

**IN THE MATTER of the *ENGINEERS AND GEOSCIENTISTS ACT*
R.S.B.C. 1996, c. 116 (as amended)**

and

SVEN E. HAGE

DETERMINATION OF THE DISCIPLINE COMMITTEE ON LIABILITY

Discipline Committee Panel:

Paul Adams, P.Eng.(Chair)
Paul Blanchard, P.Eng.
Colin Smith, P.Eng.

Counsel for Association:

Robert Hunter

No one appearing on behalf of Mr. Hage

INTRODUCTION

A Discipline Committee Panel (the "Panel") of the Association of Professional Engineers and Geoscientists of British Columbia (the "Association"), under the authority of the *Engineers and Geoscientists Act*, RSBC 1996 c. 116 as amended (the "*Act*") held an Inquiry to examine the alleged contraventions of the *Act* by Sven E. Hage.

Mr. Hage is a former member of the Association. He did not appear at the Inquiry and no one appeared on his behalf. A Certificate of Registration signed by the Association's Registrar was entered into evidence certifying that Mr. Hage was a member of the Association from January 30, 2001 to March 21, 2005.

The hearing took place in the Association's Boardroom on September 13, 2005. The charge against Mr. Hage was as follows:

"That you have demonstrated unprofessional conduct by your failure to comply with the Investigation Committee's request for information pursuant to section 30(4) of the Act, set forth in the letter from the Association to you dated May 5, 2005.

The Panel heard the evidence on liability and on the conclusion of the Association's case took a brief recess to consider liability. The Panel advised Mr. Hunter that it found Mr. Hage liable with written reasons to follow. The Panel then heard the Association's submissions on Penalty. The following are the Panel's written reasons for its determination on liability.

BURDEN AND STANDARD OF PROOF

Mr. Hunter opened with a summary of the intended proceedings and advised the Panel with respect to the burden of proof upon the Association and the standard of proof that the Panel must apply in reaching its decision in the matters before it.

Mr. Hunter said that the standard is as stated by Madame Justice McLachlan in *Dr. William Jory v The College of Physicians and Surgeons of British Columbia* (unreported, December 13, 1985), which reads in part:

"The standard of proof required in cases such as this is high. It is not the criminal standard of proof beyond a reasonable doubt. But it is something more than a bare balance of probabilities. The authorities establish that the case against a professional person on a disciplinary hearing must be proved by a fair and reasonable preponderance of credible evidence....The evidence must be sufficiently cogent to make it safe to uphold the findings with all the consequences for the professional person's career and status in the community..."

READING OF THE CHARGE

Mr. Hunter read out the charge as presented in the Notice of Inquiry dated the 11th day of August, 2005 (Exhibit 1, Tab 1). Mr. Hunter advised that Mr. Hage was deemed to have entered a "Not Guilty" plea to the charges.

EVIDENCE

Mr. Hunter entered into evidence the following:

- A Cirlox binder (marked as Exhibit 1) containing four tabs as follows:
 - the Notice of Inquiry;
 - registered mail envelope and enclosure;
 - the *Engineers and Geoscientists Act*;
 - the Bylaws of the Association

- copies of letters, reports and Minutes from the investigation file relating to the complaint against Mr. Hage, as well as a Certificate from the Registrar, an Affidavit regarding service, and two courier Delivery Notifications (marked as Exhibits 2 - 10).

Mr. Hunter called Geoff Thiele, Associate Director, Regulatory Compliance, of the Association as his only witness.

BACKGROUND FACTS

The Association received a formal complaint from one of its members regarding Mr. Hage's work on a project in Kelowna, B.C. Mr. Thiele, on behalf of the Association, sent a letter dated April 7, 2005 to Mr. Hage requesting his response to the complaint to the last address for Mr. Hage on file with the Association. No response was received to that letter.

Mr. Thiele prepared a report to the Investigation Committee for the signature of Ross Rettie, P.Eng., who is the designated member under section 29 of the *Act*, providing the background to the complaint and the attempts to contact Mr. Hage. At its meeting on April 29, 2005, the Investigation Committee directed Association staff to write to Mr. Hage requesting a response to the complaint on or before May 24, 2005 as well as his complete file for the project. On May 5, 2005 Mr. Thiele sent a letter to Mr. Hage. Copies of courier Delivery Notices for both of Mr. Thiele's letters to Mr. Hage were entered into evidence. Mr. Thiele testified that both his letters were sent to the last address for Mr. Hage on file with the Association.

Mr. Thiele testified that no response was received to his letter of May 5, 2005 and that at no time did Mr. Hage contact him or the Association regarding the letters. This was reported to the Investigation Committee, which approved the Notice of Inquiry (Exhibit 1) as its recommendation that an inquiry be held in this matter for the reasons set out in the Notice.

ISSUES

The only issues are:

1. is Mr. Hage a "member" within the meaning of section 28 of the *Act*?
2. was Mr. Hage served with the Notice of Inquiry within the meaning of section 32(5) of the *Act*?
3. has Mr. Hage breached section 30(4) of the *Act*?

DECISION OF THE PANEL

The Panel finds Mr. Hage liable of the charge.

REASONS FOR JUDGMENT

After due consideration of the evidence the Panel unanimously concluded:

1. Mr. Hage is a member within the meaning of section 28 of the *Act*, which explicitly states that for the purposes of sections 29 to 35 of the *Act* (the investigation and discipline provisions), "member" includes a former member;
2. Mr. Hage was properly served with the Notice of Inquiry within the meaning of the *Act*; and
3. that, in the absence of any response from Mr. Hage, he has breached section 30(4) of the *Act*, as alleged in the Notice of Inquiry.

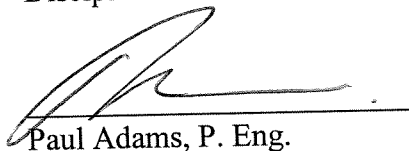
Therefore, the Panel finds that Mr. Hage has demonstrated unprofessional conduct by his failure to provide an acceptable response to the Investigation Committee's request for information.

PUBLICATION

The Panel is concerned regarding the potential public safety issues raised in the original complaint and that Mr. Hage's current whereabouts are unknown. The Panel requests that, in addition to its normal publication procedures, the Association staff notify engineering regulators throughout Canada and, where possible and at the Association staff's discretion, internationally, of Mr. Hage's liability.

Dated this 27th day of September, 2005.

Discipline Committee Panel:



Paul Adams, P. Eng.
Chair

IN THE MATTER of the *ENGINEERS AND GEOSCIENTISTS ACT*
R.S.B.C. 1996, c. 116 (as amended)

and

SVEN E. HAGE

DISCIPLINE COMMITTEE ORDER ON PENALTY AND COSTS

Discipline Committee Panel:

Paul Adams, P.Eng.(Chair)
Paul Blanchard, P.Eng.
Colin Smith, P.Eng.

Counsel for Association:

Robert Hunter

No one appearing on behalf of Mr. Hage

INTRODUCTION

A Discipline Committee Panel (the "Panel") of the Association of Professional Engineers and Geoscientists of British Columbia (the "Association"), under the authority of the *Engineers and Geoscientists Act*, RSBC 1996 c. 116 as amended (the "*Act*") held an Inquiry to hear submissions on penalty and costs with respect to Sven E. Hage.

The penalty hearing took place in the Association's Boardroom on September 13, 2005 following a determination earlier that same day that the allegations against Mr. Hage in the Notice of Inquiry had been proven to the requisite standard. The Panel gave its oral determination on liability on September 13, 2005 with written reasons to follow. Written reasons for the Panel's liability determination are being issued concurrently with this Order.

The charge proven against Mr. Hage was as follows:

“That you have demonstrated unprofessional conduct by your failure to comply with the Investigation Committee’s request for information pursuant to section 30(4) of the Act, set forth in the letter from the Association to you dated May 5, 2005.

PENALTY AND REASONS FOR PENALTY

The Discipline Panel reconvened following adjournment of the liability hearing and determination, and considered the Association’s submissions on penalty. In reaching its decision on penalty the Panel was guided by the belief that any penalty imposed on the member should reflect the following principles:

- the need for the protection of the public;
- the need to deter other members of the Association from similar actions;
- the need to deter Mr. Hage from repeating the offence; and
- the need for rehabilitation of Mr. Hage.

The Panel carefully considered all of the evidence and submissions and Orders, pursuant to section 33(2) of the *Act*, that Mr. Hage’s membership in the Association shall immediately be suspended and he shall remain suspended until completion of the following two requirements:

- 1) Mr. Hage must provide a complete response, acceptable to the Investigation Committee, to the Investigation Committee’s requests for information and documents, as presented in the Association’s letters of April 7 and May 5, 2005; and,
- 2) Mr. Hage must write and pass the Professional Practice Examination.

The Panel directs that, as Mr. Hage is already a former member of the Association, this Order and its terms be added to his APEGBC membership records as a condition precedent to reinstatement, in case Mr. Hage attempts to apply for reinstatement.

COSTS

The Panel has the authority under Section 35(1) of the Act to direct that the member pay the Association’s costs, or any part of the costs, for the investigation and inquiry, and the Panel may determine the amount of the costs to be paid.


After considering the submissions on costs from Mr. Hunter, the Panel orders that Mr. Hage pay a portion of the costs incurred by the Association in investigating, preparing for and conducting this inquiry hearing, that portion being the amount of \$3,000.00, as the Panel believes that the inquiry hearing was made necessary solely due to Mr. Hage’s failure to respond to the requests of the Investigation Committee and could have been avoided.

PUBLICATION

The Panel is concerned regarding the potential public safety issues raised in the complaint resulting in the unfulfilled information request and that Mr. Hage's current whereabouts are unknown. The Panel requests that, in addition to its normal publication procedures, the Association staff notify engineering regulators throughout Canada and, where possible and at the Association staff's discretion, internationally, of the terms of Mr. Hage's suspension under this Order.

Dated this 29th day of September, 2005.

Discipline Committee Panel:



Paul Adams, P. Eng.
Chair