

**IN THE MATTER OF  
THE PROFESSIONAL GOVERNANCE ACT, S.B.C. 2018, c. 47**

**and**

**IN THE MATTER OF AMR AHMED SAYED HASSAN ELOUFY**

**DETERMINATION OF THE DISCIPLINE COMMITTEE**

Date and Place of Hearing:	January 28-29, 2025; via videoconference
	Written Submissions concluding April 7, 2025
Panel of the Discipline Committee:	Ron Yaworsky, P.Eng., Chair Larry Spence, P.Eng. John Wilson
Counsel for Engineers and Geoscientists BC:	Sara Hanson Raunaq Arora
For the Registrant:	Amr Ahmed Sayed Hassan Eloufy (in writing)
Counsel for the Panel of the Discipline Committee:	Tonie Beharrell

## **A. INTRODUCTION**

1. This panel of the Discipline Committee (the “Panel”) of the Association of the Professional Engineers and Geoscientists of the Province of British Columbia doing business as Engineers and Geoscientists BC (“EGBC”) was convened to hear a citation (the “Citation”) issued to Amr Ahmed Sayed Hassan Eloufy (the “Respondent”) pursuant to section 75 of the *Professional Governance Act*, S.B.C. 2018, c. 47 (the “PGA”).
2. The Citation is dated July 25, 2024 and sets out the allegations against the Respondent. It says he engaged in conduct unbecoming a registrant and breached various provisions of the PGA, the *Engineers and Geoscientists Regulation*, BC Reg 14/2021 (the “Regulation”), the *Bylaws* of EGBC (the “Bylaws”) and the EGBC Code of Ethics (the “Code of Ethics”). The particulars are as follows:

1. You engaged in conduct unbecoming a registrant by:

- a. falsifying the identity of, contact information for, and/or commentary from, at least two of your competency validators in your application for registration as a professional engineer with Engineers and Geoscientists BC in or about October 2022;
- b. misrepresenting yourself as a professional engineer to your now former employer and others outside that firm, by, without limitation:
  - (i) identifying yourself as a P.Eng. on your resume (the “Resume”) submitted to Encora Engineering & Resource Group Ltd. (“Encora”) when applying for a position as a Senior Mechanical Engineer in or about August 2022;
  - (ii) describing your experience at a previous engineering design and consulting firm on the Resume as that of a Fire Suppression Engineer instead of a Fire Protection Specialist;

- (iii) utilizing "P.Eng." in your signature on documents and correspondence addressed to Encora staff and or clients, including but not limited to emails and written engineering proposals; and
- (iv) failing to utilize "engineer-in-training" or "EIT" when identifying yourself on documents and correspondence addressed to Encora staff or clients, including but not limited to emails and written engineering proposals.

2. You breached ss. 66(b) and (c) of the *PGA* by:

- a. failing to attend an interview with the Engineers and Geoscientists BC Investigator (the "Investigator"), despite repeated requests to do so, including requests the Investigator:
  - (i) by letter dated January 3, 2024, and sent to you via email;
  - (ii) by letter dated January 11, 2024, and sent to you via email;
  - (iii) by letter dated January 29, 2024, and sent to you via email;
  - (iv) by email dated February 15, 2024; and
  - (v) by phone call and voicemail message on February 15, 2024.

3. The conduct set out at paragraph 1(a) is contrary to s. 5.6(4)(c)(v)(D) of the *Bylaws* of Engineers and Geoscientists BC, which provides that an Applicant for registration as a professional engineer must provide evidence satisfactory to the Credentials Committee that the Applicant has engineering experience that is validated by:

(l) a minimum of 4 Professional Registrants or equivalent licensed engineering or geoscience practitioners from a Regulatory Authority, who

1) practise in the same discipline of engineering as the Applicant or a related discipline, and

2) have detailed knowledge of the work of the Applicant; or

(II) validators satisfactory to the Credentials Committee, where the Credentials Committee is satisfied that the Applicant cannot comply with the requirement in subsection (c)(v)(D)(I).

4. The conduct set out above at paragraph 1(b) is contrary to ss. 5.5.1(3) and (4) of the *Bylaws* of Engineers and Geoscientists BC, which require that:

(3) an engineer-in-training may only use a title containing the word “engineer” or any form or abbreviation of the word “engineer”, if the designation “engineer-in-training” or “EIT” is used in close proximity to the title and given the same or higher degree of prominence.

(4) an engineer-in-training must not represent themselves as a professional Registrant.

5. The conduct set out above at paragraph 1(b) is contrary to ss. 51(1)(a) and 52 of the *PGA*, s. 4 of the *Engineers and Geoscientists Regulation*, BC Reg 14/2021, and s. 5.6(2) of the *Bylaws* of Engineers and Geoscientists BC, which require that only a Registrant who is a designated professional engineer may hold themselves out to be a professional engineer and use the post-nominal “P.Eng.”.
6. The conduct set out in paragraph 2(a) is contrary to ss. 66(1)(b) and (c) of the *PGA* and s. 9.7.5(1)(f) of the *Bylaws* of Engineers and Geoscientists BC, which provide that an Investigator may issue a written notice to the Registrant subject to investigation requiring the Registrant to appear before the Investigator(s) to discuss the conduct and competence of the Registrant subject to investigation.
7. The conduct set out at paragraphs 1(a) – (b) and 2(a) is contrary to the Introductory Statement of the Engineers and Geoscientists BC Code of Ethics (the “Code of Ethics”), which requires that registrants uphold the values of truth, honesty, and trustworthiness.
8. The conduct set out at paragraphs 1(a) – (b) and 2(a) is contrary to Principle 4 of the Code of Ethics, which requires that registrants have regard for applicable standards, policies, plans and practices established by the government or Engineers and Geoscientists BC.

9. The conduct set out at paragraphs 1(a) – (b) is contrary to Principle 6 of the Code of Ethics, which requires that registrants provide accurate information in respect of qualifications and experience.
  10. The conduct set out at paragraphs 1(a) – (b) and 2(a) is contrary to Principle 13 of the Code of Ethics, which requires that registrants conduct themselves with fairness, courtesy and good faith towards clients, colleagues and others, give credit where it is due and accept, as well as give, honest and fair professional comment.
3. In its written submissions, EGBC said that it was no longer pursuing Allegations 1(b)(i) and (ii). The conduct alleged in those allegations occurred in August 2022, before the Respondent was registered as an “engineer-in-training” (“EIT”) with EGBC. As such, the Respondent was not a registrant at the time of those events, and EGBC did not pursue the allegations in those subparagraphs: PGA, s. 56(2).
  4. Under the PGA, the Discipline Committee must hold a hearing to make determinations about a respondent’s conduct and take action: PGA, ss. 75, 77. After a hearing, the Discipline Committee must do one of the following:
    - (a) dismiss the citation;
    - (b) determine that the respondent has committed one or more of the following:
      - (i) professional misconduct;
      - (ii) conduct unbecoming a registrant;
      - (iii) incompetent performance of duties undertaken while engaged in the registrant’s regulated practice.
  5. For the reasons set out below, the Panel:
    - a. finds the conduct set out in Allegation 1(a), (b)(iii) and (b)(iv) was conduct unbecoming a registrant;
    - b. finds the conduct set out in Allegations 2, 6, and 8 was professional misconduct;
    - c. finds that the remainder of the allegations are subsumed within the above findings.

## **B. PRELIMINARY MATTERS**

### **Admissibility of the Respondent's Documents**

6. On January 24, 2025, shortly before the hearing, the Respondent sent the Panel a written statement ("Jan 24 Statement") with attached documents. EGBC consented to the Jan 24 Statement and attached documents being admitted into evidence, with the exception of three documents that were written in a language other than English. Have receiving further written submissions from Mr. Eloufy, the Panel ruled that the Jan 24 Statement and all documents were admissible.
7. At the end of the hearing, the Panel set a schedule for the parties' submissions. In his response to EGBC's submissions, the Respondent included a great deal of information, some of which was new, that was not submitted with the Jan 24 Statement.
8. EGBC argued that the Respondent's new information should not be considered by the Panel, as EGBC had not had the opportunity to test, or respond to, it during the hearing.
9. The Panel ruled that any new information included in the Respondent's written submissions was not admissible as evidence. The Respondent did not explain why he could not have submitted this additional information with the Jan 24 Statement or otherwise at the hearing.

### **Holding the Hearing Without the Respondent**

10. The hearing was held without the Respondent present. At the outset of the hearing, the Panel determined this was appropriate in the circumstances. In this regard, the Panel notes the following.
11. Under section 78(2) of the PGA, a panel may proceed in the absence of a respondent if it is satisfied that they have been notified of the hearing.
12. EGBC established on the evidence that the Respondent had reasonable notice of the hearing. On August 14, 2024, EGBC sent the Citation to the email address he had provided. On October 29, 2024, EGBC sent the Respondent, using this same email address, a link to EGBC's secured file sharing site so he could access EGBC's

documents before the hearing. The evidence shows that less than an hour later someone other than EGBC used this link to download the documents.

13. Further, in his email submitting the Jan 24 Statement and documents, the Respondent said he would attend the second day of hearing on January 29. This indicates he knew about the hearing. He also referred to the email address EGBC used to send him the Citation and the link to its documents. He said it would remain active for 30 more days from January 24, 2025.

14. Subsequently, the Respondent emailed the Panel stating that he would be unable to attend the hearing due to time zone restraints, a medical issue, and resource constraints that prevented him from accessing the necessary technology for video or phone participation. He asked that the hearing proceed in his absence, and that the Panel rely on the Jan 24 Statement and documents.

### **C. LEGAL PRINCIPLES**

#### **Burden and Standard of Proof**

15. EGBC has the burden of proof. The standard of proof is a “balance of probabilities”: *F.H. v McDougall*, 2008 SCC 53; *Kaminski v Assn. of Professional Engineers and Geoscientists of British Columbia*, 2010 BCSC 468, at para 52. *R. v Schoenborn*, 2010 BCSC 220, has a helpful explanation of what this means:

A party who has the burden of proof on an issue, on the balance of probabilities, must convince the court that what they assert is more probable than not, and that the balance is tipped in his or her favour. The evidence must be more convincing than the evidence on the other side. The person with the burden must show that what they assert is more probable than not (*F.H. v McDougall*, 2008 SCC 53). If the evidence on an issue was evenly balanced so that the court is unable to say where the balance of probabilities lies, then the person who has the burden of proving it would have failed to do so. All of the evidence produced on that issue must be considered, no matter who has produced that evidence. In order to find that something has been proven on the balance of probabilities, it is not necessary for the jury or the trier of fact to be sure, but simply to find that the event to be proven is more probable than not or more likely than not.

### **Conduct Unbecoming a Registrant**

16. Allegation 1 alleges conduct unbecoming a registrant. The PGA defines “conduct unbecoming a registrant” as conduct that:

- (a) brings the regulatory body or its registrants into disrepute,
- (b) undermines the standards, methods or principles that are the foundation of the profession, or
- (c) undermines the principle of holding paramount the safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace in the manner that reflects the stewardship of a given profession by each regulatory body[.]

17. The EGBC noted that, while other regulatory bodies use the same or similar language in their relevant statutes, the *PGA* has a specific definition that is not found elsewhere. The EGBC stated that the Panel should rely on the modern principle of construction as set out in *Rizzo & Rizzo Shoes Ltd., Re* [1998] 1 S.C.R. 27 (S.C.C.): that “the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.” (at para 21).

### **Professional Misconduct**

18. EGBC relies on alleged breaches of several provisions of the PGA, Regulation, *Bylaws* and Code of Ethics, to establish professional misconduct in relation to the conduct in Allegations 1 and 2: Citation, Allegations 2 to 10.

19. The PGA defines “professional misconduct” as misconduct by a registrant as a professional relating to the performance of duties while engaged in a regulated practice, including a failure to comply with, or a breach of, the PGA, regulations or *Bylaws*: PGA, s. 1(1).

20. The PGA defines “regulated practice” as the “carrying on of a profession by a registrant of a regulatory body.”

21. Section 5 of Schedule 1 of the *PGA* further defines “regulated practice” as “(a) the practice of professional engineering, or (b) the practice of professional geoscience,”

and the “practice of professional engineering” as “the prescribed scope of practice carried on in respect of engineering.” Section 2 of the *Regulation* further defines the “practice of professional engineering” as the provision of “(a) advice or services that are based on an engineering discipline, or (b) advice or services that are ancillary to those described in paragraph (a).”

22. Under the previous governing statute, the *Engineers and Geoscientists Act* (the “EGA”), the equivalent to a finding of professional misconduct was “unprofessional conduct.” The Panel finds case law and past decisions by discipline committees dealing with unprofessional conduct informative in our consideration of whether there was professional misconduct.

23. Decisions of the Discipline Committee consistently apply the following definition for unprofessional conduct:

Hence, unprofessional conduct is that which does not meet the standard expected through application of the Code of Ethics. The Panel accepts the submission of the Association, based on *Law Society of British Columbia v. Martin*, 2005 LSBC 16, that professional misconduct is established when there is a marked departure from the standard to be expected of a competent professional, and that minor or inadvertent failure to comply with professional standards does not constitute unprofessional conduct.

*Re: Ian Foreman, P.Ge* (August 25, 2015), at para 94. See also e.g. *Re: Bruce Joseph Gernon, P.Eng.* (October 5, 2023), at para 14; *Re: Eric Chrysanthous, P.Eng.* (May 17, 2017); *Re: Laura Fidel, P.Eng.* (July 12, 2021).

24. As the threshold for unprofessional conduct is a marked departure from the standard expected of a competent professional, a minor, or inadvertent failure to comply with professional standards will not amount to unprofessional conduct: *Re: Gernon*, at para 16.

25. In assessing whether conduct is unprofessional, the Panel must use its judgment and expertise, be guided by the Code of Ethics and focus on what is expected of a professional person in the circumstances: *Re: Gernon*, at para 16.

26. Also, professional misconduct does not require proof of dishonourable, disgraceful, blatant or cavalier conduct: *Salway v Assn. of Professional Engineers and Geoscientists of British Columbia*, 2010 BCCA 94, at para 32.

#### **D. EVIDENCE AND FINDINGS**

##### **The Respondent**

27. The Respondent provided information indicating that he has a degree in mechanical engineering, and has international experience in that field.

28. He applied for professional registration in Canada with the Association of Professional Engineers and Geoscientists of Saskatchewan ("APEGS") in August 2020 when he was still outside Canada. APEGS approved his application to register as an EIT on July 26, 2021.

29. At the time of the events alleged in Allegations 1(a), 1(b)(iii) and 1(b)(iv) and 2, the Respondent was registered as an EIT with EGBC. His registration was approved on September 28, 2022, on the basis of his registration as an EIT with APEGS. Shortly after that, on October 6, 2022, he applied for a professional engineer ("P.Eng.") designation.

30. In response to EGBC's investigation, the Respondent withdrew his application for designation as a P.Eng. and resigned from EGBC in April 2023. He also resigned as a registrant and withdrew his application for designation as a professional engineer with APEGS.

31. He now resides outside of Canada.

##### **Conduct in Allegation 1(a)**

32. For the following reasons, the Panel finds the Respondent falsified the identity, contact information and commentary of two of his competency validators in his application for registration as a P.Eng.

33. Jason Ong, EGBC's Director of Registration, testified about the process of applying for professional registrant and trainee status for engineering and geoscience, including the P.Eng and EIT designations. Registering for the EIT designation involves

verifying that the applicant meets the academic requirements for licensure. For applicants who are already registered as an EIT elsewhere in Canada, the process is more streamlined, as applicants can indicate which province they are seeking to transfer their license from, and EGBC's system will seek a confirmation of that status from that province.

34. With respect to the process for becoming a P.Eng, Mr. Ong testified that it requires the applicant to use EGBC's competency based experience reporting system (the "Competency System"). Mr. Ong stated that the Competency System is a web-based system that assesses 34 key competencies that all engineers are expected to have at a required level for entry to practice. The competencies cover different areas, including technical competency, software skills, communication, project and financial management and continuing education.
35. Mr. Ong explained that, for each competency, the applicant is required to provide the best example they have from their work experience for EGBC assessors to review. In addition, the applicant is required to nominate a minimum of four validators, who are individuals with direct knowledge of the applicant's work to validate the work experience examples provided by the applicant in the Competency Assessment.
36. Mr. Ong continued that, in the Competency Assessment, the applicant is required to list their validators, including their legal name, contact information, and company they work for. As the applicant fills in examples for the specific competencies, they can pick the specific employer and the specific validator who will confirm their experience. Once the applicant completes and submits the application, the Competency System will take the information used to nominate the validators, and will (using the information provided by the applicant) email each validator a unique link that allows them to access the Competency System and validate the specific competencies that the applicant has nominated them for. Mr. Ong testified that the applicant does not get access to the unique link that is sent to each validator, or to the ratings or comments that the validator subsequently provides.

37. Mr. Ong also noted that the EGBC Competency System has been used as the template for competency systems in other provinces, including Saskatchewan, and that EGBC provides system support to other provinces. Mr Ong testified that EGBC became aware of the Respondent's application for registration, after EGBC's counterparts at APEGS noticed some irregularities that raised concerns about the Respondent's validators in his application for a P.Eng. designation with APEGS.

38. As a result, Mr. Ong asked Neil Russell, then the EGBC Associate Director of Information Technology, to investigate the Respondent's EGBC competency assessment.

39. Mr. Russell testified that, in this investigation, he found that:

- a. Most of the validator addresses came from Virtual Private Networks ("VPN"), which can be used to hide true IP addresses<sup>1</sup>
- b. All validators used the same version of the Chrome browser, which he described as "a little suspect," but not completely impossible;
- c. Two validators were under the same Internet domain name,<sup>2</sup> which was registered two hours before they submitted their competency assessment for validation, and listed a phone number matching the phone number EGBC had for the Respondent.
- d. The domain of the emails for the two validators did not match their companies' domains and Mr. Russell could not find any reference to these email addresses related to the purported validators in the professional association where they were licensed (Ontario).

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<sup>1</sup> Mr. Russell explained that an "IP address" is a numerical identifier used by a computer to "talk to" another computer, and provides information about the location and network a device is connected to. He stated that most individual computers will have unique IP addresses, although if two users are in the same office, their IP addresses may be the same. He stated that a "VPN" was a way for a user to hide their actual IP address.

<sup>2</sup> A "domain" or "domain name" is an identifier used for websites. For example, at website [www.example.ca](http://www.example.ca), the domain is "example.ca."

40. Mr. Ong also testified that EGBC's competency assessors noted that the Respondent and his validators were not realistic in their ratings, giving the highest rating for virtually all competencies. Such ratings are not typical and constitutes a red flag for EGBC's registration team.
41. Two of the individuals who the Respondent said were his validators testified at the hearing. Both said they had not agreed to be the Respondent's validators for his EGBC P.Eng. application, did not submit any information for his competency validation, did not register the domain names and that the email addresses used by the "validators" were not theirs.
42. The Panel accepts their evidence and rejects the Respondent's submission that the two validators were not credible. The Panel finds the Respondent's evidence on this issue was not plausible. The Respondent said he had unresolved financial issues with these witnesses at the time he alleges they were his validators. Whether or not this was the case, the Panel finds there was no reason for these witnesses to be untruthful at the hearing and there was no evidence that contradicted their version of events.

### **Conduct in Allegation 1(b)**

43. For the following reasons, the Panel finds the Respondent represented himself as a P.Eng. to his former employer ("EERGL") and others by using P.Eng. and not "engineer-in-training" or EIT on documents addressed to EERGL staff and or clients, including emails and an engineering proposal dated October 25, 2022.
44. The Panel heard evidence from Michael Laws, P.Eng., who is a principal at EERGL. He testified that during the Respondent's brief employment with EERGL, he signed several proposals for mechanical engineering services as a P.Eng. when he actually had EIT status.
45. Mr. Laws stated that when EERGL hired the Respondent, he thought the Respondent was registered as a P.Eng. in Saskatchewan based on his application and resume. When one of Mr. Laws's colleagues noticed the Respondent was only registered as an EIT with EGBC, Mr. Laws looked him up on the APEGS website and found he was listed as an EIT. Mr. Laws then confirmed this with the APEGS registrar.

46. A proposal that the Respondent prepared on October 25, 2022 on behalf of EERGL was admitted into evidence (the "Proposal"). In it, he uses "P.Eng." on his signature block and signed the standard service contract appended to this proposal as a "Senior Mechanical Engineer."
47. Further, within the body of the Proposal, the "Project Team" is identified as including the Respondent, with the designations "P.Eng., PMP, CFPS," and states that he will be the Lead Mechanical Engineer-of-Record (which requires P.Eng. registration).
48. The Respondent said, first, that he informed EERGL's HR department in writing that he was not a P.Eng. with EGBC. On October 6, 2022 he provided an email in which he advised HR that his EGBC application was "still in process," and he believed that the "average processing time is 6 weeks +/-." He pointed to this email as establishing that EERGL knew that he did not have a P.Eng. in BC. However, Mr. Laws testified that EERGL's understanding at the time was that the Respondent was registered as a P.Eng in Saskatchewan, and the process that he was referring to was the transferring of that status to BC through the interprovincial mobility path.
49. With respect to the use of the "P.Eng." title in EERGL documents and emails, the Respondent stated that this was unintentional and occurred because he relied on EERGL's document templates. He stated that these templates included the designation "P.Eng." by default.
50. However, Mr. Laws testified, and the Panel accepts, that while EERGL proposals use a standardized template for the proposal and contract form, employees can edit these and the signature block in the proposal template does not automatically populate with any credentials.
51. The Panel notes that along with "P.Eng." in the signature block, the proposal also identifies the Respondent in the body of the proposal as "P.Eng. along with project management and fire protection specialist designations. Mr. Laws testified that, to his knowledge, this combination of qualifications is not held by anyone else at EERGL. This strongly suggests the Respondent was responsible for the inclusion of "P.Eng." as one of his designations.

52. EGBC also submitted additional emails showing the Respondent used “P.Eng.” on his signature blocks and identified himself as a Senior Mechanical Engineer while employed by EERGL. The Respondent did not provide any evidence to contradict these documents but again said that it was due to his reliance on EERGL’s signature block templates.

53. The Panel finds the above evidence sufficient to establish on a balance of probabilities that the Respondent’s misrepresentations were intentional.

54. The Respondent submitted that Mr. Laws had a conflict of interest and that there was potential bias or appearance of bias in the EGBC investigation because Mr. Laws is a member of EGBC’s Investigation Committee.

55. Mr. Laws testified that he recused himself from all meetings where his complaint was discussed and was not present at the meeting in which the Investigation Committee decided to issue the Citation. This was supported by excerpts from the minutes submitted by EGBC. In these circumstances, the Panel finds no conflict of interest or reasonable apprehension of bias in the investigation.

## **Conduct in Allegation 2**

56. David Brown is the investigator with EGBC who was assigned to investigate the allegations against the Respondent. He testified about his efforts to have the Respondent attend a virtual interview. He stated that those attempts included a January 3, 2024 letter in which he proposed three possible dates and asked the Respondent to confirm his availability.

57. Mr. Brown stated that the Respondent replied to the email the same day. In that email, the Respondent asked a number of questions about the investigation process, but did not provide his availability for an interview.

58. Mr. Brown stated that he responded to the Respondent’s email on January 11, 2024. He explained that he attempted to answer the questions asked, and provided information about the investigation process. He then reiterated three possible dates for the interview.

59. Mr. Brown testified that the Respondent did reply to this email, on January 19, 2024 with further questions and comments. The Respondent stated, in part: "I will not be able to attend any interview without legal advice and/or legal representation, as I'm unable to have this at the time due to current financial hardship." The Respondent did not provide his availability for the interview.

60. On January 29, 2024, Mr. Brown sent the Respondent a further email in which he explained EGBC's authority and the investigation process. Given that the Respondent had not responded with his availability for an interview, he set the interview for February 15, 2024, and asked the Respondent to confirm his attendance. He did not receive a response to the email.

61. Mr. Brown testified that on February 15, 2024, he called both of the Respondent's B.C. and Ontario numbers, and sent him a reminder email the morning of the interview. He said that he waited online for over half an hour, but the Respondent did not attend.

62. The Respondent agrees that he did not attend an interview with the EGBC investigator. He states, however, that he cooperated fully with the investigation by responding to the investigator's letters and providing detailed replies. He states that this demonstrates his willingness to clarify the circumstances and engage in the process.

63. He explained that he was unable to attend the interview as requested due to resource inequities (including no access to stable Internet and legal support), privacy concerns, mental health struggles and his objection to what he found to be an unfair, aggressive and hostile process.

## **E. ANALYSIS**

### **Overview**

64. For the reasons set out below, the Panel concludes that:

a. EGBC established that the Respondent engaged in conduct unbecoming a registrant when:

(i) he falsified two of his validators for his competency assessment; and

- (i) intentionally misrepresented himself as a P.Eng; and failed to identify himself as an EIT, in the Proposal and other emails during his four weeks with EERGL.
- b. EGBC established that the Respondent engaged in professional misconduct when he failed to attend an interview with the EGBC investigator despite repeated requests to do so

### **The Parties' Positions in Brief**

65. EGBC alleges the Respondent engaged in conduct unbecoming a registrant by:

- a. falsifying the identity, contact information and commentary by two of his competency validators in his application for registration as a P.Eng.
- b. misrepresenting himself as a P.Eng. to EERGL and others by using P.Eng. and not using "engineer-in-training" or EIT on documents addressed to EERGL staff and or clients, including emails and written engineering proposals.

66. EGBC also alleges professional misconduct based on the above behaviour and the Respondent's failure to attend an interview with an EGBC investigator despite repeated requests.

67. The Respondent notes he has voluntarily resigned from EGBC and is not seeking reinstatement, membership or professional validation. He agrees to not seek registration with EGBC again and wants EGBC to remove his name and the Citation from its website and not engage with him in the future.

68. Regarding Allegation 1(a), the Respondent says it is factually incorrect, legally unfounded and was procedurally mishandled by EGBC.

69. The Respondent says in relation to Allegation 1(b) that any use of "P.Eng." in proposals or email signatures was an unintentional clerical error.

70. According to the Respondent, Allegations 2 to 10 are exaggerated and contextually and procedurally flawed. He says he told EGBC that he no longer lived in Canada,

had no legal income and could not attend an interview in-person or remotely because of unstable living conditions.

71. The Respondent also submits that the PGA and procedural fairness principles do not impose an unlimited burden of participation on someone who is no longer a registrant, lives outside of British Columbia and has already cooperated with the investigation.

### **Conduct unbecoming a registrant**

#### Allegation 1(a)

72. The Panel concludes that Allegation 1(a) is established.

73. The Respondent submits that in September 2022, after he was registered as an EIT with EGBC, he submitted his P.Eng. application to EGBC using the same competency content and validator names he had used for the APEGS process. He did this because his APEGS application was significantly delayed without explanation and he was worried the EGBC process would also be delayed.

74. However, he says he only did this after confirming with the individuals that they agreed to be his validators and that they supported his application. He said he trusted them and they gave him the email addresses he provided to EGBC.

75. While the Respondent submits that the email used by one of the validators for his APEGS EIT application in 2021 matched the domain registrant contact email he used in his EGBC P.Eng. application, he did not provide any admissible evidence to support this assertion. He says EGBC's investigation should have verified domain registration ownership, payment records or administrative control. However, if he had relevant evidence about this, it was his responsibility to submit it to the Panel.

76. The Panel also has no admissible evidence that the two alleged validators provided unsigned affidavits via WhatsApp confirming they completed the EGBC validations, as described in the Respondent's submissions. The evidence before the Panel, based on direct evidence, is that two of the individuals who are purported to be validators did not complete the competency assessment on behalf of the Respondent.

77. The Panel concludes that submitting false information for a P.Eng. application is clearly conduct unbecoming a registrant. It is conduct that would likely lower a reasonable person's trust, respect and regard for EGBC and its registrants. In other words, it brings EGBC and its registrants into disrepute.

78. The Panel agrees with EGBC that the public ought to feel confident that individuals seeking registration as professional engineers do so honestly. The public should be able to rely on a P.Eng. designation as indicating a registrant has the required competencies.

Allegation 1(b)(iii) and (iv)

79. There are two aspects to the Respondent's misrepresentation of himself as a P.Eng. to EERGL and others outside the firm. One, is individual responsibility. The other is corporate responsibility. The Panel is determining the Respondent's individual responsibility and not EERGL's corporate responsibility.

80. The Respondent says any use of "P.Eng." in his EERGL proposals or email signatures was an unintentional clerical error resulting from using EERGL's templates. He puts the error down to working with minimal guidance in a new regional office where the project team and office lacked direct oversight.

81. As outlined above, the Panel concludes that the evidence establishes that the Respondent intentionally misrepresented himself in the Proposal and his emails for the four weeks he was employed at EERGL.

82. The Panel concludes that intentionally using the P.Eng. designation without being registered as a P.Eng, and failing to use the E.I.T. designation is conduct unbecoming a registrant. It is contrary to both the PGA, the *Engineers and Geoscientists Regulation*, BC Reg 14/2021; and EGBC *Bylaws*. Further, it is conduct that, on its face would likely lower a reasonable person's trust, respect and regard for EGBC and its registrants. It brings EGBC and its registrants into disrepute.

## **Professional misconduct**

### Notice of allegation of professional misconduct

83. As the Citation does not expressly accuse the Respondent of professional misconduct, the Panel had to determine if it was fair to consider EGBC's submission that the Respondent's conduct described in Allegations 1 and 2, either individually or collectively, constituted professional misconduct.
84. EGBC says the Citation asks the Panel to find the Respondent engaged in professional misconduct with respect to the conduct alleged in Allegations 1 and 2. This is because the PGA definition of "professional misconduct" includes a failure to comply with, or a breach of, the PGA, the Regulations or the *Bylaws* and Allegations 2 to 10 allege exactly such breaches. Also, the Respondent received extensive document disclosure about each Allegation.
85. The Panel agrees with EGBC that the Respondent had sufficient notice that he would have to respond to an allegation of professional misconduct with respect to the conduct set out in Allegations 1 and 2.
86. Professional misconduct can be based on a failure to comply with, or a breach of, the PGA, the regulations or *Bylaws*: PGA, s. 1(1). Allegations 3 to 10 of the Citation allege various breaches of these instruments in relation to the conduct described in Allegations 1 and 2 as independent grounds for discipline.
87. EGBC is not required to prove the charge precisely as worded in the Citation. Rather, it must establish the allegations essential to a finding of misconduct. For example, in *Ratsoy v Architectural Institute of British Columbia*, 1980 CanLII 662, an architect was alleged to have violated a zoning bylaw but was found by the discipline committee to have violated a building bylaw. The notice received by the petitioner was adequate to "alert him both to the nature of the factual allegations made against him and the provisions of the Act and by-laws which he was alleged, and ultimately found, to have breached."

EGBC jurisdiction to require an interview

88. The Respondent says he was not required to attend an interview with EGBC, as he lives outside the jurisdiction and had resigned his registration before the interview was requested.
89. The Panel concludes the Respondent was subject to the PGA regulatory scheme at the time of the interview request and so was required to attend the interview.
90. The definition of “registrant” for the purposes of Part 6 (Protection of the Public Interest With Respect to Professional Governance and Conduct) of the PGA, includes a former registrant: PGA, s. 56(1).
91. While section 56(2) limits the application of Part 6 to the period when a former registrant was acting as a registrant, the Panel agrees with EGBC that applying the modern approach to statutory interpretation, this cannot be read to mean that EGBC cannot require a former registrant to attend an interview during an investigation into conduct that occurred when the person was a registrant.
92. Interpretations of legislation that lead to absurd results and/or undermine a regulatory body’s ability to carry out its duties are inconsistent with legislative intent requiring the regulator to act in the public interest and are to be avoided: *College of Nurses of Ontario v Dumchin*, 2016 ONSC 626, at para 33.
93. Section 65(5) of the PGA says a registrant who resigns before or after the beginning of an investigation remains subject to a regulatory body’s jurisdiction. If section 56(2) were read to preclude jurisdiction over former registrants to attend interviews, it would lead to an absurd result. Further, it would contradict EGBC’s express statutory obligation to serve and protect the public interest: PGA, s. 22.

Was there professional misconduct?

94. In deciding whether the Respondent’s conduct described in Allegations 1(a), 1(b)(iii), 1(b)(iv) and 2 was professional misconduct, the Panel declines to consider the conduct set out in Allegations 1(a), 1(b)(iii) and 1(b)(iv), which were already determined was conduct unbecoming a registrant.

95. The Panel agrees with the Panel in *Re: Kovacik, P.Eng.* (June 12, 2024), at para 42, that, “[w]here the same conduct could result in multiple determinations, it is preferable to make a singular determination about each allegation and not characterize the same conduct as meeting two or more types of conduct as described in s. 33 of the *[Engineers and Geoscientists Act]*.”
96. As a result, the question of whether the Respondent engaged in professional misconduct relates to his failure to attend an interview with the EGBC investigators. In this regard, the EGBC relies on paragraphs 2, 6 and 8 of the Citation, which in turn cite the PGA, sections 66(1)(b) and 66(1)(c); the *Bylaws*, section 9.7.5(1)(f); and the *Code of Ethics*, principle 4.
97. Section 66(1)(a) authorizes EGBC to investigate the conduct or competence of a registrant if there is reason to believe they may have been guilty of conduct unbecoming a registrant or professional misconduct.
98. Section 66(1)(b) allows EGBC, if there is reason to believe that a registrant whose conduct or competence is being investigated has any information, record or thing that is relevant to the investigation, to issue a written notice requiring the registrant to cooperate with an investigation, answer questions, produce materials in their control and provide explanations on request.
99. Section 66(1)(c) allows EGBC, if there is reason to believe that the conduct or competence of a registrant may warrant action, to issue a written notice requiring the registrant appear before an investigation committee.
100. The Panel concludes that sections 66(1)(b) and 66(1)(c) do not impose any obligations on a registrant. Applying the modern principle of statutory construction, as outlined in *Rizzo*, supra, the ordinary and plain wording of sections 66(1)(b) and 66(1)(c) give EGBC legal authority to issue a written notice requiring a registrant to cooperate with an investigation, including appearing before an investigation committee. They do not create an obligation on a registrant to attend an interview that can be breached if the registrant fails to appear.

101. The Panel does find, however, that the obligation to attend an interview where a notice has been issued is found in s. 9.7.5(1)(f) of the Bylaws, which requires a registrant to appear before an EGBC investigator if the investigator issues a written notice to the registrant requiring the registrant's attendance.

102. In addition, Principle 4 of the Code of Ethics provides:

**Schedule A – Code of Ethics**

(1) A registrant must adhere to the following Code of Ethics:

Registrants must act at all times with fairness, courtesy and good faith toward all persons with whom the registrant has professional dealings, and in accordance with the public interest. Registrants must uphold the values of truth, honesty and trustworthiness and safeguard human life and welfare and the environment. In keeping with these basic tenets, registrants must:

...

4. have regard for applicable standards, policies, plans and practices established by the government or EGBC;

103. The Panel finds that, in disregarding the Investigators direction to attend for an interview, the Respondent acted with disregard for the standards, policies, plans and practices established by EGBC.

104. As a result of the above, the Panel finds that the Respondent has failed to comply with EGBC Bylaws.

105. EGBC submits that, under the definition of professional misconduct in the PGA, an allegation of professional misconduct is established if a registrant (or former registrant under s. 56) is found to have failed to comply with or breached the *PGA, Regulation or Bylaws*. In the alternative, EGBC submits that a failure to comply with or breach of the *PGA, Regulation or Bylaws* is an act of professional misconduct if the breach occurred in relation "to the performance of duties while engaged in a regulated practice."

106. EGBC argues, in effect, that the fact that failure to comply with the PGA and EGBC Bylaws is specifically enumerated in the definition for professional misconduct means

that there is no longer an additional requirement that the conduct also be a marked departure from the standard expected of a competent professional. On the facts of this case, the Panel finds that it need not determine that issue. That is because the Panel finds that the conduct at issue here is in fact a marked departure from the standard to be expected of a competent professional, and thus would lead to a finding of professional misconduct in any event.

107. In the circumstances of this case, the Panel finds that the conduct in question is a marked departure from the standard to be expected of a competent professional. The Respondent was given a number of opportunities to arrange a time to meet with the Investigator. He disregarded multiple meeting requests. Although the Respondent provided a rationale for his decision in the evidence he submitted, he did not engage with the Investigator in relation to those issues or request required accommodations or modifications to the interview request. He simply failed to attend. This course of action goes beyond mere inadvertence, or a simple error in judgment. It was a concerted course of conduct that impeded the EGBC's investigation.

#### **F. SUMMARY**

108. In summary, the Panel:

- a. finds the conduct set out in Allegations 1(a), 1(b)(iii) and 1(b)(iv) was conduct unbecoming a registrant.
- b. Finds the conduct set out in Allegation 2, 6 and 8 was professional misconduct.
- c. Finds that the conduct set out in Allegations 4-5, 7, and 9-10 is subsumed within the above findings, as the factual basis underlying those allegations has been determined to be conduct unbecoming a registrant.

**G. PENALTY AND COSTS**

109. The Panel must next determine the sanctions which should be imposed upon the Respondent and whether, and in what amount, costs are payable: *PGA*, ss. 75(4)(c), 75(7).
110. The Panel requests written submissions on the appropriate sanctions and costs in accordance with the following schedule:
- a. EGBC provides submissions to the Respondent and the Panel by no later than July 14, 2025;
  - b. The Respondent provides submissions to EGBC and the Panel by no later than August 13, 2025;
  - c. EGBC provides any reply submissions to the Respondent and the Panel by no later than August 29, 2025.
111. The Panel notes that the submissions are to be strictly limited to only the issues of sanctions and costs.

112. All submissions may be delivered by email to the other party and to Tonie Beharrell, independent legal counsel to the Panel.

Dated: June 12, 2025

<original signed by>

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Ron Yaworsky, P.Eng., Chair

<original signed by>

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Larry Spence, P.Eng.

<original signed by>

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John Wilson