromise public safety, the Complainant's professional standing in the engineering and geoscience community did not appear to have been adversely impacted by the Registrant's and Permit Holder's actions, and, the Registrant and Permit Holder have expressed genuine remorse and a prompt acceptance of their professional responsibilities.

Signed,

**[PERMIT HOLDER]**

**[PROFESSIONAL MEMBER]**, P. Geol.

**Bryon Tsokas**, P.Geol.  
Investigation Panel Chair



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**John McDonald, P.Eng.**  
Case Manager, APEGA Discipline Committee

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