



ENGINEERS &
GEOSCIENTISTS
BRITISH COLUMBIA

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

and

IN THE MATTER OF BARRY DEAN CLARKE, P.ENG.

ENGINEERS AND GEOSCIENTISTS BC FILE NO. T20-043

CONSENT ORDER

Background

1. On March 22, 2023, pursuant to section 66(1) of the *Professional Governance Act*, S.B.C. 2018, c. 47 (the “PGA”), the Investigation Subcommittee of Engineers and Geoscientists BC issued an investigation report (the “Report”) regarding Mr. Barry Clarke, P.Eng. The Report was provided to the Investigation Committee pursuant to section 9.7.6(1) of the Bylaws of Engineers and Geoscientists BC.
2. The Investigation Committee and Mr. Clarke wish to resolve the matter by consent pursuant to section 73(2) of the PGA to avoid the need for a disciplinary hearing.
3. Mr. Clarke consents to the disposition set out below.

Legislation

4. On February 5, 2021, the *Engineers and Geoscientists Act*, R.S.B.C 1996, c. 116 (the “EGA”) was repealed and replaced by the PGA.
5. The conduct of Mr. Clarke took place at a time when the EGA was in force. As a result, the conduct in question is considered pursuant to sections 30(9)(b) and 30(9)(c) of the EGA, and the Bylaws and Code of Ethics under the *EGA*.

6. Pursuant to sections 35(2) and 36(1)(c) of the *Interpretation Act*, R.S.B.C. 1996, c. 238, investigations commenced under the EGA carry on procedurally under the PGA.

Admissions

7. Mr. Clarke admits that he demonstrated unprofessional conduct in relation to the engineering services he provided for fire and life safety systems in the Okanagan (the "Projects"). In particular, Mr. Clarke admits that he:
 - a. demonstrated a lack of understanding of certain principles of fire suppression systems contained in the British Columbia Building Code ("BCBC") and National Fire Protection Association ("NFPA") standards, in particular he failed to adequately understand the requirements contained in the NFPA standards as they relate to inside and outside hose demand and domestic demand;
 - b. failed to utilize adequate quality control processes for the Projects, in particular he failed to:
 - i. identify and correct deficiencies during his field reviews including:
 1. the installation of the incorrect type of sprinkler heads;
 2. obstructions blocking sprinklers;
 3. excess distance of the sprinkler deflectors from the ceiling above;
 - ii. record deviations from installation standards and provide justification to support the deviation including setting out that the installation meets the intent of the standard;
 - iii. adequately assess the changes made to the design during installation and their impact on the performance of the fire suppression systems;
 - c. failed to provide the date on his signature and seal applied to the design on the fire suppression systems and hydraulic calculations.
8. The conduct set out above at paragraph 7 is contrary to Principle 1 of the Engineers and Geoscientists BC Code of Ethics, created pursuant to the EGA (the "Code of Ethics"), as it stood at the time, which required that all members and licensees shall hold paramount the safety, health and welfare of the public, the protection of the environment and promote health and safety within the workplace.
9. The conduct set out above at paragraph 7(a) is contrary to Principle 3 of the Code of Ethics, as it stood at the time, which required that all members and licensees shall

provide an opinion of a professional subject only when it is found upon adequate knowledge and honest conviction.

10. The conduct set out above at paragraph 7(b) is contrary to section 14(b) of the Engineers and Geoscientists BC Bylaws, created pursuant to the EGA as they stood at the time, which required that members and licensees shall establish and maintain documented quality management processes for their practices, including:
 - a. regular documented checks of engineering and geoscience work using a written quality control process appropriate to the risk associated with the work; and
 - b. documented field review by, or under direct supervision of, members or licensees, of their domestic projects, during implementation or construction.
11. The conduct set out above at paragraph 7(c) is contrary to section 20(9) of the EGA, as it stood at the time, which required that a member receiving a seal or stamp under that section must use it, with signature and date, to seal or stamp estimates, specifications, reports, documents, plans or things that have been prepared and delivered by the member or licensee in the member's or licensee's professional capacity or that have been prepared and delivered under the member's or licensee's direct supervision.

Disposition

12. By consent, this Consent Order is made pursuant to section 73 of the PGA.
13. Mr. Clarke's registration in Engineers and Geoscientists BC is suspended for a period of two months commencing on the effective date of this Consent Order (the "Suspension Period").
14. Before the Suspension Period concludes, Mr. Clarke will, provide proof to Engineers and Geoscientists BC that he has at his own expense, successfully completed the following educational courses:
 - a. Documented Field Reviews During Implementation and Construction (offered by Engineers and Geoscientists BC); and
 - b. NFPA 13: Standard for the Installation of Sprinkler Systems (2022) Online Training Series (offered by the National Fire Protection Association).
15. Six months after the conclusion of the Suspension Period, Mr. Clarke agrees to undergo a practice review conducted by Engineers and Geoscientists BC (the "Practice Review"), at his own expense. The precise timing and process of the Practice Review will be determined by the Audit and Practice Review Committee.

16. Mr. Clarke will pay \$5,500 to Engineers and Geoscientists BC contemporaneous with the execution of this Consent Order as a contribution towards the legal and investigative costs incurred in this matter.
17. In the event that Mr. Clarke fails to comply with any of the terms of this Consent Order, his registration with Engineers and Geoscientists BC will be suspended until every default has been remedied in accordance with the terms of this Consent Order.

Consequences of the Consent Order

18. The full text of this Consent Order will be published on the website of Engineers and Geoscientists BC, and a summary will be published in print and electronic publications, including in public communications.
19. This Consent Order has the same force and effect as an Order made under section 75 of the *PGA*.
20. Mr. Clarke agrees that Engineers and Geoscientists BC has recommended that he receive independent legal advice regarding this Consent Order and that Engineers and Geoscientists BC has given him the opportunity to obtain independent legal advice.
21. Mr. Clarke and Engineers and Geoscientists BC agree that this Consent Order may be executed in counterparts and delivered as an electronic document.

This Consent Order is approved and accepted by Mr. Clarke and the Investigation Committee this 9th day of November, 2023.

<original signed by>

Barry Dean Clarke, P.Eng.

Tim R. McCloskey

Name of Witness

<original signed by>

Signature of Witness

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

<original signed by>

Per: Robert Allan Dakin, P.Eng.
Vice-Chair, Investigation Committee