

# Prohibition

Law and Ethics Seminar  
Fall 2018

*Ensuring public safety*



**A P E G S**

*Association of Professional Engineers  
& Geoscientists of Saskatchewan*

# Prohibition : Non-Members

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- Prohibition sections of the Act deal with:
  - Protection of “Title” (section 26)
  - Scope of Practice (sections 27 & 28(1))
- Violators of the Prohibition sections are prosecuted in the Provincial Court of Saskatchewan

# Protection of “Title”

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- Only professional engineers may use the title “Professional Engineer”, “Engineer”, “Consulting Engineer” or the abbreviation “P.Eng.” to imply that he or she is a professional engineer
- Only professional geoscientists may use the title “Professional Geoscientist”, “Geoscientist”, “Consulting Geoscientist” or the abbreviation “P.Geo.” to imply that he or she is a professional geoscientist

# Protection of “Title”

- No sole proprietor, partnership, association of persons or corporation shall use the word or phrase “engineer”, “engineering”, “P.Eng.” “consulting engineer”, “P.Geo.”, “consulting geoscientist” or “geoscience” without the written authorization of APEGS to imply that the sole proprietor, partnership, association of persons or corporation or any of its members are professional engineers or professional geoscientists.

# Scope of Practice

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- No person who is not a member shall hold himself or herself out as being a member
- No person who is not a licensed professional engineer shall engage in the practice of professional engineering
- No person who is not a licensed professional geoscientist shall engage in the practice of professional geoscience
- Note exceptions in s. 28 of Act

# Exceptions (section 28 of the Act)

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- ...variety of work directly supervised by a P.Eng. or P.Geo.
- Working on property owned and to be used by self
- Member of the Canadian Forces
- Practising his/her profession, trade or calling

# Exceptions (section 28 of the Act) (cont'd)

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- Practicing as one of the following within the meaning of their legislation: architect, agrologist, Saskatchewan Land Surveyor, Canada Lands Surveyor, planner, applied science technologist, certified technician, prospectors
- Design, construction, installation of appliances, works, plants not exceeding \$30,000

# Notice and Investigation of Prohibition Cases

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- Done by APEGS staff
- Review newspapers, Sask. Gazette, etc.
- Correspondence with other Associations/ordre
- Staff follows up on inquiries and information
- Members and public inquire about registration or advise APEGS of misuse of title or non-engineers/geoscientists providing services
- Engineers Canada - registered trademark on “engineer”



# Interesting Prohibition Case

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- William Kurk
  - Also known as (Will Koch, T.W. Koch, Will Moldenhauer)
  - 2004 - Kurk initiates L.W. Construction, and L.W. Engineering and Developments
  - 2005 - Titan Environmental, Kurk known as an “environmental engineer” by co-workers

# Interesting prohibition case (cont'd)

- January 2006 - Kurk produces 3 engineering reports on Regina home foundation assessments with engineering seal (member “T.W. Koch”)
- March 2006 - member of public inquires with APEGS about lack of payment by “Koch” to subcontractors. Staff finds that Koch is not registered with APEGS.
- May 2006 - APEGS requests summons to be served to Kurk on prohibition charges regarding illegal use of “engineer” title

# Interesting prohibition case (cont'd)

- May 10, 2006 – Parisian house collapse makes the Regina news
  - Couple upgrading wooden foundation with concrete
  - Found Kurk through an insurance agent referral
  - Kurk claimed he was an engineer with 25 years of experience
  - \$15k down, \$15k after completion
  - House jacked, but not braced laterally



# Interesting prohibition case (cont'd)

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- Nov 2006, Kurk fined in Provincial Court \$1,000 for each of the 3 engineering reports (first offence), plus restitution to client; 6 months probation.
- Other fraud, forgery and theft charges were brought against him which resulted in a four-year prison sentence

# Common Prohibition Investigations

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- Members or companies struck from roster continuing to practice
- Non-qualified persons offering to or performing engineering or geoscience services
- Qualified person resident in Saskatchewan but not member of APEGS
- Misuse of “engineer” in title (particularly in the IT field)
- Engineer or geoscientist resident and registered outside Saskatchewan providing services in Saskatchewan

# Penalties

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- Violating the Protection of Title or Scope of Practice sections of the Act is a summary conviction offence, liable to a fine:
  - for a first offence, not more than \$5,000;
  - for a second offence, not more than \$10,000; and
  - for each subsequent offence, not more than \$15,000.

# Questions

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