

IN THE MATTER OF *THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT* AND  
IN THE MATTER OF AN INVESTIGATION RESPECTING **BILL (XIANGJUN) MA, P.Eng.**

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**DECISION AND ORDER**

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**MEMBERS OF THE HEARING PANEL:**

Peter Jackson, P.Eng. – Chair  
Daryl Andrew, P.Eng.  
Larry Doke – Public Appointee  
Chanelle Joubert, P.Geo.  
Clare O’Dowd, P.Geo.

**COUNSEL FOR INVESTIGATION COMMITTEE:**

Lyle Jones, P.Eng., LL.B.

**COUNSEL FOR MEMBER:**

None

**COUNSEL FOR THE DISCIPLINE COMMITTEE:**

Ron Pearson, P.Eng., J.D.

**REPORT OF THE HEARING PANEL APPOINTED AND EMPOWERED BY THE DISCIPLINE COMMITTEE OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF SASKATCHEWAN (APEGS) PURSUANT TO SECTIONS 33, 34, AND 35 OF *THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT*, CHAPTER E-9.3 of the Statutes of Saskatchewan, 1996 as amended (HEREIN REFERRED TO AS THE "ACT"), AND SECTION 22(4) OF *THE ENGINEERING AND GEOSCIENCE PROFESSIONS REGULATORY BYLAWS, 1997* as amended (HEREIN REFERRED TO AS THE "BYLAWS"), TO HOLD A HEARING INTO THE CONDUCT OF BILL (XIANGJUN) MA, P.Eng.**

### **The Complaint**

The following complaint(s) were made by the Investigation Committee of the Association of Professional Engineers and Geoscientists of Saskatchewan with respect to the conduct/competence of **Bill Ma, P.Eng.**

#### **Count 1:**

**Bill Ma, P.Eng.** did not offer services on or undertake professional assignments only in his area of competence and did not practice in a careful and diligent manner contrary to subsection 20(2)(b) of *The Engineering and Geoscience Professions Regulatory Bylaws, 1997* in submitting a design proposal for repairs to (name of business redacted).

Particulars:

On October 28, 2019, **Bill Ma, P.Eng.** prepared and sealed drawings for renovations at (name and location of business redacted). The sealed drawings contain errors in design, location detail, grammar, and spelling.

#### **Count 2:**

**Bill Ma, P.Eng.** engaged in the practice of professional engineering on behalf of AACG Ltd. without obtaining a Certificate of Authorization contrary to subsection 22(2) of *The Engineering and Geoscience Professions Act*.

Particulars:

On October 28, 2019 **Bill Ma, P.Eng.** prepared and sealed drawings for renovations at (name and location of business redacted) on behalf of AACG Ltd. AACG Ltd. did not hold a Certificate of Authorization at the time the drawings were sealed.

### **The Discipline Committee**

At its meeting held on March 29, 2022, the Discipline Committee received a formal complaint from the Investigation Committee and appointed Peter Jackson, P.Eng., Larry Doke, Chanelle Joubert, P.Geo., Daryl Andrew, P.Eng., Clare O’Dowd, P.Geo. to constitute a Hearing Panel to hear the complaints against **Bill Ma, P.Eng.**

### **The Discipline Hearing**

The Discipline Hearing was convened at 10:00 am on April 21, 2022 via Microsoft Teams electronic meeting.

The Investigation Committee was represented by **Lyle Jones, P.Eng., LL.B.** and **Chris Wimmer, P.Eng.**, APEGS Director of Investigation and Compliance.

**Bill Ma, P.Eng.** was present and was not represented by legal counsel. He indicated that he elected not to use legal counsel.

Counsel for the Investigation Committee established jurisdiction by filing proof that a Notice of Discipline Hearing, containing a formal complaint within the meaning of subsection 32(3)(a) of the Act, had been forwarded to **Bill Ma, P.Eng.** pursuant to the Act and the Bylaws.

**Bill Ma, P.Eng.** acknowledged receipt of the Notice of Hearing within the time limits prescribed by the Act in an email response. Attendance at the Microsoft Teams hearing by **Bill Ma, P.Eng.** was further evidence of satisfactory service of the Notice of Discipline Hearing and formal complaint upon **Bill Ma, P.Eng.**

### **Evidence Presented to the Hearing Panel**

The following exhibits were entered into evidence:

- Notice of Hearing – forwarded to **Bill Ma, P.Eng.**
- Report to the Discipline Committee from the Investigation Committee.
- Pre-Hearing Report.
- Written Complaint from the complainant, (name redacted), P.Eng.
- Threshold Review Report for the Investigation Committee.
- Response from **Bill Ma, P.Eng.**

### **Summary of Evidence as Determined by the Hearing Panel**

The whole of the evidence available to the Hearing Panel was presented as exhibits.

The Investigation Committee rested its case.

**Bill Ma, P.Eng.** provided his comments on the exhibits but entered no additional documents into evidence.

### **Findings of Fact**

The Hearing Panel made the following findings of fact:

1. **Bill Ma, P.Eng.** prepared drawings that included the words “For Permit” and included an electronic reproduction of his professional seal and signature.
2. The drawings were transmitted to an individual described by **Bill Ma, P.Eng.** as a friend.
3. The drawings became public and the complainant observed and reported deficiencies to **Bill Ma, P.Eng.** and APEGS.
4. The drawings were not marked as preliminary, not for construction, or something similar to indicate they were not final.
5. The drawings were prepared under the corporate name AACG Ltd. and AACG Ltd. did not have a Certificate of Authorization when the drawings were prepared.

### **Analysis**

Section 21 of the Act governs the use of professional seals by members and provides as follows:

“(1) Every licensee is entitled, in accordance with the bylaws, to sign and seal all final drawings, specifications, plans, reports and other documents prepared or approved by him or her.

(2) ...

(3) ...

(4) Every licensee shall sign and seal, in accordance with the bylaws, all final drawings, specifications, plans, reports and other documents relating to the practice of professional engineering or the practice of professional geoscience that he or she issues.”

Section 30 of the Act defines professional misconduct as follows:

"Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;

- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act or the Bylaws; or
- (d) it is a failure to comply with an order of the investigation committee, the discipline committee or the council."

Further, subsection 20(1) of the Bylaws states:

"All members and holders of temporary licences shall recognize this code as a set of enduring principles guiding their conduct and way of life and shall conduct themselves in an honourable and ethical manner, upholding the values of truth, honesty and trustworthiness, and shall safeguard human life and welfare and the environment."

Further, subsection 20(2)(a) of the Bylaws state:

"...members and licensees shall:

- (a) hold paramount the safety, health and welfare of the public and the protection of the environment and promote health and safety within the workplace;
- ..."

And, section 25 of the Bylaws state:

"The member under whose direct technical supervision documents are prepared shall affix his or her seal in a prominent location on the document and shall sign and date it."

### **Decision**

The Hearing Panel determined that **Bill Ma, P.Eng.** breached subsection 20(1) of the Bylaws by failing to follow the enduring principles established in the Code of Ethics.

Further, the Hearing Panel determined that **Bill Ma, P.Eng.** breached subsection 20(2)(a) of the Bylaws by failing to protect the safety, health and welfare of the public, by releasing drawings that could reasonably be viewed by a member of the public as final drawings. The drawings were not marked as preliminary, not for construction, or something similar to indicate they were not final and had an electronic reproduction of his professional seal and signature.

Section 21 of the Act provides that professional seals may only be applied to final drawings. By applying a professional seal or an electronic reproduction of a professional seal to preliminary drawings, **Bill Ma, P.Eng.** breached section 21 of the Act.

The Panel acknowledged that the seal was signed, although it was not dated as per section 25 of the Bylaws. However, a member of the public would not be informed enough to notice that detail and neither did the complainant, an engineer, make note of that in their complaint.

The above breaches by **Bill Ma, P.Eng.** constituted professional misconduct as defined in section 30 of the Act, in that his conduct was a breach of both the Act and the Bylaws.

### **Disposition**

The Investigation Committee and the member were asked for Submissions as to Disposition.

In the Submissions as to Disposition, the Investigation Committee provided a Brief of Law and cited Casey, *Regulation of Professions*, 2005 – Release 1, section 14.2, Purposes of Sentencing, pages 14-5 to 14-9 and Salte, *The Law of Professional Regulation*, 2015 – Chapter 8.2, Penalty – Principles, 233-246.

**Bill Ma, P.Eng.** provided an oral response to the Submissions as to Disposition.

The Hearing Panel acknowledged that the fundamental purpose of sentencing for professional misconduct is the protection of the public. **Bill Ma, P.Eng.** demonstrated a fundamental lack of understanding of the use of the professional seal and the impact of a stamped, incorrect document getting into the hands of the public. The risk was that if construction was undertaken with the submitted documents, no matter their intent and no matter how they got to the public, the public would be subjected to a real risk and the profession would be negatively impacted. The control and use of the seal is the issue in question and the orders related to that as a finding from this committee are as such.

The Hearing Panel also considered the following factors when determining its sentence:

- nature and gravity of conduct proven.
- effect on the victim.
- advantage gained, or to be gained, by the member.
- the number of times the offending conduct occurred.
- the possibility of remediating or rehabilitating the member.
- need to ensure the public's confidence in the integrity of the profession.
- risk to public safety.
- specific deterrence of the member from engaging in further misconduct.
- general deterrence of other members of the profession.
- punishment of the offender.

- denunciation by society of the conduct.
- range of sentences in other cases.

The Hearing Panel also considered mitigating circumstances:

- age and experience of the member at the time the action(s) occurred.
- previous character of the member.
- history of the member's professional conduct.
- member's acknowledgement of responsibility and steps taken to disclose and redress the wrong.
- effect on the member of criminal or other sanctions or penalties.
- effect of the proposed penalty on the member.

### **Order**

Having considered all the above, the Hearing Panel ordered as follows:

1. That **Bill (Xiangjun) Ma, P.Eng.** is hereby reprimanded for professional misconduct.
2. That **Bill (Xiangjun) Ma, P.Eng.** shall attend and provide proof of attendance at the APEGS Law and Ethics Seminar and pass the Professional Practice Examination, at his own expense.
3. That from the date of the hearing, **Bill (Xiangjun) Ma, P.Eng.** shall practice under the supervision of a professional engineer approved by the Registrar of the Association or have his professional engineering work reviewed by a professional engineer approved by the Registrar of the Association, at his own expense. This arrangement shall continue for a period of one year after passing the Professional Practice Exam.
4. As a condition of providing professional engineering consulting services, **Bill (Xiangjun) Ma, P.Eng.** shall obtain Permission to Consult from the Association.
5. As a condition of providing professional engineering consulting services through the corporation AACG Ltd., **Bill (Xiangjun) Ma, P.Eng.** shall have the corporation obtain a Certificate of Authorization from the Association.
6. That **Bill (Xiangjun) Ma, P.Eng.** shall pay costs of the investigation and hearing into the member's conduct. Costs shall be assessed to a maximum of \$1,500.00 (one thousand five hundred dollars).
7. That **Bill (Xiangjun) Ma, P.Eng.** is hereby ordered to pay to the Association of Professional Engineers and Geoscientists of Saskatchewan a fine of \$500.00 (five hundred dollars).
8. That **Bill (Xiangjun) Ma, P.Eng.** shall have 12 months from the date of this Decision and Order to pay the amount of the fine and costs.
9. That the Decision and Order shall be published on the APEGS website and in *The Professional Edge*, with names.

Failure to comply with any of the foregoing orders of the Hearing Panel shall result in **Bill (Xiangjun) Ma, P.Eng.** being suspended from the Association of Professional Engineers and Geoscientists of Saskatchewan and shall remain suspended until there has been compliance with the orders.

Respectfully submitted and ordered on behalf of the Discipline Committee at Regina, Saskatchewan, this 23rd day of May 2022.

*Original signed by Panel*

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Peter Jackson, P.Eng., Chair, Hearing Panel

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Daryl Andrew, P.Eng., Member, Hearing Panel

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Larry Doke, Member, Hearing Panel

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Chanelle Joubert, P.Geo., Member, Hearing Panel

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Clare O'Dowd, P.Geo., Member, Hearing Panel