

IN THE MATTER OF *THE ENGINEERING AND GEOSCIENCE
PROFESSIONS ACT* AND IN THE MATTER OF AN INVESTIGATION
RESPECTING JAMES C. HUM, P.ENG. .

DECISION AND ORDER

MEMBERS OF THE HEARING PANEL:

Ian Flegel, P.Eng., Chair

Dwaine Entner, Public Appointee

Jon Gillies, P.Eng. (Ret), FEC, FCSSE, FGC (Hon.)

Brent Marjerison, P.Eng., FEC

COUNSEL FOR INVESTIGATION COMMITTEE:

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

COUNSEL FOR MEMBER:

None Appeared

REPORT OF THE HEARING PANEL APPOINTED AND EMPOWERED BY THE DISCIPLINE COMMITTEE OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF SASKATCHEWAN PURSUANT TO SECTIONS 33, 34, AND 35 OF THE CURRENT ENGINEERING AND GEOSCIENCE PROFESSIONS ACT, AND SECTION 22(4) OF THE CURRENT ENGINEERING AND GEOSCIENCE PROFESSIONS REGULATORY BYLAWS, TO HOLD A HEARING INTO THE CONDUCT OF JAMES C. HUM, P.ENG. .

The Complaint

The following complaint(s) were made by the Investigation Committee of the Professional Engineers and Geoscientists of Saskatchewan with respect to the conduct/competence of **JAMES C. HUM, P.ENG. .**

The APEGS Council met October 11, 2013 and passed a motion requesting the Investigation Committee initiate an investigation into allegations of professional misconduct and/or professional incompetence against James C. Hum, P.Eng., referenced as exhibit I1. Council passed this motion with respect to the determination against Mr. James C. Hum by a panel of the discipline committee of the Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) on July 8 and 9, 2013 and the subsequent order on penalty and costs from APEGBC on August 27, 2013. On December 4, 2013 the Investigation Committee passed a motion ordering Mr. James C. Hum, referenced as exhibit I5, to provide the Investigation Committee with information and particulars.

Subsection 32(1) of The Engineering and Geoscience Professions Act requires that when requested by Council the Investigation Committee shall conduct an investigation. The Investigation Committee of the Association of Professional Engineers and Geoscientists of Saskatchewan provides this report with respect to the conduct of Mr. James C. Hum, P.Eng., a member of the said Association.

The Investigation Committee recommends the hearing of a complaint that Mr. James C. Hum, P.Eng., did commit acts of professional misconduct, contrary to the provisions of subsections 30(d) of The Engineering and Geosciences Professions Act, in that he has failed to comply with an order of the Investigation Committee, the particulars of which include:

- 1. Mr. James C. Hum, P.Eng. was notified by letter of October 15, 2013 that the Council of The Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS) had passed a motion requesting the Investigation Committee initiate an investigation into allegations of professional misconduct and/or professional incompetence*

against him. In the letter of October 15, 2013 Mr. James C. Hum was requested to provide the Investigation Committee with detailed information. The Investigation Committee has not received any information from Mr. James C. Hum regarding this matter.

2. *On December 4, 2013 the Investigation Committee passed a motion ordering Mr. James C. Hum to provide information and particulars with respect to any engineering services provided since 1998 for projects or facilities located in Saskatchewan and that the information and particulars be received at the APEGS office on or before January 24, 2014. Mr. Hum was also ordered to respond to the correspondence of October 15, 2013 requesting his response to this investigation. The order of the Investigation Committee was sent to Mr. James C. Hum, P.Eng. by registered mail on December 11, 2013. The Investigation Committee has not received any information from Mr. James C. Hum in response to the order of the Investigation Committee.*

This complaint was made by the Investigation Committee of the Association of Professional Engineers and Geoscientists of Saskatchewan pursuant to the provisions of Subsection 32(3)(a) of The Engineering and Geoscience Professions Act.

The Discipline Committee

Discipline Committee Chair received a report from the Investigation Committee on December 11, 2014 and appointed Ian Flegel, P.Eng., Dwaine Entner, Public Appointee, Jon Gillies, P.Eng. (Ret), FEC, FCSSE, FGC (Hon.) and Brent Marjerison, P.Eng., FEC. to constitute a Hearing Panel to hear the complaints against JAMES C. HUM, P.ENG. .

The Discipline Hearing

A notice of Discipline Hearing attached as Exhibit I10 was served to JAMES C. HUM, P.ENG. by the Association of Engineers and Geoscientists of Saskatchewan (herein known as "APEGS") pursuant to the current *Engineering and Geoscience Professions Act* (herein known as "*The Act*") and the current *Engineering and Geoscience Professions Bylaws* (herein known as "*The Bylaws*"), with respect to the above complaints.

The Discipline Hearing was convened *January 15, 10:00 a.m.*, at the Royal Executive Suites, 4025 Albert Street South, Regina, Saskatchewan, Canada, S4S 3R6.

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

A fifteen minute recess was taken at 10:19 a.m. to allow Chris Wimmer, P.Eng. to confirm if **James C. Hum, P.Eng.** had appeared at the Association office, made contact with the **APEGS** office or the Royal Executive Suites front desk, or if he was waiting for the hearing to begin in the public lobby or restaurant areas of the venue. **JAMES C. HUM, P.ENG.** did not make contact with the Association or Royal Executive Suites front desk staff, was not present at the venue and was not represented by legal counsel.

The following Exhibits were entered into evidence and are appended hereto:

- I1. Certificate of **APEGS** Registrar regarding Council Motion Passed October 11, 2103.
- I2. Memo to the Investigation Committee from Robert H. McDonald, P.Eng., Director of Membership and Legal Services, **APEGS**, regarding Council's request to investigate James C. Hum., P.Eng.
- I3. APEGBC document comprised of four Amended Notices of Inquiry, the Determination and the Discipline Panel Order on Penalty and Costs.
- I4. Letter dated October 15, 2013, from **APEGS** regarding Notice of Investigation to **James C. Hum, P.Eng.**.
- I5. Certificate of **APEGS** Registrar regarding Council Motion Passed December 14, 2103.
- I6. Letter dated October 15, 2013 from **APEGS** Investigation Committee regarding non-compliance to Notice of Investigation to **James C. Hum, P.Eng.**, and registered letter postage tracking number RW667757368CA.
- I7. Letter dated December 16, 2014, to the Discipline Committee from Dennis K. Paddock, P.Eng., FEC, FCSSE, FCAE, FGC (Hon.), Executive Director and Registrar, **APEGS**, regarding Council's request to hear and determine formal complaint against **James C. Hum, P.Eng.** and report to the Discipline Committee dated April 9, 2014.
- I8. Letter dated August 27, 2014 from Chris Wimmer, P.Eng., Director of Professional Standards, **APEGS**, regarding Pre-Hearing conference and registered letter postage tracking number 3982 4839 9029 6534.
- I9. Letter dated October 6, 2014, from Maria Lynn Freeland regarding the outcome of the Pre-Hearing Conference September 8, 2014, Queen's House Retreat, Saskatoon, Saskatchewan.
- I10. Affidavit of Service by Process Server, who delivered the Notice of Discipline Hearing and the report of the Pre-Hearing Conference outcome to **JAMES C. HUM, P.ENG.**.

Summary of Evidence as Determined by the Hearing Panel

The whole of the evidence available to the Hearing Panel is contained in Exhibits I1 thru I10. These documents confirm the actions of **JAMES C. HUM, P.ENG.** which are alleged by the Investigation Committee to constitute professional misconduct.

Evidence Presented and Statement of Facts as Determined by the Hearing Panel

Evidence introduced during the Hearing is contained in Exhibits I1 thru I10, and are attached to this Decision and Order.

Chris Wimmer, P.Eng., Director of Professional Standards, APEGS, confirmed that **JAMES C. HUM, P.ENG.** was a member of APEGS during all times material to this investigation and hearing. **JAMES C. HUM, P.ENG.** was a current member with APEGS until January 31, 2014. **JAMES C. HUM, P.ENG.** did not renew his membership after January 31, 2014. Under section 28.2 (1) of *The Act*, proceedings can be commenced against a former member within two years after the day he or she became a former member.

After numerous attempts by the Association to contact him to fully disclose the specifics of the complaint that gave rise to the investigation, and facilitate a Pre-Hearing Conference, **JAMES C. HUM, P.ENG.** did not comply to the requests and orders or participate in any component of the process except to verbally acknowledge his identity when served the Notice of Discipline Hearing on December 17, 2014.

Analysis and Judgment

Section 29 of *The Act* defines professional incompetence as follows:

"Professional incompetence is a question of fact, but the display by a member of:

- (a) a lack of knowledge, skill or judgment; or
- (b) a disregard for the welfare of members of the public served by the profession;

of a nature or to an extent that demonstrates that the member is unfit to continue in the practice of the profession, is professional incompetence within the meaning of this Act."

While the initial complaint raised issues of incompetence, they are not addressed by this hearing and decision. Issues of incompetence may be addressed at a future hearing or continuation of this hearing.

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."

James C. Hum, P.Eng. received a request from Chris Wimmer, P.Eng., Director, Professional Standards, APEGS, followed by an order of the Investigation Committee, to respond:

1. **James C. Hum, P.Eng.** failed to respond to Chris Wimmer's request dated October 15, 2013 to provide detailed information related to the findings against him by APEGBC. This information was necessary so that the APEGS Investigation Committee could conduct a threshold review.

and

2. **James C. Hum, P.Eng.** failed to respond to the Investigation Committee order of December 4, 2013, to provide information and particulars with respect to any engineering services provided since 1998 for projects or facilities located in Saskatchewan.

James C. Hum, P.Eng. also received a letter December 11, 2013 from the Investigation Committee warning him that failure to comply with an order of the Investigation Committee would contravene S30 of *The Act* and by definition, constitute professional misconduct.

James C. Hum, P.Eng. also received letter July 18, 2014 from Dennis Paddock, P.Eng., FEC, FCSSE, FCAE, FGC(hon.), APEGS's Executive Director and Registrar, notifying him of a Pre-Hearing Conference of September 8, 2014. On August 27, 2014, **James C. Hum, P.Eng.** was reminded by letter from Chris Wimmer, P.Eng. that the Pre-Hearing Conference was set for September 8, 2014. In Exhibit I9, Maria Lynn Freeland, an independent mediator, in her report, advised that **James C. Hum, P.Eng.** did not appear and that in her opinion, **James C. Hum, P.Eng.** was provided ample opportunity to participate in the mediation Pre-Hearing Conference. She stated that he chose not to make contact with any of the parties. This is further evidence of **James C. Hum, P.Eng.**'s misconduct.

James C. Hum, P.Eng. was personally served with the notice of Discipline Hearing on December 17, 2014. He was identified by means of verbal acknowledgement to the Process Server. **James C. Hum, P.Eng.** failed to appear at the hearing on January 15, 2015.

These statements and exhibits confirm that the failure of **JAMES C. HUM, P.ENG.** to respond to the request from Chris Wimmer, P.Eng., Director, Professional Standards, APEGS, and the order of the Investigation Committee, constitute professional misconduct. The Discipline Panel has conclude that professional misconduct has been proven.

The Investigation Committee also provided compelling evidence which suggests that there are issues of professional incompetence. Public safety is a paramount concern of **APEGS**, its members, and the Discipline Committee. The Discipline Panel

S35(1)(f) of *the Act* allows **APEGS's** Discipline Committee to make any other order that the Discipline Committee considers just. In this case, because of issues of public safety, the Discipline Panel has decided that **JAMES C. HUM, P.ENG.** must not practice until the issues of competence have been dealt with.

Decision and Order

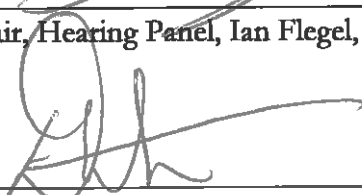
The Hearing Panel orders as follows:

1. **JAMES C. HUM, P.ENG.** is hereby reprimanded for professional misconduct.
2. **JAMES C. HUM, P.ENG.** is hereby ordered to pay to the actual costs of the Association of Professional Engineers and Geoscientists of Saskatchewan, not to exceed the sum of \$10,000.00, for investigation and hearing costs in accordance with S 35 (1)(2)(a)(ii) of *The Act*.
3. **JAMES C. HUM, P.ENG.** is hereby ordered to pay to the Association of Professional Engineers and Geoscientists of Saskatchewan, a fine of \$5,000.00 in accordance with S35(2)(a)(i) of *The Act*.
4. **JAMES C. HUM, P.ENG.** is suspended as a member of the Association of Professional Engineers and Geoscientist of Saskatchewan :
 - a. pending compliance with this decision, and
 - b.
 - c. until compliance with further orders of this Discipline Panel.

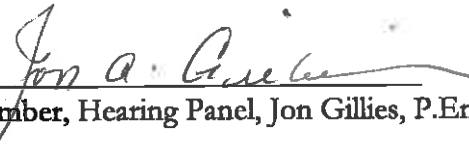
Regina, SK this 22 day of January



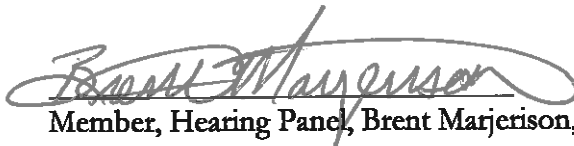
Chair, Hearing Panel, Ian Flegel, P. Eng.



Member, Hearing Panel, Dwaine Entner, Public Appointee



Member, Hearing Panel, Jon Gillies, P.Eng. (Ret), FEC, FCSSE, FGC (Hon.)



Member, Hearing Panel, Brent Marjerison, P.Eng., FEC