

IN THE MATTER OF  
THE ENGINEERS AND GEOSCIENTISTS ACT  
R.S.B.C. 1996 CHAPTER 116 AS AMENDED  
And  
LORRENCE MELNECHENKO

DISCIPLINE COMMITTEE PANEL: Neil Cumming, P.Eng., Chair  
Frank Denton, P.Eng.  
Upul Atukorala, P.Eng.

COUNSEL FOR THE ASSOCIATION: Kerry Short

COUNSEL FOR THE MEMBER: None

INDEPENDENT COUNSEL FOR THE PANEL: David Martin

DATE OF HEARING: February 6, 2014

PLACE OF HEARING: 200 – 4010 Regent Street, Burnaby, BC V5C 6N2

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DETERMINATION ON LIABILITY

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## INTRODUCTION

- 1) 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, R.S.B.C. 1996, C. 116, (the Act), held an inquiry to examine allegations of unprofessional conduct by Lorrence Melnechenko, P.Eng.
- 2) Mr. Melnechenko was a member of the Association under the Professional Engineer (P.Eng.) designation at all times relevant to the matters herein in question. Mr. Melnechenko communicated his desire to resign his membership on November 18, 2013, and subsequently made his resignation effective.
- 3) The allegations of unprofessional conduct against the member, Lorrence Melnechenko, P.Eng., are found in a Notice of Inquiry dated 1 November 2013 (the Notice). The Notice pertains to four instances of a failure to respond to requests for information from the Association as required by section 30(4) of the Act.
- 4) The Notice advised Mr. Melnechenko that the Panel would meet at 9:30 am on February 6, 2014 at 200 – 4010 Regent Street, Burnaby, BC, for the purpose of taking evidence or otherwise causing an inquiry to be made with respect to the allegations made in the Notice of Inquiry. The Notice advised Mr. Melnechenko that he would have the right, at his own expense, to be represented by counsel at the inquiry, and that he or his counsel would have the full right to cross-examine all witnesses called, and to call evidence in defence and to reply in answer to the allegations. The Notice also gave notice to Mr. Melnechenko that in the event of his non-attendance at the Inquiry, the Panel may, upon proof of service of the Notices, proceed with the taking of evidence or otherwise ascertaining facts concerning the allegations, his absence notwithstanding, and may make its findings on the facts and its decision thereon without further notice to Mr. Melnechenko.
- 5) At 9:30 am on February 6, 2014 at 200 – 4010 Regent Street, Burnaby, BC, the Panel and counsel for the Association were in attendance and were prepared to begin the Inquiry. Mr. Melnechenko was not in attendance. The Panel waited until 9:50am to provide Mr. Melnechenko an opportunity to appear in the event that he was delayed. At that time Mr. Melnechenko had not appeared, and the Chair of the Panel called the proceedings to order and began the Inquiry.

## OPENING STATEMENT

- 6) Counsel for the Association, Mr. Short, made a brief opening submission on behalf of the Association. He entered into evidence a binder, marked as Exhibit A, containing four tabs as follows:
  - A. The Notice of Inquiry;
  - B. Affidavit of Attempted Service by
  - C. Affidavit of Attempted Service by
  - D. Copies or records of communications between the initial complainant and the Association, and between Mr. Melnechenko and the Association (sub-tabs 1 to 13).

## SERVICE OF NOTICE

- 7) Counsel for the Association, Mr. Short, reviewed the Affidavit of Mr. . On behalf of Mr. Process Servers and made several attempts to serve Mr. Melnechenko at his address at Nanaimo, BC. Mr. reported that a young man answering the door and, upon being asked for Lorrence Melnechenko, called "Mel" to the door. The latter individual indicated that Mr. Melnechenko was working in Sechelt. Mr. Moes asked that he get Mr. Melnechenko to call him and left without being able to serve the Notice.
- 8) Mr. Short reviewed the Affidavit of Ms. Ms. made threesite visits in an attempt to serve Mr. Melnechenko at his place of work (the in Langley). Several messages were left for Mr. Melnechenko to contact Ms. including one with a Mr. Mr. specifically agreed that he would phone Mr. Melnechenko and tell him to contact Ms.
- 9) Ms. Kayla Vantriet was called as a witness for the Association. On the basis of Ms. Vantriet's testimony and the correspondence/records (Exhibit A, tab D), the Panel concluded, with respect to the matter of Notice to Mr. Melnechenko, that:
- a) From Ms. Vantriet's telephone conversation with Mr. Melnechenko on September 6, 2013, it was clear that he had received the requests for information directed to his address at Nanaimo, BC, or to his e-mail at , or both. During the phone call it was learned that Mr. Melnechenko would, henceforth, be working on a bridge project for the Ministry of Transportation and Infrastructure (MOTI) in the Lower Mainland.
  - b) Subsequently, an employee of MOTI, Mr. , indicated that Mr. Melnechenko was assisting Mr. on the Langley. Mr advised that Mr. Melnechenko's e-mail was his phone number was e-mail refers to Mr. Melnechenko by the nickname, "Mel", suggesting that the individual who came to the door at the time that Mr. attempted to deliver the Notice may, in fact, have been Mr. Melnechenko.
  - c) Shortly after he had been advised of an initial hearing date (December 4, 2013), a response from Mr. Melnechenko to the Association, dated Nov 18, 2013, indicated that he had been receiving the communications from the Association. His response was sent from his address at Nanaimo, BC.
  - d) A letter was sent by Mr. Short to Mr. Melnechenko, dated December 20<sup>th</sup>, 2013, advising him of a new time and date for the Inquiry. The letter was sent by mail to his address at Nanaimo, BC and by e-mail to
  - e) Ms. Vantriet could not specifically recall if the Notice of Inquiry had been sent to Mr. Melnechenko by e-mail, but indicated that this would be a part of the Association's normal procedure.
- 10) On the basis of the evidence provided the Panel determined that Mr. Melnechenko had been evading service of the Notice and that every reasonable effort had been made to provide notice to him. The Panel further determined that he knew an Inquiry was to be held in the near future and was satisfied that he had been served with notice of the appointed time and place of the Inquiry. The Inquiry,

therefore, proceeded. Mr. Melnechenko did not attend the hearing at any time. No written submissions from Mr. Melnechenko or anyone representing him have been received by the Panel.

#### THE CHARGE

11) The allegations are contained in the second paragraph of the Notice of Inquiry of November 1st, 2013, namely:

*"The allegations against you are that you have contravened the provisions of the Act and that further, you have demonstrated unprofessional conduct contrary to the Act, by your failure to provide the Association's Investigation Committee with the requested information or records in your possession or control, as required by section 30(4) of the Act, particulars of which are you failed to respond to the following requests for information:*

- i) letter to you dated August 6, 2013, regarding the Association's file No. T13-033;*
- ii) e-mail to you dated August 27, 2013, regarding the Association's File No. T13-033;*
- iii) telephone call to you on September 6, 2013, regarding the Association's File no. T13-033;*
- iv) letter to you dated September 24, 2013, regarding the Association's File No. T13-033.*

#### EVIDENCE

12) Ms. Vantriet testified that:

- a) At all relevant times she had been a Compliance Officer for APEGBC and been responsible for, or aware of, the requests for information made to Mr. Melnechenko.
- b) No information had been provided by Mr. Melnechenko, pursuant to the requests of August 6 or August 27, the telephone conversation of September 6 or the letter of September 24.

13) Presentation of the evidence concluded at approximately 10:55 am and the Inquiry adjourned for the Panel to consider the evidence. The Panel reconvened at approximately 11:00 am.

#### PANEL'S DETERMINATION

14) After due consideration of the evidence the Panel unanimously concluded that:

- 1) Mr. Melnechenko 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. Melnechenko has breached section 30(4) of the Act, as alleged in the Notice of Inquiry.

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

15) The Inquiry adjourned at approximately 11:05.

Respectfully submitted,

Burnaby, British Columbia

February 18, 2014



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Neil A. Cumming, P.Eng. Chair



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Frank Denton, P.Eng.

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Upul Atukorala, P.Eng.

15) The Inquiry adjourned at approximately 11:05.

Respectfully submitted,

Burnaby, British Columbia

February 18, 2014



Neil A. Cumming, P.Eng. Chair



Frank Denton, P.Eng.



Upul Atukorala, P.Eng.