

IN THE MATTER OF THE ENGINEERS AND GEOSCIENTISTS ACT
R.S.B.C. 1996, c. 116 (the "Act")

IN THE MATTER OF DESMOND S. HO, P.Eng.

DETERMINATION OF THE DISCIPLINE COMMITTEE PANEL

DISCIPLINE COMMITTEE MEMBERS:

Oliver Bonham, P.Geo
Paul Adams, P.Eng
Upul Atukorala, P.Eng

COUNSEL FOR THE DISCIPLINE COMMITTEE PANEL:

Robin N. McFee, Q.C.
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COUNSEL FOR THE ASSOCIATION OF PROFESSIONAL
ENGINEERS AND GEOSCIENTISTS OF THE PROVINCE
OF BRITISH COLUMBIA:

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1. On November 12, 2014 a Notice of Inquiry was issued to Desmond S. Ho, P.Eng. (“the Member”) that contained the following allegation.

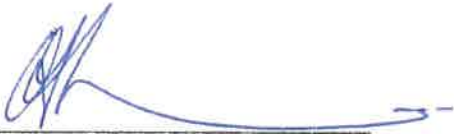
AND TAKE NOTICE that the allegation against you is that you have contravened the Act by your failure to provide to APEGBC's Practice Review Committee the information, records, and/or documents that are in your possession or control and which were requested from you pursuant to section 44 of the Act, in that you failed to respond to one or more of APEGBC's requests for information that were communicated to you in the following communications:

1. Letter to you dated July 8, 2013, from Mr. Peter Mitchell.
 2. Email to you dated October 1, 2013, from Ms. Lina Bowser.
 3. Email to you dated November 7, 2013 from Ms. Lina Bowser.
 4. Telephone conversation between yourself and Ms. Lina Bowser on February 21, 2014.
 5. Letter to you dated May 29, 2014, from Ms. Kayla Vantriet.
2. The Member admitted the allegations in the Notice of Inquiry.
 3. On February 4, 2015 a Consent Order was approved and accepted by the Member and a member of the Discipline Committee stipulating pursuant to Section 32.1 of the *Act* that:
 - (a) Mr. Ho is reprimanded;
 - (b) Mr. Ho will, within a reasonable time and without any delay, provide to the Practice Review Committee any further information, record, document or thing that the Practice Review Committee may request from Mr. Ho at any time in the future, after the coming into effect of this Consent Order; and
 - (c) if Mr. Ho fails to comply with condition (b) set out above, APEGBC may, pursuant to sections 32.1 and 34 of the Act and without a further inquiry or hearing, make a written application to the Discipline Committee for one or more of the following:
 - (i) any Order available under section 33(2) of the Act,
 - (ii) the imposition of further conditions,
 - (iii) the suspension or cancellation of Mr. Ho's membership in APEGBC, and
 - (iv) the imposition on Mr. Ho of a fine, payable to APEGBC, of not more than \$25,000.

4. By correspondence dated September 19, 2018 counsel for the Association of Professional Engineers and Geoscientists of the Province of British Columbia, doing business as Engineers and Geoscientists B.C. (“the Association”) asserted that the Member has failed to comply with the conditions of the February 4, 2015 Consent Order and asked that the Discipline Committee invoke the provisions of Section 34 of the *Act*.
5. Counsel for the Association provided to the Discipline Committee written submissions, the Affidavit of Lina Bowser sworn on September 12, 2018 and a Brief of Authorities.
6. After reviewing the materials submitted by counsel for the Association, the Discipline Committee found that the evidence presented by the Association established a *prima facie* case that the Member had not satisfied the conditions of the February 4, 2015 Consent Order.
7. By correspondence dated December 14, 2018 the Discipline Committee gave notice to the member of proposed sanctions as set out in an attached Notice of Proposed Sanction under s. 34 of the *Act*. In its letter of December 14, 2018, the Discipline Committee advised the Member that he had 28 days from the date the December 14, 2018 letter and the Notice of Proposed Sanctions were delivered to provide to the Discipline Committee any written submissions that the Member wished to make. The Discipline Committee further advised the Member that in the event the Member did not provide written submissions within this 28-day period, the Discipline Committee may take the proposed action without further inquiry.
8. The Discipline Committee’s December 14, 2018 letter and Notice of Proposed Sanctions pursuant to s. 34 of the *Act* was emailed to the Member and counsel for the Association on December 14, 2018. The Member did not respond to the email asking him to confirm receipt. As a result, and out of an abundance of caution, on December 19, 2018 the Notice of Proposed Sanction was delivered to the last known address for the Member at [REDACTED] [REDACTED] Richmond, British Columbia.
9. The Member has not provided written submissions to the Discipline Committee within the stipulated 28-day period.

10. The Discipline Committee therefore determines and orders that the membership of the Member be suspended for a period of twelve (12) months commencing on the date of this Determination, and in the event that prior to the end of the twelve (12) month period of suspension, the Member, to the satisfaction of the Practice Review Committee, provides the information, records, documentation or proposal that the Practice Review Committee previously requested from the Member, the Member is at liberty to apply to the Discipline Committee for a reconsideration of the sanction imposed.


Dated this 11th day of March, 2019.



Oliver Bonham, P.Geo
For the Discipline Committee



Paul Adams, P.Eng
For the Discipline Committee



Upul Atukorala, P.Eng
For the Discipline Committee