

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

and

IN THE MATTER OF PURUSHOTHAM S. REDDY, P.Eng.

TO: Purushotham S. Reddy, P.Eng.
P.O. Box 482 - Station A
Bentall Center Postal Station
595 Burrard Street
Vancouver, British Columbia
V6C 2N3

TAKE NOTICE that a Panel of the Discipline Committee of the Association of Professional Engineers and Geoscientists of British Columbia (the "Association"), will meet at Suite 200, 4010 Regent Street, in the City of Burnaby, in the Province of British Columbia on Wednesday, the 9th day of December, 1998, at the hour of 9:30 in the forenoon for the purpose of taking evidence or otherwise causing an inquiry to be made with respect to the allegations herein pursuant to the *Engineers and Geoscientists Act*, R.S.B.C. 1996, Chapter 116, (the "*Act*").

AND TAKE NOTICE that the allegations against you are as follows:

1. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1997 to a residential construction project at 496 East 19th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of the soil preparation and/or the approval of the foundation and drainage construction.
2. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1997 to a residential construction project at 498 East 19th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of the soil preparation and/or the approval of the foundation and drainage construction.
3. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1995 and 1996 to a residential construction project at 747 East 20th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of the soil preparation and/or the approval of the foundation and drainage construction.
4. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1995 and 1996 to a residential construction project at 749 East 20th Avenue in the City of Vancouver Province of British Columbia, specifically

RWH/667986

your soils investigation, foundation design, approval of the soil preparation and/or the approval of the foundation and drainage construction.

5. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1997 to a residential construction project at 3266 East Georgia Street in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of the soil preparation and/or the approval of the foundation construction.

6. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1997 to a residential construction project at 631 East 26th Avenue in the City of Vancouver Province of British Columbia, specifically your approval of the compaction of the sand and/or backfill below the basement slab.

7. That you have demonstrated incompetence, negligence or unprofessional conduct with respect to the engineering services you provided in 1997 to residential construction projects at 3083 and 3089 East 51st Avenue in the City of Vancouver Province of British Columbia, specifically your approval and certification of the plumbing and natural gas installations when there were apparent deficiencies in the installations.

AND FURTHER TAKE NOTICE that you, Purushotham S. Reddy, P.Eng., have the right at your own expense, to be represented by counsel at the inquiry by the Panel of the Discipline Committee above-mentioned and that you or your counsel shall have the full right to cross-examine all witnesses called and to call evidence in defence and reply in answer to the aforesaid allegations.

AND FURTHER TAKE NOTICE that in the event of your non-attendance at the said inquiry the Panel of the Discipline Committee may, upon proof of service of this Notice of Hearing upon you, proceed with the taking of evidence or otherwise ascertaining the facts concerning the said allegations, your absence notwithstanding, and may make its findings on the facts and its decision therefore without further notice to you.

DATED at the City of Vancouver, Province of British Columbia, this 22nd day of October, 1998.

The Discipline Committee of the Association of
Professional Engineers and Geoscientists of the
Province of British Columbia.

Per: _____

Robert R. Affleck
Robert R. Affleck, P.Eng.

**IN THE MATTER OF
THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND
GEOSCIENTISTS OF THE PROVINCE OF BRITISH COLUMBIA**

- and -

PURUSHOTHAM S. REDDY, P.ENG. (#05581)

INTRODUCTION

A Discipline Committee Panel (the Panel) of the Association of Professional Engineers and Geoscientists of British Columbia (the Association), under authority of the *Engineers and Geoscientists Act, RSBC 1996*, held an Inquiry to examine alleged contraventions of the *Engineers and Geoscientists Act*, by Purushotham S. Reddy, P Eng.

The hearing took place March 29, 30, 31, April 1, June 21, 22, 28, 29, 30, July 2, and August 9, 1999.

The charges against Mr. Reddy were:

1. That you have demonstrated incompetence with respect to the engineering services you provided in 1997 to a residential construction project at 496 East 19th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of soil preparation and/or the approval of the foundation and drainage construction.
2. That you have demonstrated incompetence with respect to the engineering services you provided in 1997 to a residential construction project at 498 East 19th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of soil preparation and/or the approval of the foundation and drainage construction.

3. That you have demonstrated incompetence with respect to the engineering services you provided in 1995 and 1996 to a residential construction project at 747 East 20th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of soil preparation and/or the approval of the foundation and drainage construction.
4. That you have demonstrated incompetence with respect to the engineering services you provided in 1995 and 1996 to a residential construction project at 749 East 20th Avenue in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of soil preparation and/or the approval of the foundation and drainage construction.
5. That you have demonstrated incompetence with respect to the engineering services you provided in 1997 to a residential construction project at 3266 East Georgia Street in the City of Vancouver Province of British Columbia, specifically your soils investigation, foundation design, approval of soil preparation and/or the approval of the foundation construction.
6. That you have demonstrated incompetence with respect to the engineering services you provided in 1997 to a residential construction project at 631 East 26th Avenue in the City of Vancouver Province of British Columbia, specifically your approval of the compaction of the sand and/or backfill below the basement slab.
7. That you have demonstrated incompetence with respect to the engineering services you provided in 1997 to a residential construction projects at 3083 and 3089 East 51st Avenue in the City of Vancouver Province of British Columbia, specifically your approval and certification of the plumbing and natural gas installations when there were apparent deficiencies in the installations.

Mr. Reddy accepted the jurisdiction of the Panel as well as the individual panel members and took the position that the charges against him should be dismissed. On June 21, 1999, Mr Mullins made a submission objecting to the jurisdiction of the

Panel and advised that a court order to prevent the continuation of the inquiry was being sought. The grounds of Mr. Mullins' objection were that the charges against Mr. Reddy were amended by counsel for the Association who had no authority to do so. At the commencement of the hearing the Panel was advised by counsel for the Association that the charges against Mr. Reddy were to be modified by the elimination of certain allegations which had initially been made against him. The Panel recessed to consider Mr Mullins' arguments and subsequently ruled that the inquiry should proceed on the reduced charges. To this date, the Panel is not aware of a court decision in this matter.

Mr. Robert Hunter of Bull Housser & Tupper acted for the Association and was assisted by Ms. Shawna Crook.

Mr. Norman Mullins, Q.C., acted for Mr. Reddy.

BURDEN AND STANDARD OF PROOF

Mr. Hunter opened the hearing by informing the Panel of the rules of evidence, the burden of proof upon the Association and the standard of proof that the Panel must apply in reaching it's decision. The Panel accepted that the standard of proof required is that stated by Madame Justice Mc Lachlan in *Dr. William Jory vs The College of Physicians and Surgeons of British Columbia* (unreported, December 13, 1985) which reads in part:

" The standard of proof 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 pre-ponderance 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".

EVIDENCE

An Agreed Statement of Facts was placed before the Panel.

Twelve witnesses including one Geotechnical Engineering Expert witness (Brian Nakai, P.Eng.) were called by the Association. Mr Mullins objected to the initial report of this expert witness. On April 1, 1999, Mr. Mullins objected to the admissibility of Mr. Nakai's expert report on the basis that the author had reached conclusions which were for the Panel to make. He argued that the report exceeded the scope of admissible expert opinion evidence. The Panel considered Mr. Mullins' argument and determined not to admit the report but to allow the Association's counsel an opportunity to tender a revised report prepared by Mr. Nakai. That was done when the hearing reconvened on June 21, 1999. No objection was made to the admissibility of the revised report.

Thirteen witnesses, including one Geotechnical Expert witness (Peter M. Byrne, Ph. D, P.Eng.) and two experienced Geotechnical Engineers (Trevor Finch, P.Eng. and Gary McKinney, P.Eng.) were called by the defence.

Mr. Reddy was a member of the Association under the Structural Engineering designation at all times relevant to the matters in question.

The seven charges in this case relate to three issues. The first is soils investigation, foundation preparation and field review of construction of five single family residences using raft foundations. The second issue is approval of backfill compaction under a concrete slab. The third issue is approval of plumbing and gas inspections on two single family residences.

RAFT FOUNDATIONS OVER PEAT SOIL

This pertains to charges 1 to 5.

The City of Vancouver requires that a professional engineer design and approve foundation preparation and construction over peat soils.

Mr. Reddy provided engineering services for residential home construction in an area, in the City of Vancouver, known to contain varying thickness of peat soil and subject to continuing subsidence.

During 1997, Mr. Reddy provided the City of Vancouver Chief Building Inspector with soils reports including site preparation recommendations for construction of two residences located at 496 and 498 East 19th Avenue Vancouver, BC. The residences were constructed using a reinforced concrete raft foundation design developed by Mr. Reddy for use on peat soils. Two residences were constructed on a common site excavation backfilled per Mr. Reddy's instructions.

Mr. Reddy also provided the City of Vancouver Chief Building Inspector with verification that foundation preparations for the subject residences were completed per his soils report. Mr. Reddy also provided verification of roof drain/storm line base preparation meeting the City requirements.

During 1995 and 1996, Mr. Reddy provided engineering services for residences constructed at 747 and 749 East 20th Avenue, Vancouver, BC. These residences utilized reinforced concrete raft foundation designs over peat soil. These raft foundations were placed on a common excavation site which was backfilled generally in accord with Mr. Reddy's instructions. Mr. Reddy also provided assurance that foundation preparations were completed and that all works had been completed per the B C Building Code (1992 edition) requirements.

Differential settlement of the four residences located on East 19th and 20th Avenues occurred with the pairs of new residences leaning toward each other. This settlement did not result in structural damage but was a source of concern to one owner who subsequently incurred a \$ 40,000 expense to re-align one of the residences.

During 1997, Mr. Reddy provided engineering services for a residence constructed at 3266 East Georgia Street, Vancouver, BC. This residence also utilized a reinforced concrete raft foundation design. Mr. Reddy provided assurance that the foundation preparation had been completed per his instructions.

Vancouver City Building Inspectors required site preparation changes at 3266 East Georgia Street upon discovery that the excavation showed a sloping base under the peat layer across its width with exposed consolidated silt on one side and peat on the other. The peat was ordered removed and replaced by suitable fill to develop an acceptable and consistent foundation base. Subsequent Vancouver Building Inspector site visits confirmed that Mr. Reddy's design base fill settlement requirement of 3 weeks had not been achieved and Mr. Reddy provided a revised report which indicated a one week settlement period was satisfactory. In addition, some site location tests conducted by Building Inspectors, with a rod probe inside the foundation area and with a 2 inch by 2 inch pole outside of the foundation area revealed significant soft uncompacted spots. There was no evidence that the peat soil found within the foundation footprint had been removed.

A trench between the east property line and the edge of the foundation area was constructed to remove peat soil and subsequently backfilled with sand and compacted.

Mr. Reddy provided assurance to the City of Vancouver Chief Building Inspector that foundation preparations were completed per his instructions.

GENERAL EVIDENCE REGARDING CHARGES 1 TO 5

Identical form letter soils reports were filed with the City of Vancouver for each of these residences with only the date and address changed. Mr. Reddy testified that these soils reports were based on his knowledge and experience within the subject area.

Publicly available information clearly established wide variations in the actual depth of firm bearing soils at the residence locations in contrast with the anticipated distance to firm bearing material suggested by Mr. Reddy's soils reports. Mr. Reddy stated that he was unaware of this information or of Geological Survey of Canada maps showing peat areas within Greater Vancouver.

Mr. Reddy did not maintain any field records of test hole locations or depths or types of soils encountered. No soil water content analyses were undertaken and no settlement monitoring was done. There are also no field records of site visits during excavation or backfilling.

Expert witnesses testified that water content of peat soils varies widely and is a factor in foundation design along with the depth of peat soil encountered. They also testified that it is usual practice to monitor soil settlement as it occurs on preloaded sites. Clients are advised that continuing minor differential settlement may occur following primary and secondary settlement. Surplus material at least equal to the proposed building load must then be removed. Expert witnesses also outlined the type of detailed records they maintain regarding soils investigations and site monitoring.

Mr. Reddy testified that his design relied only upon achieving primary settlement by "preloading" for three weeks prior to construction and that there was no surplus material removal. Mr. Reddy also testified that he did not consider peat soil water content to be a factor in his design.

Mr. Reddy testified that he did not provide written advice that future differential settlement may occur because the owners and builders already knew they were building in a peat soil area and because of his experience that such comments may cause difficulty in gaining design approval. Mr. Reddy testified that he gave his clients oral advice only.

Mr. Reddy relied upon cone penetrometer tests of the prepared sites to verify satisfactory compaction but maintained no records of actual tests or of the calibration of the instrument used.

Mr. Reddy testified that he attended each site briefly during excavation and placement of backfill and that he relied upon knowledgeable back hoe and sand/gravel contractors to follow his instructions. His site inspections were minimal and relied upon compaction tests which he conducted using a cone penetrometer.

APPROVAL OF COMPACTION

This pertains to charge 6.

During 1997 Mr. Reddy approved compaction of a backfill of excavated material with sand topping at 631 East 26th Avenue prior to pouring a basement slab within a conventional T foundation for a residence.

An engineer had previously declined to approve compaction of the backfilled slab area. Mr. Reddy testified that he was aware of another engineer's refusal to approve the backfill and that he had no discussion with the other engineer (Trevor Finch, P.Eng.) prior to issuing his approval.

Two to three weeks after pouring the slab, it sank 2 to 3 inches at several locations.

Mr. Reddy testified that he conducted tests with a cone penetrometer on two occasions. Some spots required further compaction and all locations (20-30) were eventually satisfactory.

Mr. Kaila, the owner, testified that Mr. Reddy conducted no compaction tests and that Mr. Reddy was told the backfill would fail due to the use of a small compactor.

The Panel concluded that some compaction testing was done.

GAS AND PLUMBING INSPECTIONS

This is the third issue and pertains to charge 7.

Mr. Reddy completed plumbing and gas inspections during a Vancouver civic workers strike in order that two new residences could be occupied.

The plumbing inspection was completed and approved. However subsequent City of Vancouver Building Inspections showed a required Back Water Valve was missing

on two storm drainage system sumps. The sumps were located outside of the residences.

The gas inspection was completed and approved. However subsequent City of Vancouver Building Inspections showed four fireplaces were installed without required shutoff valves adjacent to the fireplaces.

Mr. Rennie, the owner of residences at 3083 and 3089 East 59th Avenue, testified that he wanted inspections completed to permit occupancy of the subject residences and that the fireplaces were installed at the time of Mr. Reddy's inspection.

Mr. Reddy testified that he was to do inspections of fixtures inside the residences only and that no fireplaces were installed at the time of his inspection.

JUDGEMENT

The Panel finds that all seven of the charges against Mr. Reddy have been proven.

The Panel carefully considered the following definitions of incompetence in making its finding;

Reference to *Masons v. Registered Nurses of British Columbia*, Page 233:

"We believe it is fair to say a person who habitually fails to perform his work with the degree of skill or accuracy usually displayed by other persons regularly employed in such work is incompetent. And the same is true of one who usually performs substantially less than others regularly so employed."

and on Pages 234 and 235:

"The true significance of the term "incompetency" should not be overlooked. It embraces habitual carelessness. For, though a servant is equipped with sufficient technical knowledge and physical ability to

discharge his duties properly, a reckless disposition may render him utterly unfit to be allowed to discharge duties which bring him into contact with others. The term, then, includes something more than physical and mental attributes; it includes temperament and disposition."

"That is defined in *Crotwell v. Cowan, supra*, as follows: (236 Ala. 578, 184 So. [195 at] 199): "Incompetency, as related to the law of negligence, connotes "want of ability suitable to the task, either as regards natural qualities or experience, or deficiency of disposition to use one's abilities and experience properly. Incompetency connotes the converse of reliability. The term may include something more than physical and mental attributes; it may include want of qualification generally, such as habitual carelessness, disposition, and temperament'." 31 C.J. 404.'

Mason v. Registered Nurses Association of British Columbia
(1979) 13 BCLR 218 (BCSC)

REASONS FOR JUDGEMENT

Charges 1 to 4

The Panel found the evidence of Mr. Nakai, Dr. Bryne and Mr McKinney persuasive. A reasonable and prudent geotechnical engineer's report should include as a minimum the following:

- ▶ a plan of test hole locations;
- ▶ a complete description of soil conditions encountered;
- ▶ tests to determine peat soil water content;
- ▶ depth to firm bearing soil adequately addressed;
- ▶ some settlement measurement of fill material placed in excavations; and
- ▶ complete documentation of soils investigations and inspections.

Mr. Reddy's soils report for 496/498 East 19th Avenue, 747-749 East 20th Avenue and 3266 East Georgia Street did not meet the minimum requirements outlined above.

Mr. Reddy's identical soils report for 496/498 East 19th Avenue and 747/749 East 20th Avenue sites are clearly inadequate given that publicly available information indicates solid bearing soil is found approximately 26 feet below the surface versus Mr. Reddy's anticipated sandy silt at 7 to 9 feet below the surface (Exhibit 34).

Mr. Reddy's soils report recommendations are misleading in that they suggest very short term preloading that was not utilized. No settlement monitoring took place and additionally, no surplus material was removed prior to foundation construction.

Although Mr. Reddy may have warned the clients orally regarding possible future settlement of foundations, a prudent engineer should provide written advice of the same.

Mr. Reddy's identical soils report conclusions refer to encountering a layer of loose peat moss to a depth of 5 feet. The Panel believes this should be peat soil.

The Panel considered and dismissed as not significant the potential impact of 1997 sewer main construction in the block adjacent to 496/498 East 19th Avenue.

The Panel considered Mr. Reddy's submission that many houses in the subject area lean to one side or the other but does not accept this as a justification for use of his design and inspection practices.

Mr. Reddy's testimony was based on his "usual practice" and was not supported by any field notes or logs of soils investigations, site inspections or compaction tests. The office record documents offered as "field memo inspections" (Exhibit 51) were so incomplete that they were of little assistance to the Panel.

The Panel concluded that the engineering services provided at 496/498 East 19th Avenue and at 747/749 East 20th Avenue were substantially less than those usually provided by other qualified persons regularly employed in such work. Mr. Reddy's soils investigations and reports did not meet the minimum standards utilized by a reasonable and prudent geotechnical engineer. In addition, Mr. Reddy's raft foundation design including site preparation did not consider depth of peat soil below the site or the water content of the subject peat soil.

Charge 5

Mr. Reddy's preliminary soils investigation at 3266 East Georgia Street (one test hole to a 5 feet depth) was inadequate to accurately determine soil and foundation conditions.

Mr. Reddy did not reconsider his design when the initial site excavation revealed peat soil on the east side and solid bearing soil on the west side of the excavation.

Mr. Reddy testified he was willing to proceed with a raft foundation over these soil conditions. Further Mr. Reddy testified he was unwilling to consider an alternative foundation design once the full extent of firm bearing soil was known.

Site inspection and compaction was inadequate based on probe evidence of Mr. McGillvary, a Vancouver City Building Inspector, who inserted a rebar rod an estimated 2 to 4 feet into the backfill and foundation base material inside of the foundation footprint.

The Panel concluded that the engineering services provided at 3266 East Georgia Street were substantially less than those usually provided by other qualified persons regularly employed in such work for the same reasons as outlined in charges 1 to 4 above. In this case, 3266 East Georgia Street, the use of only one test hole was clearly inadequate to accurately determine soil and foundation conditions. Mr. Reddy also failed to take any action when the actual soil conditions at this site became known and were substantially different from his report and recommended foundation design. Mr. Reddy's site inspection during excavation was clearly inadequate.

Charge 6

Mr. Reddy did compaction testing only at the surface of the completed backfill at 631 East 26th Avenue and required only some local additional compaction.

Mr. Reddy had inadequate knowledge of the backfill material used at this site.

Mr. Reddy took no action after being advised that the part of the foundation site had been disturbed by additional plumbing installations.

The Panel heard evidence that significant slab settlement occurred in slab areas undisturbed by the subsequent plumbing installations.

The Panel concluded that the engineering services and quality of work provided in approving compaction of backfill at this site were substantially less than those provided by a reasonable and prudent person with knowledge that an experienced engineer had previously failed to approve the same.

Charge 7

Mr. Reddy admitted that he had no formal qualifications or training to undertake the subject final inspections at 3083 and 3089 East 59th Avenue.

Mr. Reddy sealed a final report (Exhibit RR) indicating that all of the gas and plumbing works were complete when they were not. Only the works on two of the four Plumbing Permits were inspected.(Exhibit NN & OO).

Evidence as to whether or not the gas fireplaces were installed at the time of Mr. Reddy's inspection is contradictory but in either case his report is incorrect.

The City of Vancouver had established temporary procedures to allow trades qualified persons to complete inspections for occupancy and Mr. Reddy had the option of declining this inspection request.(Exhibit RR).

The Panel concluded that Mr. Reddy accepted an assignment for which he was not qualified nor did he take any action to ensure that all of the inspection requirements were fully met before giving his approval.

CONCLUSION

The Panel concluded that the engineering and inspection services provided by Mr. Reddy were substantially less than those provided by other persons regularly employed in such work.

The Panel further concluded that the seven instances pertaining to the charges in this matter form a pattern which constitutes habitual failure to perform work with a degree of skill or accuracy usually displayed by other persons regularly employed in such work.

The Panel further concluded, based on expert witness testimony, that Mr. Reddy's raft foundation design and site preparation did not include consideration of two important peat soil design factors namely, depth and water content.

Signed:



Robert E. Gray, P.Eng.
Chair
Discipline Committee Panel

Date:



Members: Robert Handel, P.Eng.
R. Don Russell, P.Geo.

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

- and -

IN THE MATTER OF PURUSHOTHAM S. REDDY, P.Eng.

ORDER

Before the Discipline Committee of the) Wednesday, the 29th day of September, 1999.
)
Association of Professional Engineers and)
)
Geoscientists of British Columbia:)
)
Robert E. Gray, P.Eng., Chair)
)
Robert Handel, P.Eng., member)
)
R. Don Russell, P.Geo., member)
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AFTER AN INQUIRY before this Discipline Committee panel on March 29, 30, 31, April 1, June 21, 22, 28, 29, 30, July 2, and August 9 this Discipline Committee panel made a determination that Mr. P. S. Reddy, P. Eng. had demonstrated incompetence in all of the seven allegations in the Notice of Inquiry. That determination is found in this Discipline Committee's Reasons for Judgment dated September 13, 1999.

AFTER A FURTHER INQUIRY before this Discipline Committee panel on September 24, 1999 to hear evidence and submissions on the appropriate penalty to be imposed on Mr. P. S. Reddy, P. Eng. this Discipline Committee panel reserved it's decision to this day.

THIS DISCIPLINE COMMITTEE ORDERS that:

1. Mr. P. S. Reddy, P.Eng. be and hereby is reprimanded for his conduct,
2. Mr. P. S. Reddy, P.Eng. will have a condition on his membership that he shall not provide any geotechnical engineering services, including the structural design of foundations, until he has successfully completed courses in geotechnical engineering,

approved in advance by the Association, and these courses are to be successfully completed no later than eighteen (18) months from the date of this Order,

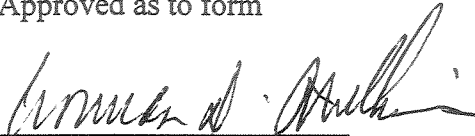
3. Mr. P. S. Reddy, P.Eng. shall be the subject of a Practice Review by the Association's Practice Review Committee and this Practice Review is to be completed no later than twelve (12) months from the date of this Order.

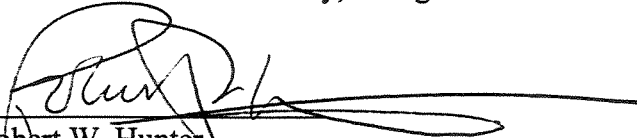
THIS DISCIPLINE COMMITTEE PANEL FURTHER ORDERS pursuant to section 35(1) of the *Act* that Mr. P. S. Reddy, P.Eng. pay to the Association the reasonable costs of and incidental to the investigation under section 30 of the *Act* and the inquiry under section 32 of the *Act* including the reasonable fees payable to solicitors, counsel and witnesses. Counsel for the Association and counsel for Mr. P. S. Reddy, P.Eng. will attempt to agree as to those costs and failing their agreement the determination of costs shall be remitted to this Discipline Committee panel within thirty (30) days of the date of this Order and this Discipline Committee panel will determine the amount of the costs to be assessed against Mr. P. S. Reddy, P.Eng..

The Discipline Committee of the
Association of Professional Engineers
and Geoscientists of British Columbia


Robert E. Gray, P.Eng., Chair

Approved as to form


Norman D. Mullins, Q.C.
Counsel for Mr. P. S. Reddy, P.Eng.


Robert W. Hunter,
Counsel for the Association

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

-AND-

IN THE MATTER OF PURUSHOTHAM S. REDDY, P.Eng.

ORDER

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Telephone: (604) 687-6575
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Attention: Robert W. Hunter

File# 98-2804

**JUDGMENT OF THE DISCIPLINE COMMITTEE
PANEL ON PENALTY AND COSTS**

**IN THE MATTER OF
THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND
GEOSCIENTISTS OF THE PROVINCE OF BRITISH COLUMBIA**

- and -

PURUSHOTHAM S. REDDY, P.ENG. (#05581)

The Discipline Committee Panel (the Panel) in this matter met on Friday, September 24, 1999, and heard submissions on penalty from the Association's legal counsel, Robert Hunter of Bull Housser & Tupper, and from Mr. Reddy's legal counsel, Norman D. Mullins, QC, who was assisted by Ravi Reddy, Mr. Reddy's son, during this phase of the hearing.

The Panel were informed that Mr. Mullins' submission objecting to the jurisdiction of the Panel had been dismissed by Mr. Justice Hood on September 22, 1999. The Panel were also advised that in the fourth paragraph of the section headed **Evidence**, on page four of their Judgment on liability in this matter, dated September 13, 1999, Mr. Reddy is erroneously referred to as having a Structural Engineering designation; he is actually registered with the Association under the **Civil Engineering** designation.

The Panel heard submissions from Mr. Hunter and Mr. Mullins, and testimony from fifteen witnesses, plus two letters, supporting Mr. Reddy's value as a professional engineer and attesting to his good character.

The Panel, after reviewing the reasons stated in their Judgment on liability in this matter, orders that Mr. Reddy be reprimanded for practicing geotechnical engineering when he is not qualified by training or experience to do so, and the following conditions are imposed:

1. Mr. Reddy shall be restricted from providing any geotechnical engineering services, including the structural design of foundations, until he has

successfully completed courses in geotechnical engineering, approved in advance by the Association, and this condition is to be satisfied no later than eighteen months from the date of this Judgment; and

2. Mr. Reddy shall be the subject of a Practice Review and this condition is to be completed no later than twelve months from the date of this Judgment.


During this hearing the Panel was made aware that Mr. Reddy had accepted a Stipulated Order in 1993 which suspended his membership in the Association for three months. In considering this, and the testimony of the character witnesses during this hearing, the Panel decided to reprimand Mr. Reddy and to place restrictions on his practice rather than again suspending his membership in the Association.

Costs

In accordance with Section 35(1) of the Act, the Panel directs that reasonable costs, of and incidental to the investigation under Section 30 and the inquiry under Section 32, including reasonable fees payable to solicitors, counsel and witnesses, be paid by Mr. Reddy.

The Panel therefore directs that legal counsel for both parties determine the costs and prepare a joint submission on costs for the Panel's consideration. If legal counsel are unable to agree on the costs then the matter shall be returned to this Panel, within thirty days from the date of this Judgment, and the Panel will determine the amount of the costs to be assessed against Mr. Reddy.

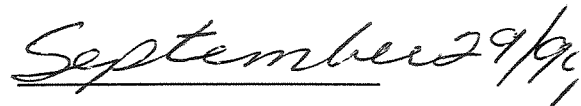
Signed:


Robert E. Gray, P.Eng.

Chair

Discipline Committee Panel

Date:



Members: Robert Handel, P.Eng.
R. Don Russell, P.Geo.

**ORDER OF THE DISCIPLINE COMMITTEE PANEL
ON PENALTY AND COSTS**

**IN THE MATTER OF
THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND
GEOLOGICISTS OF THE PROVINCE OF BRITISH
COLUMBIA**

- and -

PURUSHOTHAM S. REDDY, P.ENG. (#05581)

On September 13, 1999, following a Discipline Inquiry, the Discipline Committee Panel (the "Panel") concluded that seven charges brought against Mr. Reddy had been proven. On September 29, 1999, the Panel ruled on the penalty to be imposed against Mr. Reddy. Mr. Reddy appealed to the Supreme Court of British Columbia seeking an Order quashing the Panel's decisions of September 13, 1999 and September 29, 1999. On March 14, 2000, the Honourable Madam Justice Humphries ruled on Mr. Reddy's appeal. Her Ladyship ordered that the Panel's decision on charges 1-5 should stand, but that its decision on charges 6 and 7 should be set aside. Her Ladyship also ordered that the Panel reconsider the issue of penalty given her finding with respect to charges 6 and 7. On May 4, 2000, the Panel convened to reconsider its September 29, 1999 decision on penalty and to determine the allocation of costs between Mr. Reddy and the Association in light of the Order of the Honourable Madam Justice Humphries.

The Association was represented by Robert Hunter of Bull Houser & Tupper.

Mr. Reddy was represented by Dairn Shane on May 4, 2000.

The Panel heard submissions from Mr. Hunter and Mr. Shane on the penalty imposed in the Judgment of September 29, 1999, and on what constitutes reasonable costs for the investigation and inquiry hearing in this case. After counsel completed their submissions the Panel adjourned the hearing and met in camera to consider the parties submissions and to reach a decision on penalty and costs.

Penalty

The Panel considered the arguments presented by both counsel and, after further reviewing the evidence, concluded that the penalty imposed in the Judgment of September 29, 1999, is fully justified by the Panel's Reasons for Judgment contained in its Decision of September 13, 1999, on charges 1 through 5. The reversal of the Panel's finding on charges 6 and 7 does not warrant any change in the penalty.

The penalty imposed on September 29, 1999 remains appropriate because it is directed towards assisting Mr. Reddy in achieving the standard of practice of a reasonable and prudent geotechnical engineer. Concerning charges 1-4, the evidence before the Panel at the hearing of this matter indicated that a reasonable and prudent geotechnical engineer's report should include as a minimum the following:

- a plan of test hole locations;
- a complete description of soil conditions encountered;
- tests to determine peat soil water content;
- depth to firm bearing soil adequately addressed;
- some settlement measurement of fill material placed in excavations; and
- complete documentation of soils investigations.

Mr. Reddy's reports which were the subject of charges 1-4 did not meet this standard. The penalty imposed by the Panel on September 29, 1999, was intended to address this finding.

Regarding charge 5, the Panel found that Mr. Reddy's preliminary soils investigation was not, as it should have been, extensive enough to accurately determine soil and foundation conditions. The penalty imposed by the Panel on September 29, 1999, similarly addresses this issue.

Furthermore, the Panel found with respect to charges 1-5 that, based on expert witness testimony, Mr. Reddy's raft foundation design and site preparation did not include consideration of two important peat soil design factors, namely depth and water content. Again in this instance, the penalty originally determined by the Panel was intended to ensure that Mr. Reddy not be permitted to provide geotechnical engineering services until he has taken further relevant training.

No specific additional penalty was imposed on September 29, 1999 regarding charges 6 and 7, which have subsequently been set aside, and as a result no reduction in penalty has been made.

In view of the time delays encountered to date, Mr. Reddy will be permitted somewhat more than the previously stipulated eighteen months to complete the courses required under Condition 1 of the September 29, 1999, Decision. In considering the normal university calendar year, the courses must be completed no later than December 31, 2001. Accordingly, the Panel's decision on the penalty to be imposed on Mr. Reddy is as follows:

1. Mr. Reddy shall be restricted from providing any geotechnical engineering services, including the structural design of foundations, until he has successfully completed courses in geotechnical engineering, approved in advance by the Association, and this condition is to be satisfied no later than December 31, 2001; and
2. Mr. Reddy shall be the subject of a Practice Review and this condition is to be completed no later than twelve months from the date of this Judgment.

Costs

The Panel received the Bill of Costs for the Association (Exhibit 100) and the Bill of Costs for Mr. Reddy (Exhibit 102) as submitted, and accepted the allocation of costs proposed and agreed to by both counsel.

Mr. Reddy is liable for 71.5% of the Association's costs and the Association is liable for 28.5% of Mr. Reddy's costs and the amount of the costs assessed is as follows:

Association's costs at 71.5%	=	\$67,042.28
Mr. Reddy's costs at 28.5%	=	<u>\$ 9,690.00</u>
Net costs assessed against Mr. Reddy	=	\$57,352.28

The amount assessed against Mr. Reddy is due immediately.

Signed by the Discipline Committee Panel:

RE Gray *June 8, 2000*
Robert E. Gray, P.Eng. Date

R Handel *June 13, 2000*
Robert Handel, P.Eng Date

RDRussell *June 9, 2000*
R. Don Russell, P.Geo. Date

ORDER OF THE DISCIPLINE COMMITTEE PANEL
ON COSTS

IN THE MATTER OF
THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND
GEOSCIENTISTS OF THE PROVINCE OF BRITISH COLUMBIA

- and -

IN THE MATTER OF PURUSHOTHAM S. REDDY, P.Eng.

The Discipline Committee Panel (the "Panel") last convened on May 4, 2000, to determine the allocation of costs between Mr. Reddy and the Association in light of the Order of the Honourable Madam Justice Humphries on Mr. Reddy's first appeal. This hearing resulted in our "Order of the Discipline Committee Panel on Penalty and Costs" dated June 13, 2000, which assessed costs against Mr. Reddy in the amount of \$57,352.28 and these costs were payable immediately.

Mr. Reddy, however, filed an appeal and the Association agreed to hold the Panel's Order of June 13, 2000, in abeyance.

The Association subsequently received the Reasons for Judgment of the Court of Appeal dated May 2, 2002, which dismissed Mr. Reddy's appeal.

Thus, given the Appeal Court's decision, the Panel's Order of June 13, 2000, became effective and so Mr. Reddy is reprimanded and is now required to comply with the conditions imposed on his professional practice, which are that:

- 1) he is restricted from providing any geotechnical engineering services, including the structural design of foundations, until he has successfully completed courses in geotechnical engineering, approved in advance by the Association; and
- 2) he is to be the subject to a Practice Review, to be completed no later than twelve months from the date of this order.

Further, Mr. Reddy is now required to pay the assessed costs, in the amount of \$57,352.28 plus accrued interest, resulting from the Panel's Order of June 13, 2000.

The Association wrote to Mr. Reddy on May 31, 2002, to request his written advice concerning the course requirements and the member was asked to provide a proposal with respect to payment of the assessed costs.

Mr. Reddy responded to the Association's letter and offered to pay only \$12,000 of the assessed costs and asked that the Panel accept his offer and forgive the remaining portion of the total assessed. The offer was referred to Council of the Association for consideration and it was the decision of Council to reject the offer and refer the matter back to the Panel.

The Panel having reconsidered this matter, in accordance with Section 35(5), Costs, of the *Engineers and Geoscientists Act*, the Panel now orders that:

- a) the membership of Purushotham S. Reddy, P. Eng. is revoked effective the date of this Order; and
- b) reinstatement of Mr. Reddy's membership will not be considered until the assessed costs are paid in full or until an acceptable proposal for repayment is received.

Signed:


Robert E. Gray, P. Eng., Chair


Date

Panel Members:

Robert Handel, P. Eng.
R. Don Russell, P. Geo.