



Decision of the DC Panel – Gregory T. Fortune

In the matter of: Gregory T. Fortune, a Former Member of Engineers GeoScientists Manitoba

And in the matter of: The Engineering and Geoscientific Professions Act, C.C.S.M. c. E120

Legal Counsel for the Disciplinary Panel of the Council: Stuart Blake.

Legal Counsel for the Investigation Committee: Brent Ross.

CHARGE

GREGORY T. FORTUNE, P. ENG., while registered as a professional engineer in the Province of Manitoba, displayed conduct which constitutes professional misconduct, in that:

Mr. Fortune failed to comply with an order of the Discipline Committee of EGM dated August 3, 2022, thereby displaying conduct unbecoming of a professional engineer in violation of s. 46(1)(b) of the Act and/or displaying conduct which contravened the Act in violation of s. 46(1)(d) of the Act and/or displaying conduct which contravened EGM's Code of Ethics (2018) in violation of s. 46(1)(d) of the Act.

PARTICULARS

1. Mr. Fortune failed to comply with an order of the Discipline Committee of EGM dated August 3, 2022 (the "**Order**") by failing to do the following things as required by the Order:
 - a. within thirty (30) days of the issuance of the Order, return his manual seal and certificate of registration to EGM;
 - b. within thirty (30) days of issuance of the Order, comply with all reporting requirements of EGM's CPD program, unless his membership has been cancelled;
 - c. within thirty (30) days of the issuance of the Order, pay a fine of \$750.00 to EGM; and
 - d. within thirty (30) days of the issuance of the Order, pay costs of \$4,000.00 to EGM.
2. Mr. Fortune's failure to comply with the Order amounts to:
 - a. conduct unbecoming of a professional engineer contrary to s. 46(1)(b) of the Act;
 - b. a breach of ss.47(3) and 48(1) of the Act, in that Mr. Fortune has failed to abide by the terms of the Order issued pursuant to those sections, contrary to s. 46(1)(d) of the Act; and/or
 - c. a breach of s. 5 of the Code of Ethics (2018) which requires practitioners to, amongst other things, conduct themselves with integrity, contrary to s. 46(1)(d) of the Act.

The Charge was dated at the City of Winnipeg in the Province of Manitoba on the 17th day of January, 2023 and signed by John Doering, P. Eng. FCSE FEC, FCAE, Chair, Investigation Committee.

EGM DC PANEL HEARING

1. A Disciplinary Hearing into the matter was held on April 6, 2023 at the EGM offices.
2. The members of the Disciplinary Panel were Sonja Courcelles, Ray Hoemsen, P. Eng. (Chair) and Karen Mathers, P. Geo.
3. Counsel for both the Disciplinary Panel and the Investigation Committee were present.
4. Neither the Member nor Counsel for the Member were present.
5. The Disciplinary Panel heard that the Member had not been heard from with respect to the Disciplinary Hearing; despite being duly served as confirmed by the affidavit of service of Deanna Brown, affirmed April 5, 2023, and marked as Exhibit 1.
6. A brief recess was held in the event the Member or Counsel for the Member appeared at the Disciplinary Hearing.
7. The Disciplinary Hearing resumed after the brief recess.
8. The Disciplinary Panel ruled that the Disciplinary Hearing could proceed in the absence of the Member.
9. A Book of Authorities and various EXHIBITS, as well as the *Kuny v College of Registered Nurses of Manitoba, 2018 MBCA Citation*, were available and/or presented throughout the course of the Disciplinary Hearing. This Panel was provided with an affidavit of Lorraine Dupas, affirmed March 30, 2023, and marked as Exhibit 2.
10. The Disciplinary Panel was advised that:
 - a. The Member had failed to comply with the prior order (EXHIBIT 1, TAB A).
 - b. The Member did not cancel his membership, therefore EGM's provisions for CPD still applied.
 - c. The Member's "signature" with respect to receipt of correspondence from EGM concerning the Disciplinary Hearing was not confirmed.
 - d. The Member, in previous dialogue with EGM, claimed his Seal and Certificate had been returned.
 - e. EGM had not received the Member's Seal and/or Certificate.
 - f. Resignation from EGM Membership by the Member had not been received by EGM.
 - g. Mr. Fortune's current membership status is "Former Member" since EGM had written off membership as of February 2023.

11. The Disciplinary Panel ruled that Jurisdiction was established, based upon:
 - a. Mr. Fortune was a Member at the time of the Charge (per EXHIBIT 2, Paragraphs 2 and 10).
 - b. The Disciplinary Hearing was convened within the requisite time limits (per Bylaw 15.5.1 and EXHIBIT 2 Paragraph 11).
 - c. Sufficient notice was provided (per Bylaw 15.5.1.2 and EXHIBIT 1, Paragraph 6).

12. The Disciplinary Panel heard from the Counsel for the Investigation Committee about:
 - a. the Charge;
 - b. related actions by EGM and/or the Member;
 - c. that the Member had the belief that a hearing was a “waste of time”; and
 - d. that the Member had failed to comply EGM’s CPD requirements and the subsequent Disciplinary Order.

13. The Disciplinary Panel was also asked to consider whether or not the Member was considered to be “Ungovernable” (per the previously referenced “Kuny” citation).

14. The Disciplinary Panel was provided advice concerning any potential penalty, i.e., that any penalty should:
 - a. Ensure that the public is protected; and
 - b. Serve as a deterrent to the Member and others.

15. The Disciplinary Hearing was adjourned.

16. An in camera discussion was then held by the Disciplinary Panel to consider and deliberate about the information presented at the Disciplinary Hearing.

17. With respect to the matter of the Member being “Ungovernable”, the Disciplinary Panel ruled that the Member was “Ungovernable”, based upon the following reasons:
 - a. The Member had flagrantly disregarded EGM with respect to the entire matter;
 - b. The Member showed no remorse;
 - c. The Member had no apparent intent to comply with the previous Disciplinary Order; and
 - d. The Charge was the result of ignoring the previous Disciplinary Order, hence the Member was considered to be a repeat offender.

18. The Disciplinary Panel found the Member guilty of the Charges, based on the following reasons:
 - a. The Member had failed to comply with the previous Disciplinary Order; and
 - b. The Member refused to comply with EGM’s CPD requirements.

19. The Disciplinary Panel ruled that the Penalty shall be as follows:
- a. Certificate of Registration (currently in “Former Member” status) to be cancelled if the Disciplinary Order is not complied with within 30 days.
 - b. Fine of \$2,500, due within 30 days.
 - c. Ordered to return Member Certificate and Seal.
 - d. Costs of \$3,500 (representing two thirds of EGM costs of ~\$6,000).
 - e. Publication in accordance with EGM Bylaws.
 - f. Barred from (applying for) reinstatement until all Disciplinary Orders are complied with.
 - g. The Penalty is in addition to any penalties from the previous Disciplinary Order.
20. The Penalty takes into account:
- a. the advice received in Paragraph 14 above; and
 - b. *Kuny v College of Registered Nurses of Manitoba, 2018 MBCA Citation.*
21. The Members of the Disciplinary Panel in this matter have reviewed and agreed upon the background, process, rulings and penalty as detailed in this document.

Dated in Winnipeg, this 6th day of July, 2023.

Ray Hoemsen, P. Eng. (Chair)

Sonja Courcelles

Karen Mathers, P. Geo.