



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: May 18, 2022

Discipline Case Number:22-003

**IN THE MATTER OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT
AND
IN THE MATTER OF THE CONDUCT OF [AN APEGA MEMBER] AND IN THE MATTER OF
THE CONDUCT OF [AN APEGA 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 in the matter of the conduct of [AN
APEGA PERMIT HOLDER]

The Investigative Committee of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) has investigated the conducted of [Name Withheld] (the Registrant) and [Name Withheld] (the Company) with respect to a complaint initiated by a former employee of the Company (the Complainant).

A. COMPLAINT

The Complainant filed a complaint alleging the Company and 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 their role in offering unpaid internships as a condition of employment.

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

Whether the Registrant and / or the Company engaged in unprofessional conduct and / or unskilled practice by offering unpaid internships to employees.

The Investigative Committee investigated three other allegations outlined in the complaint. The Investigative Committee determined that there was insufficient evidence of unskilled practice and / or unprofessional conduct in relation to these other three allegations.



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B. AGREED STATEMENT OF FACTS

(i) Background:

1. The Company has been an APEGA Permit Holder since 2013.
2. The Company is located in Alberta and specializes in geotechnical engineering and materials testing.
3. The Registrant holds both Bachelor's and Masters of Science degrees in civil engineering and a PhD in geotechnical engineering. They have been a professional member of APEGA since 2012.
4. The Registrant last took the National Professional Practice Examination (NPPE) in 2012.
5. The Registrant is the president, sole director, and owner of the Company.
6. The Registrant is the Responsible Member for the Company and has been a member in good standing since their registration with APEGA as a Professional Engineer (P. Eng.).
7. The Registrant and the Company have cooperated with the APEGA investigation.

(ii) Facts Relating to Allegation:

Whether the Registrant and / or the Company engaged in unprofessional conduct and / or unskilled practice by offering unpaid internships to employees.

8. The Complainant in this matter is an Engineer-in-Training.
9. On two separate occasions in 2020, the Registrant, on behalf of the Company, entered into employment agreements with the Complainant, which contained both a paid and unpaid, voluntary internship component.
10. The Registrant mistakenly believed that they could offer training and mentorship through unpaid, voluntary internships to the Complainant and at least two other former employees, all of whom had not been referred to the Company by a post-secondary educational institution.
11. The Registrant has, in the past, provided unpaid, voluntary internship opportunities to two post-secondary students.



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12. The Registrant was unaware that in order to fall under the exemptions within *Alberta's Employment Standards Code and Regulations* that they would require formal approval from the Director of Employment Standards, have a variance or permit, or get approval from the Alberta Ministry of Advanced Education.
13. The Registrant believed they were providing an opportunity to the Complainant and others, to gain training, mentorship, and practical and relevant experience.
14. The Company paid the Complainant for all mentorship, training, and work by the time this Order is issued.

C. CONDUCT BY THE REGISTRANT AND THE COMPANY

15. The Registrant and the Company freely and voluntarily admit that at all relevant times the Registrant was a professional member of APEGA, the Company was an APEGA permit holder and thereby, both were bound by the *Engineering and Geoscience Professions Act* and the *APEGA Code of Ethics*.
16. The Registrant and the Company acknowledge that the conduct described above constitutes unskilled practice and / or unprofessional conduct as defined 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.



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17. The Registrant and the Company acknowledge that the conduct described above is conduct that is detrimental to the best interests of the public, contravenes a code of ethics as established under the regulations 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) and (e) of the Act.
18. The Registrant and the Company acknowledge and admit that their conduct was also 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.*

D. RECOMMENDED ORDERS WITH RESPECT TO THE REGISTRANT AND THE COMPANY

19. 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 and the Company shall be reprimanded for their conduct and this order shall serve as the reprimand.
 - b) The Registrant shall provide written confirmation to the Director, Enforcement, within thirty days of being notified that the Recommended Order has been approved, that he has reviewed the following APEGA publications and that the Registrant and the Company will comply with the requirements therein:
 - Guideline, Concepts of Professionalism (2004);
 - Guideline for Ethical Practice (2013);
 - Guideline for Professional Practice (2013); and,
 - Guideline of Considerations for Establishing a Consulting Practice (2005).
 - c) The Registrant must take and pass the National Professional Practice Exam (NPPE) within one year of this Recommended Order being approved by the Discipline Committee Case Manager. The NPPE shall be completed at the Registrant's expense and the Registrant will be responsible for providing the Director, Enforcement with proof of successful completion. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement for an extension prior to the deadline.



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- d) The Registrant shall successfully complete post-secondary courses in the following areas of continuing education:
- i. One course in human resource management, that is satisfactory to the Director, Enforcement, such as 'Human Resources Foundation – EXMGT 5596' offered by the University of Alberta, Continuing Education Department; and,
 - ii. One course in employment law, that is satisfactory to the Director, Enforcement, such as the following series of three webinars offered live or in a recorded format: 'Overview of Employment Standards in Alberta'; 'Employment Standards in Alberta – Wages and Overtime'; and, 'Employment Standards in Alberta – Administration and Enforcement', offered through the Government of Alberta.

The above noted courses shall be completed within one year from the date this Recommended Order has been approved by the Discipline Committee Case Manager. These courses shall be completed at the Registrant's expense and the Registrant will be responsible for providing the Director, Enforcement with proof of successful completion. If there are extenuating circumstances, the Registrant may apply to the Director, Enforcement for an extension prior to the deadline.

- e) This matter and its outcome will be published by APEGA as deemed appropriate and such publication will not identify the Registrant and the Company.

Although the Investigative Committee, the Registrant and the Company understand and acknowledge that APEGA's usual policy is to publish Recommended Orders in a manner that identifies the Registrant and / or the Company 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 following:

- i. The admission by the Registrant and the Company of unprofessional conduct;
- ii. The Investigative Committee's finding that the safety of the public was not at issue; and
- iii. The Registrant is under the care of a medical professional.



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20. If the Registrant fails to provide the Director, Enforcement with proof that the orders noted above in paragraph 19. b), c), and d) have been completed within the timelines specified, the Registrant and the Company shall be suspended from the practice of Engineering until the Registrant has provided the Director, Enforcement with proof of successful completion. If the requirements are not completed within six months of the suspension date, the Registrant and the Company shall be cancelled.

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

Signed,

[REGISTRANT AND RESPONSIBLE MEMBER OF THE COMPANY]

MR. IAN BUTTERWORTH, P.Eng.
Panel Chair, APEGA Investigative Committee

MR. RALPH TIGNER, P.Eng.
Case Manager, APEGA Discipline Committee

Date: May 18, 2022