

IN THE MATTER OF *THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT* AND IN THE MATTER OF AN INVESTIGATION RESPECTING **P. GEOFFREY PYBUS, P.Eng.**

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**DECISION AND ORDER**

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**MEMBERS OF THE HEARING PANEL:**

Grant Gingara, P.Eng., Chair of the Hearing Panel  
Dwayne Entner  
Connor Wright, P.Eng.  
Jody Scammell, P.Eng.  
Dave Rezansoff, P.Geo.

**COUNSEL FOR INVESTIGATION COMMITTEE:**

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

**COUNSEL FOR MEMBER:**

Guy Lacourciere, LL.B.

**COUNSEL FOR DISCIPLINE COMMITTEE:**

Christopher Boychuk, LL.B.

## The Complaint

The following complaints were made by the Investigation Committee of the Association of Professional Engineers and Geoscientists of Saskatchewan (the "Association") in its report to the Discipline Committee dated 29 July, 2013 with respect to the conduct of P. GEOFFREY PYBUS, P.Eng.:

1. Mr. P. Geoffrey Pybus, P.Eng., a member of the Association of Professional Engineers and Geoscientists of Alberta, is guilty of professional misconduct in that he permitted his professional stamp issued by the Association of Professional Engineers and Geoscientists of Alberta to be physically located in a manner which would allow its use by a person other than himself, contrary to Regulation 54(2) of *The Engineering and Geoscience Professions General Regulation* made pursuant to *The Engineering and Geoscience Professions Act* (Alberta), and thereby contrary to subsections 30(a), 30(b) and 30(c) of *The Engineering and Geoscience Professions Act* (Saskatchewan) and the Code of Ethics contained in subsections 20(1) and 20(2)(a) of *The Engineering and Geoscience Regulatory Bylaws* (Saskatchewan).
2. Mr. P. Geoffrey Pybus, P.Eng., a member of the Association of Professional Engineers and Geoscientists of Alberta, as the professional member taking responsibility for DFK Engineering Canada Ltd., failed to provide adequate personal supervision and/or control over the practice of engineering conducted by DFK Engineering Canada Ltd. as required in his position as responsible member for that company, in contravention of Section 24 of *The Engineering and Geoscience Professions Act* (Alberta) and/or Section 48 of *The Engineering and Geoscience Professions General Regulation* (Alberta), and thereby contrary to Subsections 30(a), 30(b) and 30(c) of *The Engineering and Geoscience Professions Act* (Saskatchewan) and the Code of Ethics contained in Subsections 20(1) and 20(2)(a) of *The Engineering and Geoscience Regulatory Bylaws* (Saskatchewan).
3. Mr. P. Geoffrey Pybus, P. Eng., provided engineering services without first obtaining permission to consult, contrary to Subsection 17(2) of *The Engineering and Geoscience Professions Regulatory Bylaws* (Saskatchewan) and/or Subsections 30(a), 30(b) and 30(c) of *The Engineering and Geoscience Professions Act* (Saskatchewan).
4. Mr. P. Geoffrey Pybus, P.Eng., provided engineering services without first obtaining permission to consult, contrary to Subsection 17(2) of *The Engineering and Geoscience Professions Regulatory Bylaws* (Saskatchewan) and/or Subsections 30(a), 30(b) and 30(c) of *The Engineering and Geoscience Professions Act* (Saskatchewan).

## The Discipline Committee

The Discipline Committee received the report dated 29 July, 2013 from the Investigation Committee and appointed Grant Gingara, P.Eng., Dwaine Entner, Connor Wright, P.Eng., Jody Scammell, P.Eng., and Dave Rezansoff, P.Geo. to constitute a Hearing Panel to hear the complaints against P. GEOFFREY PYBUS, P.Eng.

## The Discipline Hearing

A notice of Discipline Hearing attached as Exhibit "B" was served to P. GEOFFREY PYBUS, P.Eng. pursuant to the current *Engineering and Geoscience Professions Act* (herein known as "*The Act*") and the *Engineering and Geoscience Professions Bylaws* (herein known as "*The Bylaws*"), with respect to the above complaints.

The Discipline Hearing was convened at 10:30 a.m., 27 November, 2015 in the Venice Room of the Radisson Hotel located at 405 20<sup>th</sup> Street East, Saskatoon, Saskatchewan.

At the outset of the hearing, the parties confirmed that there were no objections and agreed that the Hearing Committee had the jurisdiction to hear and determine the Complaint.

The Investigation Committee was represented by Lyle Jones, P.Eng., LL.B. and Chris Wimmer, P.Eng., Director of Professional Standards.

P. GEOFFREY PYBUS, P.Eng. was present and represented by Guy Lacourciere, LL.B. who attended by telephone.

Royal Reporting Services Ltd. provided a court reporter, and the proceedings were recorded.

## Evidence Presented to the Hearing Panel

The only evidence introduced during the Hearing was on agreement of counsel for the Member and for the Investigation Committee as follows:

- A. Report to the Discipline Committee from the Investigation Committee on File 33-12-03 (the formal complaint)
- B. Joint Submission as to the Facts
- C. Evidence in support of Exhibit B
- D. Documents considered by the Investigation Committee.

The Joint Submissions as to the Facts contained an admission by the Member of the conduct alleged and that such conduct constitutes professional misconduct with respect to each of the four counts. The Hearing panel then retired to consider the

evidence entered by the parties in order to determine whether professional misconduct was made out under *The Act*.

### **Analysis and Decision**

The evidence included, amongst other things, an "Agreed Statement of Facts and Admissions of Unprofessional Conduct" put before the Discipline Committee of the Association of Professional Engineers and Geoscientists of Alberta as well as the factual findings made by that Discipline Committee in its decision dated 31 July, 2012. Notwithstanding the Member's admission, it is the responsibility of the Hearing Panel in this matter to determine whether the conduct admitted to by the Member constitutes professional misconduct within the meaning of section 30 of *The Act*.

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 dishonorable, 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 council."

### **Complaint 1**

The allegation is that the Member permitted his professional stamp issued by the Association of Professional Engineers and Geoscientists of Alberta to be physically located in a manner which would allow its use by a person other than himself contrary to section 30 of *The Act* as well as sections 20(1) and 20(2)(a) of the Code of Ethics of the Association which reads:

20(1) 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, honest and trustworthiness, and shall safeguard human life and welfare and the environment.

(2) Without restricting the generality of subsection (1), 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.

The Member admitted that at all material times he resided in Saskatoon, Saskatchewan. His professional stamp issued by Association of Professional

Engineers and Geoscientists of Alberta, however, was located in the offices of DFK Engineering Canada Ltd. in Calgary, Alberta. The stamp itself was not located in a secure location within DFK's offices and was accessible to DFK employees. This would potentially allow for the use of the Member's stamp by unauthorized individuals.

The Hearing Panel finds that Mr. Pybus' conduct in relation to the use of his professional stamp constitutes professional misconduct within the meaning of section 30 and is a breach of section 20(1) and (2) of the Code of Ethics. The importance of the proper use of an engineer's professional stamp cannot be understated. It signifies to any individual using those plans, design and documents that they were prepared by, or under the supervision of, an individual with the necessary education, experience and qualifications so that they may be safely relied upon. To allow an unauthorized use of the stamp poses a risk to the safety, health and welfare of any party relying on the documents or using a structure that has been constructed based on those documents.

### **Complaint 2**

The allegation is that the member failed to provide adequate personal supervision and/or control over the practice of engineering as conducted by a company he was involved in, DFK Engineering Canada Ltd, as required by his position as a responsible member within that company. The Member had been an officer of DFK at various times. While DFK had obtained a permit to practice from the Association of Professional Engineers and Geoscientists of Alberta and the Member was the Responsible Member for DFK in Albert. DFK was involved in providing engineering services to a large condominium project located in Aidrie, Alberta known as the "Crown Shores Project". The Member acknowledged that he had failed to provide direct personal supervision and responsibility for the engineering work being performed by DFK in relation to the Crown Shores Project. In particular, there were a number of issues and problems encountered with the engineering work that had been performed by DFK for the Crown Shore Project. The Member admitted that he did not become directly involved in dealing with those engineering problems and had inappropriately relied on another individual, who is not an engineer, within DFK to manage these issues.

The Hearing Panel finds that the Member's conduct in relation to the engineering activities of DFK on the Crown Shore Project constituted professional misconduct. The failure of the member to adequately supervise the engineering activities of DFK and inappropriately relying on individuals who are not professional engineers, put the safety, health and welfare of individuals potentially at risk as a result of the failure of the structure. Such conduct is harmful to the best interests of the public, harms the standing of the profession and constitutes a breach of sections 20(1)(2) of the Code of Ethics.

### Complaints 3 and 4

The allegation is that the Member provided consulting and engineering services without first obtaining permission to consult contrary to the subsection 17(2) of the *Engineering and Geoscience Professions Regulatory Bylaws* (Saskatchewan). In particular, with respect to consulting and engineering services for the design of electrical conduit, lighting, receptacle and HVAC systems in modular classrooms to Modus Modular building in July of 2011. Also, he provided consulting and engineering services for the design of exterior walls and stairwell for the Tumback residence in Saskatoon in March of 2012.

Section 17(1) and (2) of the Regulatory Bylaws state:

17(1)(a) “consulting engineering or geoscience services” means engineering or geoscience services provided by a member to be used by persons other than the employer of that member.

(2) A member shall not provide or offer to provide consulting engineering or geoscience services, directly or indirectly, without first obtaining permission to consult.

The Member admitted that he provided these consulting services without obtaining a Permission to Consult pursuant to section 17(2) of the Regulatory Bylaw. Further, a certificate was provided by the Registrar of the Association that at all relevant times the Member did not hold a Permission to Consult from the Association.

The Hearing Panel finds that the Member’s failure to comply with section 17 of the Regulatory Bylaws constitutes a breach of section 30(c) of *The Act* and therefore constitutes professional misconduct.

### Order

Counsel for the Member and the Investigation Committee submitted to the Hearing Panel a Joint Submission as to Disposition, which was marked as Exhibit “E” at the hearing. In the Joint Submission, the parties proposed the following Disposition if the Member should be found guilty of professional misconduct:

- A. That the Member pay costs of the Investigation and Discipline Hearing to a maximum of \$5,000.00;
- B. That the Member’s membership in the Association be suspended until termination of the APEGA five-year non-practice discipline order or payment of costs and meeting of readmission or reinstatement conditions, whichever shall last occur;
- C. That as an alternative to suspension, the Member be permitted to resign his membership in the Association for the same period of time;

- D. That as a condition of any application for readmission to or reinstatement of membership in the Association, the Member attend the APEGS Law and Ethics Seminar and pass a Professional Practice Examination of a Canadian Provincial Association of Professional Engineers;
- E. That the particulars of the disposition and sentence be published in the Professional Edge, with names.

The Hearing panel gave consideration to the Joint Submission of the parties in determining an appropriate Disposition and Order in this case. The Hearing Panel considered the decision made by the Discipline Committee of the Association of Professional Engineers and Geoscientists of Alberta. In that case, a similar Disposition was made although the Member was allowed to voluntarily withdraw from the Alberta Association for a period of 5 years. The Hearing Panel finds that the general terms of the Joint Submission is an appropriate penalty given the Member's conduct. The Hearing Panel therefore orders:


- A. That the member pay costs to the Association in an amount fixed at \$5,000.00 to be paid within 90 days of the date of this Order;
- B. That the member be suspended from the Association until:
  - i) The expiry on 9 July, 2017 of his voluntary undertaking to withdraw membership in the Association of Professional Engineers and Geoscientists of Alberta;
  - ii) The payment of the costs set out in para. A above; and
  - iii) The meeting of the readmission or reinstatement conditions set out in para. C below;

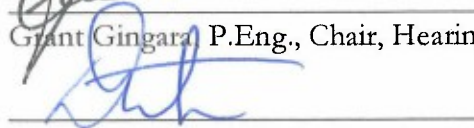
whichever shall last occur.

- C. That as a condition of any application by the member for readmission to or reinstatement of membership in the Association, the Member shall attend the Association's Law and Ethics Seminar and shall pass a professional practice examination administered by a Canadian Provincial Association of Professional Engineers;
- D. That the particulars of this Disposition and Sentence shall be published in the Professional Edge, with names.

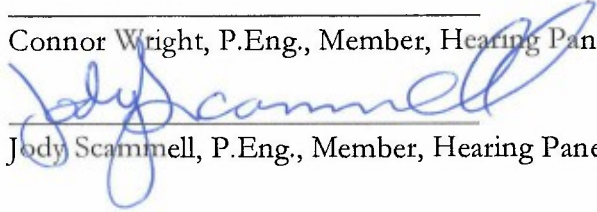
Failure to comply with any of the foregoing orders of the Hearing Panel shall result in P. GEOFFREY PYBUS, P.Eng. remaining suspended from the Association of Professional Engineers and Geoscientists of Saskatchewan until the orders have been complied with.

Respectfully submitted and ordered by the Discipline Committee at  
Saskatoon, Saskatchewan this 23<sup>rd</sup> day of December, 2015.

  
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Grant Gingara, P.Eng., Chair, Hearing Panel

  
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Dwaine Entner, Member, Hearing Panel

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Connor Wright, P.Eng., Member, Hearing Panel

  
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Jody Scammell, P.Eng., Member, Hearing Panel

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Dave Rezansoff, P. Geo., Member, Hearing Panel



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Grant Gingara, P.Eng., Chair, Hearing Panel

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Dwaine Entner, Member, Hearing Panel

*Connor Wright*

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Dave Rezanoff, P.Geo., Member, Hearing Panel

Respectfully submitted and ordered by the Discipline Committee at  
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Grant Gingara, P.Eng., Chair, Hearing Panel

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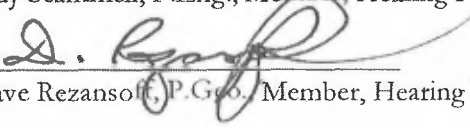
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