

IN THE MATTER OF THE *ENGINEERS AND GEOSCIENTISTS ACT*
R.S.B.C. 1996, CHAPTER 116

and

IN THE MATTER OF LYNN JOHNSON, P.Eng.

Engineers and Geoscientists BC File No. T17-023

CONSENT ORDER

Background

1. On April 7, 2020, the Association of Professional Engineers and Geoscientists of the Province of British Columbia (the "Association"), also operating as Engineers and Geoscientists BC, issued a Notice of Inquiry to Lynn Johnson, P.Eng. ("Mr. Johnson") pursuant to s. 32 of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the "Act").
2. The Association and Mr. Johnson wish to resolve the matter by consent pursuant to section 32.1 of the *Act* in order to avoid the need for a disciplinary inquiry.

Admissions

3. Mr. Johnson admits the allegations set out in the Notice of Inquiry, namely that he:
 - a. Failed to comply with *Occupational Health and Safety Regulation*, B.C. Reg. 296/97, ss. 20.26.3 and 20.47(2) (the "Regulations"), when he permitted or directed ██████████ to conduct inspections of the concrete pumper truck ██████████ (the "Pumper Truck"), on August 14, 2009, January 16, 2010, February 7, 2012, January 29, 2013, January 10, 2014, January 10, 2015, and January 14, 2016 (the "WS Inspections"), when he knew or ought to have known that ██████████ was not a qualified person pursuant to the *Regulations*;
 - b. Failed to comply with the *Regulations* when he permitted or directed ██████████ to conduct an inspection of the Pumper Truck on January 24, 2011 (the "AS Inspection") when he knew or ought to have known that ██████████ was not a qualified person pursuant to the *Regulations*;
 - c. Signed and sealed the document titled Regular Concrete Pumper Inspection, dated September 9, 2009, January 19, 2010, January 28, 2011, February 10, 2012, February 5, 2013, January 16, 2014, January 13, 2016, and January 27, 2016, in regards to WS and AS Inspections, (the "Inspection Reports") when

he did not conduct the WS or AS Inspections and when the WS and AS Inspections were not conducted under his direct supervision;

- d. Failed to clearly set out the scope of inspection work in the Inspection Reports;
 - e. Suggested by vague and misleading language in the Inspection Reports that the WS and AS Inspections complied with the *Regulations* when he knew or ought to have known that they did not;
 - f. Failed to maintain adequate records of the WS and AS Inspections, including failing to maintain field notes, correspondence, notes of phone conversations, photographs, or other relevant materials;
 - g. Failed to provide adequate instructions, including calculations, drawings, or other documentary instructions, regarding how to conduct required repairs and failing to ensure or document that those required repairs were carried out and by a person with the required qualifications, for the repairs identified in the Inspection Reports dated January 28, 2011 and February 10, 2012 (the "Required Repairs").
 - h. Failed to seek or maintain adequate records of the Required Repairs.
4. The conduct set out above at paragraphs 1(c) is contrary to section 20(9) of the *Act*, which provides that a member or licensee receiving a seal or stamp under this section must use it with signature and date, to seal or stamp estimates, specifications, reports, documents, plans or things that have been prepared and delivered by the member or licensee in the member's or licensee's professional capacity or that have been prepared and delivered under the member's or licensee's direct supervision.
5. The conduct set out above at paragraphs 1(d), 1(e), 1(f), and 1(h) is contrary to section 14(b)(1)-(3) of the Association's Bylaws which requires that members and licensees shall establish and maintain documented quality management processes for their practices, which shall include, as a minimum:
- (1) retention of complete project documentation which may include, but is not limited to, correspondence, investigations, surveys, reports, data, background information, assessments, designs, specifications, field reviews, testing information, quality assurance documentation, and other engineering and geoscience documents for a minimum period of 10 years;
 - (2) regular, documented checks of engineering and geoscience work using a written quality control process appropriate to the risk associated with the work.; and,

(3) documented field-reviews by, or under the direct supervision of, members or licensees, of their domestic projects during implementation or construction.

6. The conduct set out above at paragraphs 1(a)-(h) is contrary to Principle 1 of the Association's Code of Ethics which requires that members and licensees hold paramount the safety, health and welfare of the public, the protection of the environment and promote health and safety within the workplace.
7. The conduct set out above at paragraphs 1(c) and (g) is contrary to Principle 3 of the Association's Code of Ethics which requires that members and licensees provide an opinion on a professional subject only when it is founded upon adequate knowledge and honest conviction.

Disposition

8. By consent, this Order is made pursuant to section 32.1 of the *Act*.
9. Mr. Johnson's membership in the Association is suspended for a period of two months commencing on August 11, 2020 (the "Suspension").
10. During the period from the date of this Consent Order to August 11, 2020, Mr. Johnson will:
 - a. make reasonable arrangements for the orderly transfer of his ongoing professional engineering project files to other professional engineers; and,
 - b. limit his practice to those project files that he is currently engaged on and not take on any new project files or other engineering work.
11. Mr. Johnson will undergo a Practice Review, conducted by the Association, within six months of the conclusion of the Suspension, and will pay the costs associated with the Practice Review.
12. Mr. Johnson will attend the Association's September 16, 2020 Organizational Quality Management Certification Training Session Webinar.
13. Mr. Johnson confirms he attended the Association's June 24, 2020 Webinar on the Professional Practice Guidelines: Annual Equipment Inspection and Certification in British Columbia.
14. Mr. Johnson will pay \$5,000 towards the Association's investigation and legal costs by no later than 30 days from the date of this Consent Order.
15. In the event that Mr. Johnson fails to comply with any of the terms of this Consent Order, his membership in the Association will be suspended until every default has been remedied in accordance with the terms of this Consent Order.

Consequences of the Consent Order

- 16. The full text or a summary of this Consent Order will be published by the Association in print and electronic publications including on the Association's website.
- 17. This Consent Order has the same force and effect as an Order made under section 33(2) of the *Act* and may be dealt with under section 34 of the *Act* if conditions in the Consent Order are not met.
- 18. Mr. Johnson agrees that the Association has advised him that he should obtain independent legal advice regarding this Consent Order and that the Association has given him the time necessary to obtain independent legal advice.
- 19. The Association and Mr. Johnson agree that this Consent Order may be executed in counterparts and delivered as an electronic document.

This Consent Order is approved and accepted by Mr. Johnson and the members of the Discipline Committee Review Panel this 24 day of July, 2020.

< original signed by >

Lynn Johnson, P.Eng.

Maureen Deniholme

Name of Witness

< original signed by >

Signature of Witness

< original signed by >

Upul Atukorala, P.Eng.
Member, Discipline Committee

< original signed by >

Thomas Morrison, P.Eng.
Member, Discipline Committee

< original signed by >

Ronald Yaworsky, P.Eng.
Member, Discipline Committee