

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

and

IN THE MATTER OF AVINDER SINGH, P. Eng.

Hearing Date: February 14, 2019

Discipline Committee Panel: John Haythorne, P.Eng., Chair
Thomas Leung, P. Eng., Struct. Eng.
Colin Smith, P.Eng.

Counsel for the Association: Lindsay A. Waddell
Heather D. Hoiness

Counsel for the Member: Dan H. Griffith
Rina E. Jeyakumar

DETERMINATION OF THE DISCIPLINE COMMITTEE

A. Decision and Penalty

1. The Panel finds that Alvinder Singh, P.Eng. applied his colleague's Association seal and forged his colleague's signature four times to an engineering document.
2. The Panel finds that pursuant to section 33(1)(b) and (c) of the *Engineers and Geoscientists Act* R.S.B.C. 1996 c 116 (the "Act"), Mr. Singh violated the values of truth and honesty in the Code of *Ethics* and that he demonstrated unprofessional conduct and negligence.
3. The Panel finds the nature of the conduct is very serious which requires a penalty that reflects the advantage gained by Mr. Singh, the need for general deterrence and the need to ensure the public's confidence in the integrity of the profession. These factors outweigh Mr. Singh's lack of prior discipline history, the fact that this conduct occurred once three years ago and has not recurred since, Mr. Singh's acknowledgement of the misconduct throughout the investigation and discipline inquiry, Mr. Singh's apology for the conduct, and the possibility of remediation including the changes Mr. Singh has already implemented. Accordingly, the Panel finds that a suspension from practice for two months is the appropriate penalty, in addition to a fine, costs and requirements that Mr. Singh undergo a Practice Review, complete the Professional Engineering and Geoscience Practice in BC Online Seminar and pass the Professional Practice Examination.

B. Background

4. A panel of the Discipline Committee (the "Panel") of the Association of Professional Engineers and Geoscientists of the Province of British Columbia doing business as Engineers and Geoscientists BC (the "Association") conducted an inquiry to determine, pursuant to s. 33 of the Act, whether Mr. Singh has acted contrary to section 20(9) of the Act.
 5. The particulars of the allegations against Mr. Singh are set out in the Notice of Inquiry dated January 8, 2019 as follows:
 1. You have demonstrated unprofessional conduct, or negligence by:
 - a. Affixing the seal of Mr. Karamjeet (Gary) S. Jatana, P.Eng. on Schedule B: Assurance of Professional Design and Commitment for Field Review, for a BC Building Permit, dated March 29, 2016, in connection with a project for [REDACTED] Surrey BC.
 - b. Forging the signature of Mr. Karamjeet (Gary) S. Jatana, P.Eng. on Schedule B: Assurance of Professional Design and Commitment for Field Review, for a BC Building Permit, dated March 29, 2016, in connection with a project for [REDACTED] Street, Surrey BC.
 2. The conduct set out above at each of subparagraphs 1(a) and 1(b) is contrary to section 20(9) of the Act.
 6. The hearing took place at the Association's office at 4010 Regent Street, Burnaby, British Columbia on February 14, 2019. The parties led evidence with respect to both conduct and penalty at that hearing.
 7. The parties subsequently delivered written submissions to the Panel. On February 22, 2019, the Association delivered its written submissions. On February 28, 2019, Mr. Singh delivered his written submissions. On March 1, 2019, the Association delivered written reply submissions.
 8. The Panel's determination takes into account the evidence adduced at the hearing and the parties' written submissions.
- ## **C. Service**
9. Mr. Singh attended the hearing with legal counsel and no issues were raised with respect to service. The Panel accepts that Mr. Singh was served with the Notice of Inquiry dated January 8, 2019.

D. Burden and Standard of Proof

10. The Association acknowledges that it bears the burden of proof and must prove its case on a “balance of probabilities”, citing *F.H. v. McDougall*, 2008 SCC 53 and *Kaminski v. Assn. of Professional Engineers & Geoscientists (British Columbia)*, 2010 BCSC 468.
11. The Panel agrees with the Association’s submissions on the burden and standard of proof.

E. Relevant Statutory Provisions

12. The allegations in the Notice of Inquiry engage the following provisions of the Act:

Certificate and seal

20 (9) A member or licensee receiving a seal or stamp under this section must use it, with signature and date, to seal or stamp estimates, specifications, reports, documents, plans or things that have been prepared and delivered by the member or licensee in the member's or licensee's professional capacity or that have been prepared and delivered under the member's or licensee's direct supervision.

Disciplinary actions

33 (1) After an inquiry under section 32, the discipline committee may determine that the member, licensee or certificate holder

(b) has contravened this Act or the bylaws or the code of ethics of the association, or

(c) has demonstrated incompetence, negligence or unprofessional conduct.

13. The Code of Ethics provides:

14 (a) The purpose of the code of ethics is to give general statements of the principles of ethical conduct in order that members and licensees may fulfill their duty to the public, to the profession and their fellow members and licensees.

Members and licensees shall act at all times with fairness, courtesy and good faith to their associates, employers, employees and clients, and with fidelity to the public needs. They shall uphold the values of truth, honesty, and trustworthiness and safeguard human life and welfare and the environment.

14. The Guidelines to the Code of Ethics state:

Guidelines:

(a) Members should not sign or seal plans, specifications, reports or parts thereof unless actually prepared by them or prepared under their direct supervision

F. Evidence

15. The Association called one witness to give evidence concerning the allegations in the Notice of Inquiry: Joanne Wilson, the lead investigator into the complaint against Mr. Singh.
16. Ms. Wilson testified that on May 25, 2016, the Association received a communication from a former employee of Mr. Singh's inquiring into potential misuse of a colleague's signature and stamp.
17. She testified that further communications from the complainant clarified and detailed the allegations that Mr. Singh had affixed the seal of his business partner, Karamjeet Jatana, P.Eng., and forged Mr. Jatana's signature four times to one document titled "Schedule B: Assurance of Professional Design and Commitment for Field Review", for a British Columbia Building Permit, dated March 29, 2016.
18. The Assurance provided in Schedule B states:

The undersigned hereby gives assurances that the design of the [...]

ELECTRICAL [...]

components of the plans and supporting documents prepared by this registered professional of record in support of the application for the building permit as outlined below substantially comply with the B.C. Building Code and other applicable enactments respecting safety except for construction safety aspects.

The undersigned here by undertakes to be responsible for field reviews of the above referenced components during construction as indicated on the "SUMMARY OF DESIGN AND FIELD REVIEW REQUIREMENTS" below.
19. Ms. Wilson testified that the Association notified Mr. Singh of the complaint. She testified that Mr. Singh provided a response to the allegations by letter from his legal counsel dated March 27, 2017. In that letter, Mr. Singh acknowledged affixing Mr. Jatana's seal and signing Mr. Jatana's name to the Schedule B document noted above.
20. Ms. Wilson testified that the Investigation Committee appointed a subcommittee to investigate the complaint against Mr. Singh. By letter dated March 20, 2018, the subcommittee posed a number of questions to Mr. Singh.
21. Ms. Wilson testified that Mr. Singh, through his lawyer, responded to those questions by letter dated April 17, 2018. That response included an admission

by Mr. Singh that he used Mr. Jatana's seal and signature without Mr. Jatana's consent.

22. In the letter dated April 17, 2018, Mr. Singh also explained the circumstances giving rise to Mr. Singh's use of his colleague's seal and signature. A client of Mr. Singh's and Mr. Jatana's came to their office and wanted his paperwork to submit for a building permit application. The project design was completed and no further reviews were required prior to proceeding with that application. Mr. Jatana was away from the office on that day. Mr. Singh was unable to reach him by phone. The client placed a great deal of pressure on Mr. Singh to seal the documents. If this was not done, the project construction would be delayed which would negatively affect his client's business.
23. Ms. Wilson testified that an interview was conducted with Mr. Singh in which he confirmed the above noted circumstances and his admission that he affixed Mr. Jatana's seal without his consent and forged Mr. Jatana's signature.
24. Ms. Wilson testified that she confirmed that Mr. Singh was qualified as a mechanical engineer in 2014 and that Mr. Jatana was qualified as an electrical engineer.
25. Ms. Wilson testified that Mr. Singh provided information about the storage of the seals at his office. Specifically, that the two engineers' seals were stored in a communal drawer.
26. Ms. Wilson testified that through the course of the investigation, she became aware that Zoom Engineering Ltd.'s held Organizational Quality Management (OQM) certification. On June 19, 2018, Mr. Singh, through his lawyer, provided Ms. Wilson with a copy of Zoom Engineering Ltd.'s Quality Manual which contains the following provision:

5.0 USE OF PROFESSIONAL SEALS

5.1 POLICY

Any professional document prepared by an engineer of record or someone under his or her direct supervision must be sealed as required by the Engineers and Geoscientists Act of BC and APEGBC Quality Management Guideline - Use of the APEGBC Seal before it is issued to others who will rely on its engineering content.

The seal must remain in the care and control of the APEGBC professional to whom it was issued and may only be signed and dated by that individual.

27. Ms. Wilson testified that on June 21, 2018 she sent additional questions from the subcommittee to Mr. Singh related to preparation of Zoom Engineering Ltd.'s Quality Manual. Ms. Wilson testified that on June 21, 2018, she received an email from Mr. Singh's lawyer which confirmed that Mr. Singh had authored the OQM Manual for Zoom Engineering Ltd., along with the complainant, and that the manual was finalized in our around January 2016. Ms. Wilson testified that the email further confirmed that the OQM Manual was submitted to the

Association in February 2016 and Zoom Engineering received OQM certification that same month.

28. Ms. Wilson testified that she is not aware of any past discipline history for Mr. Singh.
29. Mr. Singh was the only witness to testify in response to the Association's allegations.
30. Mr. Singh testified as to his education, qualifications and training as a mechanical engineer. In 2014, he became a member of the Association.
31. Mr. Singh testified that he met Mr. Jatana in 2012, and that the two engineers decided to form Zoom Engineering Ltd. Mr. Singh testified that Mr. Jatana is an electrical engineer. They have ten employees at Zoom Engineering Ltd, including engineers in training and support staff.
32. Mr. Singh testified that he has no prior discipline history and that this is the first and only instance in which he has been investigated.
33. Mr. Singh also testified about the circumstances of his use of Mr. Jatana's seal and signature. He testified that his client came to the office wanting to obtain the documents to submit for a building permit. All of the documents were stamped except Schedule B. Mr. Singh attempted to reach Mr. Jatana but could not get a hold of him. Mr. Singh testified that the drawings were prepared by engineers in training and had been reviewed by Mr. Jatana. Mr. Singh used Mr. Jatana's seal and signed Mr. Jatana's name to Schedule B.
34. Mr. Singh testified that at the time both engineers' seals were stored in the same drawer. He testified that since this complaint, steps have been taken to secure the seals. The seals are now stored in individual safes. Mr. Singh testified that it is now impossible for Mr. Singh to access Mr. Jatana's seal.
35. Mr. Singh also testified that in May 2016, Zoom Engineering Ltd. instituted new policies and procedures regarding the storage and use of seals. Those policies were put in writing in 2017. The current policy requires that all engineers have separate secured storage for their own seals in the form of individual lockable drawers. If an engineer is away on vacation or for an extended period, the engineer must remove his or her seal from the office during their absence. If an employee engages in inappropriate usage of a seal or stamp, their employment will be terminated and they will be reported to appropriate authorities.
36. Mr. Singh testified as to the impact that the Association's proposed penalty would have on him. He testified that it would have an enormous impact. In particular, the impact of a suspension might result in him losing projects, which would impact his ability to meet financial obligations. Mr. Singh also testified to the negative impact that it would have on his young family.

37. During his testimony, Mr. Singh apologized for his actions. He stated that it was a mistake that he submitted to client pressure, he had a lapse of judgment, he had no intention of taking anything for himself, rather his actions were done for his client. Mr. Singh testified that he knows what he did was wrong and he committed to never doing it again.
38. On cross-examination, Mr. Singh admitted that the OQM manual was in place at the time he used Mr. Jatana's seal and signature. He admitted that he understood the provisions in the manual, including that the seal must remain in the care and control of the APEGBC professional to whom it was issued and may only be signed and dated by that individual.
39. Mr. Singh admitted that he did not have Mr. Jatana's consent to affix his seal, and that he did not have Mr. Jatana's consent to affix his signature.
40. Mr. Singh acknowledged that the seal is a tool to protect the public and to provide an assurance to the public about the work which is under seal.
41. Mr. Singh admitted that the assurance provided in Schedule B is in relation to electrical engineering work and that he is not qualified to provide an assurance in relation to electrical engineering work.
42. Mr. Singh admitted that keeping his client happy was a benefit that he personally derived as a result of the use of Mr. Jatana's seal and signature.
43. In re-direct examination, Mr. Singh testified that he did not take on any engineering assignments prior to being registered in 2014.
44. In further examination from the Association, Mr. Singh admitted that he did not follow up with his client or the entity handling the building permits subsequent to having filed the Schedule B with Mr. Jatana's seal and signature.
45. Mr. Singh submitted several letters of reference with respect to his character at the hearing. The Association raised admissibility objections on the basis of hearsay and relevance. The Panel considered the submissions of both of parties and decided to admit the letters of reference but has given them little weight as they are of limited relevance to the issues before the Panel in this proceeding, and the Association was not able to cross-examine the authors with respect to the statements contained in the letters.

G. Analysis and Findings

46. The Association submitted, and the Panel accepts, that unprofessional conduct is established where a professional engineer engages in conduct that represents a "marked departure" from the standard expected of a competent professional

engineer: *Re Chrysanthous, P.Eng.* at para. 39 (citing from *Re Ian Foreman, P.Geo.*).

47. The Association submitted that the signing of another professional engineer's name and the affixing of his or her seal is a marked departure from the standard expected of a professional engineer. The Association submitted that forging another's professional engineer's signature and affixing that professional engineer's seal is dishonest and undermines the public's trust in the profession in addition to circumventing the safeguards put in place to ensure public safety.
48. The Association submitted that section 20(9) of the Act makes clear the standard expected of an engineer in regards to their use of the seal, and that further guidance as to the standard is set out in the Code of Ethics. The Association submitted Mr. Singh was not upholding the value of honesty when he chose to affix his colleague's seal and sign his colleague's name to engineering documents.
49. The Association submitted that the second principle of the Code of Ethics establishes that members and licensees shall undertake and accept responsibility for professional assignments only when qualified by training or experience, and that the Guidelines for the Code of Ethics state that in order to uphold this principle members should not sign or seal plans, specifications, reports or parts thereof unless actually prepared by them or prepared under their direct supervision. The Association submitted that it follows from those provisions that members must not forge the signature or affix the seal of another professional engineer.
50. During the investigation, at the hearing in this matter, and in his written submissions, Mr. Singh admitted that he improperly affixed Mr. Jatana's seal and signed Mr. Jatana's name. In his written submissions, Mr. Singh admits that in doing so, he committed unprofessional conduct, negligence and a breach of section 20(9) of the Act. His lawyer stated:
 4. Mr. Singh became aware of the investigation on or about February 21, 2017, when the Association of Engineers and Geoscientists of British Columbia (the "Association") sent an email to Mr. Singh advising him of a complaint lodged against him by a former employee, ██████████. Mr. Singh retained counsel following his receipt of this letter, and on March 27, 2017, admitted the material facts underlying the above-noted allegation by way of a letter sent by his solicitors (Tab 8 of Exhibit 2).
 5. Since that time, Mr. Singh has made multiple statements to the Association both in writing and in the form of sworn oral evidence in which he has consistently and continuously admitted to the facts underlying this allegation.
 6. As stated by Mr. Singh's counsel at the commencement of the inquiry hearing on February 14, 2019, Mr. Singh does not dispute the allegation against him and admits that he committed unprofessional conduct, negligence and a breach of section 20(9) of the Engineers and Geoscientists Act. He testified at

the inquiry that he did indeed improperly use Mr. Jatana's seal and signature in March 2016.

51. As noted above, based upon the evidence before it, including the admissions of Mr. Singh, the Panel finds that Mr. Singh, applied Mr. Jatana's seal and forged Mr. Jatana's signature four times to an engineering document. .
52. The Panel has determined that his conduct violates the values of truth and honesty in the Code of Ethics and that Mr. Singh demonstrated unprofessional conduct and negligence.

H. Penalty

53. Having made a determination under section 33(1) of the Act that Mr. Singh contravened the values of truth and honesty in the Code of Ethics and demonstrated unprofessional conduct and negligence, the Panel may impose the following penalties:

33(2) If the discipline committee makes a determination under subsection (1), it may, by order, do one or more of the following:

(a) reprimand the member, licensee or certificate holder;

(b) impose conditions on the membership, licence or certificate of authorization of the member, licensee or certificate holder;

(c) suspend or cancel the membership, licence or certificate of authorization of the member, licensee or certificate holder;

(d) impose a fine, payable to the association, of not more than \$25 000 on the member, licensee or certificate holder.

54. Section 35(1) of the Act permits the Panel to direct the payment of reasonable costs as follows:

If the discipline committee makes a determination under section 33 (1), the discipline committee may direct 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, or any part of the costs, be paid by the person, and the costs may be determined by the committee.

55. In the present case, the Association seeks an order that:

- a. Mr. Singh's membership in the Association be suspended for a period of two months;

- b. Mr. Singh undergo a Practice Review conducted by the Association, the costs of which will be borne by Mr. Singh;
 - c. Mr. Singh complete the Professional Engineering and Geoscience Practice in BC Online Seminar;
 - d. Mr. Singh complete and pass the Professional Practice Examination of the Association;
 - e. Mr. Singh pay the Association a fine in the amount of \$1,500; and
 - f. Mr. Singh pay to the Association the reasonable costs of its investigation and legal fees in the amount of \$16,288.60.
56. Mr. Singh has agreed to accept the proposed penalties by the Association set out in paragraphs “b” through “f” above. Accordingly, the only issue between the parties is whether the Panel ought to impose a suspension.
57. The parties agree, and the Panel accepts, that the relevant factors to consider in determining an appropriate penalty are set out in *Law Society of British Columbia v. Ogilvie*, [1999] LSBC 17, and were adopted in other decisions of the Association’s Discipline Committee, including *Re Foreman, P. Geo.* (November 23, 2015). The factors are:
- a. the nature and gravity of the conduct proven;
 - b. the age and experience of the member;
 - c. the previous character of the member, including details of prior discipline;
 - d. the impact upon the victim;
 - e. the advantage gained, or to be gained, by the member;
 - f. the number of times the offending conduct occurred;
 - g. whether the member has acknowledged the misconduct and taken steps to disclose and redress the wrong, and the presence or absence of other mitigating circumstance;
 - h. the possibility of remediating or rehabilitating the member;
 - i. the impact on the member of criminal or other sanctions or penalties;
 - j. the impact of the proposed penalty on the respondent;

- k. the need for specific and general deterrence;
- l. the need to ensure the public's confidence in the integrity of the profession; and
- m. the range of penalties imposed in similar cases.

58. The Panel sets out its analysis of the factors below.

Nature and gravity of the conduct proven

- 59. The Association submits that Mr. Singh succumbed to the pressure of a client and knowingly engaged in unprofessional conduct, that he forged his business partner's signature and affixed his business partner's seal four times in contravention of providing the assurance that a professional engineer's signature and seal is designed to provide, that he deceived the client and the public about the competence of the documents, and that while Mr. Singh may have intended no harm, his conduct was still dishonest.
- 60. Mr. Singh submits that the misuse of a seal is always serious but there was no dishonorable intent or dishonest mindset in this case. Mr. Singh urged the Panel to consider other factors such as lack of past misconduct and the pressure Mr. Singh was under. Mr. Singh submits that he only improperly signed and sealed one document that was four pages, three years ago, and the conduct has not recurred.
- 61. The Panel does not find Mr. Singh's lack of discipline history or the pressure he may have been under to be relevant to the analysis of the nature and gravity of the proven conduct.
- 62. The Panel finds the nature and the gravity of the conduct proven to be very serious. The purpose of a seal is to authenticate documents. It is to provide a mark of reliance and it signifies to the public that they can rely upon the opinions, judgments, and designs that are contained in the sealed documents. A sealed document is visible commitment to the standards of the profession by a professional who is required to hold high standards of knowledge, skill, and ethics. An engineer affixing his or her seal is accepting professional responsibility for the matters under seal. Mr. Singh's misuse of his colleague's seal and signature to keep his client happy disregarded the purpose and significance of the seal. His actions were deliberate, dishonest, and at the serious end of the spectrum. This factor favours a more serious penalty.

Age and experience of the member

63. The Association submits that Mr. Singh authored Zoom Engineering's quality manual in order to apply for OQM certification, accordingly, he was well positioned by his experience to understand the nature and seriousness of his misconduct. Moreover, the Association argues that he was co-owner of Zoom Engineering and was mentoring engineers as a result his experience is more akin to senior managers and owners. The Association argues that where an engineer chooses to take on responsibilities of a senior manager or the owner of a firm, they should not be able to plead inexperience. The Association argues this factor should assess not simply the number of years of the member but the specific experience they possess.
64. Mr. Singh argues that he had only been a professional engineer for two years. Accordingly, his relative inexperience should be a mitigating factor.
65. The Panel finds that age and inexperience are not mitigating factors in this case because there was no evidence before the Panel that Mr. Singh's misuse of the seal and signature was connected to his age and inexperience. This factor does not favour a lesser penalty.

Previous character of the member, including details of prior discipline

66. The Association submits that Mr. Singh's letters of reference should be given little to no weight as, in addition to the evidentiary concerns raised; they focus on his technical and business skills which are not at issue.
67. Mr. Singh submits that he has no previous or subsequent record of any type of misconduct, the letters of reference support his reputation in the community, and even if the letters are given little to no weight, there is no evidence before the Panel to suggest his prior character was flawed or marred by past discipline. As mentioned above, the Panel has decided to give the letter of reference little weight because of evidentiary concerns and their limited relevance to this matter.
68. The Panel considers Mr. Singh's lack of a prior discipline history to be relevant and important. This factor favours a less serious penalty.

Impact upon the victim (if there was a victim)

69. The Association made no submissions on this factor. Mr. Singh argues this case does not involve a victim and there is no evidence anyone was harmed.
70. The Panel agrees with Mr. Singh's submissions. There was no evidence of a victim being harmed due to Mr. Singh's conduct in this case. This factor favours a less serious penalty.

Advantage gained, or to be gained, by the member as a result of the misconduct

71. The Association submits that it is concerned by fact that Mr. Singh succumbed to the pressure of client. The Association argues that Mr. Singh did gain an advantage as keeping his client satisfied presented a financial benefit to Zoom Engineering and to him.
72. Mr. Singh submits that he did not gain an advantage as this is not a situation where an engineer profited as a result of breaching an ethical or professional rule. Mr. Singh argues that he did not earn extra income or receive any favours as a result of his conduct and that merely keeping the client happy does not fall within this factor.
73. The Panel agrees with the Association's submissions. The Panel finds that Mr. Singh stood to gain by acceding to the client's demand. This factor favours a more serious penalty.

Number of times the offending conduct occurred (if more than once)

74. The Association and Mr. Singh both submit the offending conduct involves the misuse of Mr. Jetana's seal and signature four times on one document.
75. Mr. Singh argues that the misconduct occurred only once and it was almost three years ago. Mr. Singh argues the misconduct has not recurred.
76. The Panel finds that the offending conduct occurred in relation to one document, three years ago, and that there is no evidence it has recurred since that time. This factor favours a less serious penalty.

Whether the member has acknowledged the misconduct and taken steps to disclose and redress the wrong, and the presence or absence of other mitigating circumstances

77. The Association acknowledges that Mr. Singh admitted his wrongdoing after being notified of the complaint and did so without hesitation. The Association notes though that the conduct came to light as a result of a complaint and not self-disclosure by Mr. Singh. The Association also points out that Mr. Singh did not follow up with the client to verify whether there was any impact on the project or tell the client or the City about the unprofessional conduct.
78. Mr. Singh submits that he apologized for his conduct and he admitted the conduct as early as March 27, 2017. He argues that he has never denied it or tried to escape blame for his conduct or tried to cover it up. Mr. Singh argues that

he has taken steps to redress the wrong by instituting a policy regarding the storage and use of seals at Zoom Engineering Ltd. after the incident.

79. The Panel finds that Mr. Singh has acknowledged the misconduct and taken steps to redress the wrong. The Panel does also find, however, that Mr. Singh only admitted the misconduct and consistently acknowledged his wrongdoing as a result of a complaint as opposed to having reported it himself. This factor nonetheless favours a less serious penalty.

Possibility of remediating or rehabilitating the member

80. The Association has no submissions on this factor.
81. Mr. Singh argues that he has shown himself to be remediated or rehabilitated through his cooperation with the investigation, the lack of subsequent misconduct, and his acknowledgement of misconduct.
82. The Panel agrees that Mr. Singh has demonstrated the possibility of being remediated and rehabilitated through his admissions, the workplace changes in policy and practice as to how seals are secured, and the lack of subsequent misconduct. This factor favours a less serious penalty.

Impact on the member of criminal or other sanctions or penalties

83. This factor is not applicable in this matter.

Impact of the proposed penalty on the member

84. The Association proposed a suspension as the primary penalty. It submits that there is no evidence about the expected impact of a suspension on Mr. Singh beyond general statements. In particular, there is no evidence it would be financially ruinous on Mr. Singh. The Association argues consideration should be given to the fact that Mr. Singh engaged in the most expensive forum and procedure to resolve this dispute, a hearing followed by written submissions.
85. Mr. Singh submits the impact of the Association's proposed sanction would be substantial. He argued that he agrees to accept the relief in items (b) to (f) of the Association's proposed penalty set out above. Mr. Singh notes that the cost of that penalty package is already significant and that taking away the ability to earn an income for a period of two months would be financially ruinous for him.
86. The Panel does not consider the expense of Mr. Singh exercising his right to respond to allegations to be relevant to the assessment of the impact of the proposed penalty on him in this case.

87. As mentioned above, Mr. Singh admitted his conduct early in the investigation and consistently through to and during the discipline inquiry. He apologized for his conduct and implemented changes in his office practice. The offending conduct occurred in relation to one document, three years ago, and that there is no evidence it has recurred since that time. The Panel accepts that in these circumstances the imposition of a suspension in addition to a fine, costs, and other practice requirements, would have a very significant impact upon Mr. Singh. Accordingly, this factor favours a less serious penalty.

Need for specific and general deterrence

88. Both the Association and Mr. Singh submit, and the Panel agrees, that there is no need for specific deterrence in this case.
89. With respect to general deterrence, the Association submits that there is a need for general deterrence particularly where the member in question holds OQM certification. Mr. Singh argues that the need to deter other members of the profession from misusing their colleagues' seals is not a primary consideration as is evidenced by the fact that there are not cases directly on point.
90. The Panel finds that there is a strong need for general deterrence in this case. While it is mindful that Mr. Singh possesses OQM certification, the Panel is concerned by the need for general deterrence of misuse of engineering seals by the profession as a whole and not just by those who possess OQM certification. This factor favours a more serious penalty.

Need to ensure the public's confidence in the integrity of the profession

91. The Association submits that the public is likely to have serious concerns about Mr. Singh's integrity given the deception involved and the harm that could have resulted in providing assurances for work that he was not qualified to undertake. The Association emphasizes that public confidence as a whole and the reliability of the OQM program is at issue. Such erosion of public trust in the OQM program militates strongly in favour of a significant penalty.
92. Mr. Singh submits that the Association's characterization that his conduct has tarnished the reputation of the profession as a whole is excessive and unsupported by the facts of this case. He argues that there is no evidence of that whatsoever before the Panel. Mr. Singh acknowledges that there is a risk of the public's confidence being undermined if members of the public perceived that the misuse of engineering seals were commonplace or not subject to penalties. He argues that he has accepted a significant penalty, and there is no evidence that those penalties would be insufficient to maintain public confidence in the profession.

93. The Panel finds that there does not need to be positive evidence that public confidence in the integrity of the profession has been lost. Rather, it is important that the public be able to have confidence in the integrity of seal and the integrity of the profession.
94. The Panel finds that it is important that the penalty reflects its strong disapproval of the conduct and promotes the integrity of the profession, particularly given the purpose and importance of the seal, the dishonest nature of the misuse of the seal, and the risk of harm to the public and the environment which could have resulted. This factor favours a stronger penalty. The Panel is not satisfied the public confidence would be maintained in the absence of a suspension.

Range of penalties imposed in similar cases

95. The Association submits that there are no cases directly on point. The Association relies on ten cases and dispositions in which there was a misuse of a seal. There were suspensions imposed in those cases in the range of one to six months.
96. Mr. Singh cited six cases and dispositions where sealed work was involved. In those cases, no suspensions were imposed.
97. The Panel finds that none of the authorities are directly on point. None of the cases involve one member misusing another member's seal. Nevertheless, for the purpose of this factor in this case, the Panel accepts that the penalty range for cases involving the misuse of a seal is from zero to six months. This factor is neutral as none of the cases are on point.
98. In conclusion, the Panel has weighed the *Ogilvie* factors favouring a less or more serious penalty. It finds that the very serious nature of the conduct, the advantage gained by Mr. Singh, the need for general deterrence and the need to ensure the public's confidence in the integrity of the profession outweigh the lack of prior discipline history, the number of times the conduct occurred, Mr. Singh's acknowledgement of the misconduct, the possibility of remediation and the impact on Mr. Singh. Accordingly, the Panel finds that a suspension from practice for two months is the appropriate penalty, in addition to a fine, costs and requirements that Mr. Singh undergo a Practice Review, complete the Professional Engineering and Geoscience Practice in BC Online Seminar and pass the Professional Practice Examination.

I. Summary

99. The Panel has determined pursuant to section 33(1)(b) and (c) of the Act that Mr. Singh violated the values of truth and honesty in the Code of Ethics and that Mr. Singh demonstrated unprofessional conduct and negligence.

100. The Panel orders that:

- a. Mr. Singh's membership in the Association be suspended for a period of two (2) months;
- b. Within one year of the date of this Order, Mr. Singh
 - i. undergo a Practice Review conducted by the Association and pay the costs associated with the Practice Review;
 - ii. complete the Professional Engineering and Geoscience Practice in BC Online Seminar;
 - iii. complete and pass the Professional Practice Examination of the Association;
- c. Mr. Singh pay the Association a fine in the amount of \$1500 by the end of his suspension; and
- d. Mr. Singh pay the Association for its investigation and legal fees in an amount of \$ 16, 288.60 by the end of his suspension.
- e. If Mr. Singh does not fulfill the requirements of subparagraphs (b), (c) and (d) within the times respectively specified, his membership in the Association will be suspended until he has done so;

Dated this 16 day of April, 2019 and signed in counterpart.


John Haythorpe, P.Eng., Chair

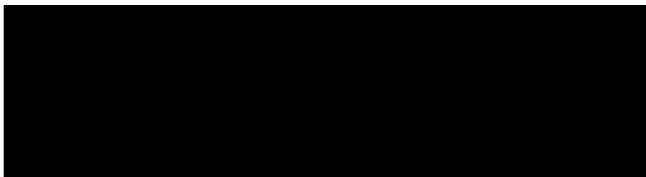
Thomas Leung, P. Eng., Struct. Eng.

Colin Smith, P.Eng.

100. The Panel orders that:

- a. Mr. Singh's membership in the Association be suspended for a period of two (2) months;
- b. Within one year of the date of this Order, Mr. Singh
 - i. undergo a Practice Review conducted by the Association and pay the costs associated with the Practice Review;
 - ii. complete the Professional Engineering and Geoscience Practice in BC Online Seminar;
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- c. Mr. Singh pay the Association a fine in the amount of \$1500 by the end of his suspension; and
- d. Mr. Singh pay the Association for its investigation and legal fees in an amount of \$ 16, 288.60 by the end of his suspension.
- e. If Mr. Singh does not fulfill the requirements of subparagraphs (b), (c) and (d) within the times respectively specified, his membership in the Association will be suspended until he has done so;

Dated this 17 day of APRIL, 2019 and signed in counterpart.



Thomas Leung, P. Eng., Struct. Eng.

Colin Smith, P.Eng.

100. The Panel orders that:

- a. Mr. Singh's membership in the Association be suspended for a period of two (2) months;
- b. Within one year of the date of this Order, Mr. Singh
 - i. undergo a Practice Review conducted by the Association and pay the costs associated with the Practice Review;
 - ii. complete and pass the Professional Practice Examination of the Association;
 - iii. complete the Professional Engineering and Geoscience Practice in BC Online Seminar;
- c. Mr. Singh pay the Association a fine in the amount of \$1500 by the end of his suspension; and
- d. Mr. Singh pay the Association for its investigation and legal fees in an amount of \$ 16, 288.60 by the end of his suspension.
- e. If Mr. Singh does not fulfill the requirements of subparagraphs (b), (c) and (d) within the times respectively specified, his membership in the Association will be suspended until he has done so;

Dated this ____ day of _____, 2019 and signed in counterpart.

John Haythorne, P.Eng., Chair

Thomas Leung, P. Eng., Struct. Eng.

Colin Smith, P.Eng.