



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: December 24, 2021

Discipline Case Number: 21-021

**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 [AN APEGA REGISTRANT]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conduct of [Name Withheld] (the “Registrant”) with respect to a complaint initiated by [Name Withheld] of Company A.

A. THE COMPLAINT

The Complainant filed a complaint alleging the Registrant 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*) with respect to engineering services the Registrant provided to Company A for a fall protection system retrofit for Company A client Company B in 2018.

The Investigative Committee’s investigation focused on the following allegation (Allegation 1) which can be summarized as follows:

After agreeing to authenticate for both the fall arrest system design and structural reinforcement (loads) of the fall arrest system on the building, and sealing the drawings accordingly, several months later the Registrant denied responsibility for structural loads and asserted his scope was solely restricted to the fall arrest system design.

The Investigative Committee investigated one additional allegation (Allegation 2) outlined in the complaint. The Investigative Committee determined that there was insufficient evidence of unskilled practice and / or unprofessional conduct in relation to that allegation.



APEGA Recommended Discipline Order

B. AGREED STATEMENT OF FACTS

(i) Background:

1. The Registrant holds a Bachelor's degree in Mechanical Engineering from Tehran University (1994) and a Master's degree in Mechanical Engineering from Khajeh Nasir Toosi University of Technology (1995). They have been a professional member of APEGA since March 2018.
2. The Registrant practices as a Fall Protection Engineer.
3. The Registrant is employed by Company C. Company C holds permit to practice with Engineers & Geoscientists British Columbia (EGBC). Company C does not possess a permit to practice from APEGA.
4. The Registrant's cooperation with the investigation has been exemplary.

(ii) Facts Relating to the Allegation 1:

After agreeing to authenticate for both the fall arrest system design and structural reinforcement (loads) of the fall arrest system on the building, and sealing the drawings accordingly, several months later the Registrant denied responsibility for structural loads and asserted his scope was solely restricted to the fall arrest system design.

5. The Registrant commenced a working relationship with the Complainant in 2017. The Registrant advised the Complainant that as a fall protection engineer, the Registrant's normal practice was to authenticate drawings for fall protection only.
6. The Registrant discussed a project with the Complainant in March 2018 (precedes the project subject to this complaint); the Registrant advised the Complainant that the Registrant's normal practice is to use dual stamps (Registrant authenticates for fall protection, structural engineer authenticates for structural). The Complainant asserted his requirement for a "single stamp"; that is, one engineer to authenticate for both fall protection and structural (single stamp).
7. The Registrant joined APEGA on March 15, 2018, to facilitate Alberta project work for the Complainant's company.



APEGA Recommended Discipline Order

8. The Complainant engaged the Registrant on August 1, 2018, to provide engineering services for Company A client Company B, for a fall protection retrofit using a system manufactured in the USA by Rigid Lifelines, a Division of Spanco Inc.
9. The Registrant commenced work on the project without implementing a formal agreement, contract, or scope of work with their client, Company A. In email communication with the Registrant, the Complainant outlined the requirement to “ensure the roof supports are good” and the Registrant replied that they understood. The Complainant further communicated that the Registrant’s scope was a “two-one safety factor”. Based on this exchange, the Complainant assumed the Registrant understood Company A’s single stamp requirement.
10. On August 2, 2018, the Registrant sent the Complainant Drawing Set 1 authenticated by the Registrant. The drawings show the fall protection system and attachment points to the building structure. Although the Registrant digitally signed the drawings, they did not include a visible signature script on the stamp. The Registrant did not note any limitations on the drawings (i.e., Drawing Set 1 did not state “For Fall Protection Only”). Accordingly, the Complainant assumed the Registrant provided a single stamp for both fall protection and structural.
11. On August 6, 2018, the Registrant emailed the Complainant acknowledging the completion of the job.
12. On September 19, 2018, the Complaint requested the Registrant to provide signed drawings on behalf of the client.
13. On September 22, 2018, the Registrant sent the Complainant Drawing Set 2, complete with their signature visible over the stamp; on this set of drawings, however, the Registrant noted under their stamp a limitation which stated, “For Fall Protection Only”. The Registrant did not inquire if the Complainant had retained a structural engineer to ensure the requirements of CSA Z259.16-04 (Design of Active Fall Protection) and OH&S Safety Code Part 9 (Fall Protection) had been fulfilled for structural.
14. The Registrant acknowledges that although they digitally signed Drawing Sets 1 and 2 with his EGBC digital signature, his APEGA authentication must properly incorporate a digital signature/certificate obtained from APEGA.



APEGA Recommended Discipline Order

15. The Complainant passed along the drawings to Company A's client; the Complainant did not take note of the Registrant's addition of the limitation "For Fall Protection Only" in small font beneath the Registrant's stamp.
16. Between October 2, 2018, and July 6, 2019, the Registrant contacted the Complainant by email and text nineteen (19) times inquiring about the payment of his outstanding invoice.
17. On August 9, 2019, the Registrant emailed the Complainant and advised that they had not received a copy of the dual stamped drawing from Company A's structural engineer and asserted they will not be responsible for the structural part of the design.
18. On September 10, 2019, the Complainant replied to the Complainant expressing concern that the Registrant denied taking responsibility for the structure; the Complainant repeated their understanding that the Registrant's single stamp represented their responsibility for both fall protection and structural. The Registrant reiterated their understanding that their responsibility was only to design the fall protection system and specify the loads applied to the supporting structure. The Registrant notified Company A's client that the design had never been authenticated for structural.
19. From September 10, 2019, to March 2020 (approximately six months) there was no further communication between the Registrant and the Complainant.
20. In March 2020, the Registrant on their own volition retained a structural engineer to perform due diligence on the fall protection connections and supports. The Registrant characterized this as "internal check"; no site visit or schedules were completed by the structural engineer.
21. On March 10, 2020, the structural engineer retained by the Registrant added their stamp and signature to the drawings (Drawing Set 3) with the following limitation: "Structural Contents – Structural stamp just for fall protection support and connection". The Registrant did not share these internal due diligence drawings with the Complainant.
22. The Registrant acknowledges that failing to prepare and execute a contract with the Complainant which would have clearly defined the scope of work and deliverables (set the Complainant's expectations on the project) is contrary to: Section 4.2.1 (Scope of Responsibility) of the Apega Guideline for Ethical Practice, v2.2, February 2013 which states:



APEGA Recommended Discipline Order

Before accepting assignments, professionals should ensure that their clients and employers understand the extent of the members' professional responsibilities. Defining the extent of the members' professional responsibilities and developing a scope of services essentially entails listing the specified tasks envisioned within the term of engagement and the delivery of performance expectations associated with the various tasks."

Section 3.4 (Public Expectations) of the *APEGA Guideline Concepts of Professionalism, v1.0, September 2004*:

As a result, the gap between the public's expectations of professional services and the actual deliverables may be growing. Therefore, it is imperative that professionals manage expectations. We must adequately inform clients of our professional responsibilities and of the legal, ethical, and practical limitations of the service provided. This information can be provided through general documents such as practice standards or guidelines, through more targeted campaigns, or specifically in service contracts and company information."

23. The Registrant acknowledges that authenticating Drawing Set 1 on August 2, 2018, with no limitations (Drawing Set 1 did not state "For Fall Protection Only") is contrary to the *APEGA Standard for Authenticating Professional Documents, v3.1, January 2013*:

Multi-Discipline Documents

A professional document that contains components that have been prepared or reviewed by professional members of different disciplines shall be authenticated by a professional member who is able to accept responsibility for the work related to each of those disciplines. The responsibility for each professional member who authenticates the document should be clearly indicated on the document.

24. The Registrant further acknowledges that by authenticating Drawing Set 1 with no limitations, the Registrant inadvertently assumed responsibility for structural (for the six-week period between issuing Drawing Set 1 and Drawing Set 2) as outlined in Sec. 14 of the *Occupational Health and Safety Code (Alberta Regulation 87/2009)*:

Certification by a professional engineer

14(1) If this Code requires that procedures or specifications be certified by a professional engineer, the certification must



APEGA Recommended Discipline Order

- (a) *be in writing, and*
- (b) *be stamped and signed by the professional engineer.*

14(2) *Unless the document states otherwise, certification by a professional engineer implies that the procedures or specifications certified are fit and safe for the workers affected by them.*

C. CONDUCT BY THE REGISTRANT AND THE COMPANY

- 25. The Registrant freely and voluntarily admits that at all relevant times the Registrant was a professional member of APEGA bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
- 26. 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 lack of skill or judgement in the practice of the profession, or*
- e) *displays a lack of knowledge of or lack of skill or judgement 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.

- 27. The Registrant acknowledges that the conduct described above is conduct that is detrimental to the best interests of the public, contravenes the code of ethics as established under the regulations and displays a lack of judgement in the carrying



APEGA Recommended Discipline Order

out a duty or obligation undertaken in the practice of the profession, contrary to Section 44(1)(e) of the Act.

28. The Registrant further acknowledges and admits that their conduct was contrary to Rule of Conduct 4 of the *APEGA Code of Ethics*, which states:

4. Professional engineers and geoscientists shall comply with applicable statutes, regulations and bylaws in their professional practices.

(b) Recommended Orders with respect to the Registrant and the Company

29. On the recommendation of the Investigative Committee, and by agreement of the Registrant and the Company 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 be reprimanded for their conduct and this order shall serve as the reprimand.
- b) The Registrant shall pay a fine in the amount of \$2000.00. The fine is a debt owing to APEGA and shall be paid within six (6) months of the date this order is approved by the Discipline Committee Case Manager. Failure to pay the fine by the noted deadline will result in the Registrant being suspended from the practice of engineering until the fine is paid. Further, failure to pay the fine within 12 months of the date this order is approved shall result in the cancellation of the Registrant's APEGA membership. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement, for an extension prior to the noted deadlines.
- c) The Registrant shall provide written confirmation to the Director, Enforcement, within thirty (30) days of being notified that the Recommended Order has been approved by the Discipline Committee Case Manager, that they have reviewed the following publications and that the Registrant will comply with the requirements therein:
 - I. APEGA Practice Standard for Authenticating Professional Work Products, May 1, 2021
 - II. APEGA Guideline for Ethical Practice, v2.2, February 2013 (Section 4.2.1 - Scope of Responsibility)



APEGA Recommended Discipline Order

III. APEGA Guideline Concepts of Professionalism v1.0, September 2004
(Section 3.4 – Public Expectations)

IV. Occupational Health and Safety Code (Part 9 – Fall Protection)

If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement, for an extension prior to the noted deadlines.

- d) The Registrant shall provide the Director, Enforcement, within six (6) months of the date this order is approved by the Discipline Committee Case Manager, proof of attendance at the APEGA Digital Signature Webinar. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement for an extension prior to the deadline.
- e) If the Registrant fails to provide the Director, Enforcement with proof that they have completed the requirements noted above in Paragraph 29 (c) and (d) within the timelines specified, the Registrant shall be suspended from the practice of engineering until the requirements are met.
- f) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not name the Registrant.

Although the Investigative Committee and the Registrant understand and acknowledge that APEGA's usual policy is to publish Recommended Discipline Orders in a manner that identifies the Registrant 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, including the Registrant's admission to unprofessional conduct, cooperation with the investigation, notice to Northguard's client, and verification of the structural design at their own expense.



APEGA Recommended Discipline Order

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

Signed,

[REGISTERED MEMBER]

MR. BYRON TSOKAS, P.Geol.
APEGA Investigative Committee

MR. FRED RITTER, P.Eng.
Case Manager, APEGA Discipline Committee

Date: December 24, 2021