

IN THE MATTER OF ***THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT*** AND
IN THE MATTER OF AN INVESTIGATION RESPECTING ***VETO VARMA, P. ENG.***

DECISION AND ORDER

MEMBERS OF THE HEARING PANEL:

Robert Court, P.Eng. – Chair
John Breakey – Public Appointee
Bennet Awume, P.Eng.
Ian Fleming, P.Eng.
Marcia Fortier, P.Geo.

COUNSEL FOR INVESTIGATION COMMITTEE:

Colin Oullette

COUNSEL FOR MEMBER:

Matthew Schmeling

COUNSEL FOR THE DISCIPLINE COMMITTEE:

Allison Graham

REPORT OF THE HEARING PANEL APPOINTED AND EMPOWERED BY THE DISCIPLINE COMMITTEE OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF SASKATCHEWAN (APEGS) PURSUANT TO SECTIONS 33, 34, AND 35 OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT, CHAPTER E-9.3 of the Statutes of Saskatchewan, 1996 as amended (HEREIN REFERRED TO AS THE “ACT”), AND SECTION 22(4) OF THE ENGINEERING AND GEOSCIENCE PROFESSIONS REGULATORY BYLAWS, 1997 as amended (HEREIN REFERRED TO AS THE “BYLAWS”), TO HOLD A HEARING INTO THE CONDUCT OF VETO VARMA, P. ENG.

I. Introduction

1. On June 12, 2024, a hearing panel of the Discipline Committee (the “**Discipline Committee**”) of the Association of Professional Engineers and Geoscientists of Saskatchewan (“**APEGS**”) held a hearing concerning allegations of professional misconduct and/or incompetence by Mr. Veto Varma, P. Eng. Mr. Varma has been a member of APEGS since August 1, 2007 and was a member of APEGS at all material times.
2. At the outset of the hearing, counsel for the Investigation Committee filed a Joint Documents Book as Exhibit A before the Discipline Committee. Counsel for Mr. Varma advised that Mr. Varma consented to the Joint Documents Book. That Joint Documents Book included the following:
 - a. Notice of Hearing dated May 22, 2024 (Tab 1);
 - b. Report of the Investigation Committee dated May 1, 2024 (Tab 2);
 - c. Report of the Mediator (Pre-Hearing Conference) dated April 5, 2024 (Tab 3);
 - d. Written Complaint dated July 24, 2019 (Tab 4);
 - e. Threshold Report dated October 22, 2019 (Tab 5);
 - f. Agreed Statement of Facts (Tab 6) and referenced exhibits (Tabs 7 – 12); and
 - g. Joint Submissions (Tab 13) and referenced cases (Tabs 14 – 18).
3. The Notice of Hearing, located at Tab 1 of Exhibit A, sets out the particulars of the allegations against Mr. Varma as follows:

1. Charge 1: Deficiencies in Steel Beams

a. Veto Varma, P. Eng., operating as Jaya Engineering, demonstrated professional incompetence, by displaying a lack of skill or judgement, and disregard for the welfare of the public, contrary to section 29 of the Act in issuing structural drawings for steel beams supporting the main floor at the Project that were undersized based on the loads prescribed by the National Building Code of Canada.

b. Veto Varma, P. Eng., operating as Jaya Engineering, demonstrated professional misconduct by acting in a manner which is harmful to the best

interests of the public, tends to harm the standard of the profession, and/or which is a breach of the Act or Bylaws, contrary to section 30 of the Act in issuing structural drawings for steel beams supporting the main floor at the Project that were undersized based on the loads prescribed by the National Building Code of Canada.

c. Veto Varma, P. Eng., operating as Jaya Engineering, did not hold paramount the safety, health and welfare of the public, contrary to subsection 20(2)(a) of the Regulatory Bylaws in issuing structural drawings for steel beams supporting the main floor at the Project that were undersized based on the loads prescribed by the National Building Code of Canada.

d. Veto Varma, P. Eng., operating as Jaya Engineering, did not practise in a careful and diligent manner contrary to subsection 20(2)(b) of the Regulatory Bylaws in issuing structural drawings for steel beams supporting the main floor at the Project that were undersized based on the loads prescribed by the National Building Code of Canada.

2. Charge 2: Deficiencies in Helical Pile Design

a. Veto Varma, P. Eng., operating as Jaya Engineering, demonstrated professional incompetence, by displaying a lack of skill or judgement, and disregard for the welfare of the public, contrary to section 29 of the Act in issuing a foundation design with a note that the helical pile design at the Project was to be determined by someone else, and subsequently failing to ensure the helical pile design was finalized and designed to support the loads prescribed by the National Building Code of Canada.

b. Veto Varma, P. Eng., operating as Jaya Engineering, demonstrated professional misconduct by acting in a manner which is harmful to the best interests of the public, tends to harm the standard of the profession, and/or which is a breach of the Act or Bylaws, contrary to section 30 of the Act in issuing a foundation design with a note that the helical pile design at the Project was to be determined by someone else, and subsequently failing to ensure the helical pile design was finalized and designed to support the loads prescribed by the National Building Code of Canada.

c. Veto Varma, P. Eng., operating as Jaya Engineering, did not hold paramount the safety, health and welfare of the public, contrary to subsection 20(2)(a) of the Regulatory Bylaws in issuing a foundation design with a note that the helical pile design at the Project was to be determined by someone else, and subsequently failing to ensure the helical pile design was finalized and designed to support the loads prescribed by the National Building Code of Canada.

d. Veto Varma, P. Eng., operating as Jaya Engineering, did not practise in a careful and diligent manner contrary to subsection 20(2)(b) of the Regulatory Bylaws in issuing a foundation design with a note that the helical pile design at the Project was to be determined by someone else, and subsequently failing to ensure the helical pile design was finalized and designed to support the loads prescribed by the National Building Code of Canada.

3. Charge 3: Issue of Compliance Letters

a. Veto Varma, P. Eng., operating as Jaya Engineering, demonstrated professional incompetence, by displaying a lack of skill or judgement, and disregard for the welfare of the public, contrary to section 29 of the Act by providing sealed compliance letters from between February 2012 until January 2014 certifying that the structural and foundation work completed to date substantially complied with the plans and specifications, and with the National Building Code of Canada standards.

b. Veto Varma, P. Eng., operating as Jaya Engineering, demonstrated professional misconduct by acting in a manner which is harmful to the best interests of the public, tends to harm the standard of the profession, and/or which is a breach of the Act or Bylaws, contrary to section 30 of the Act by providing sealed compliance letters from between February 2012 until January 2014 certifying that the structural and foundation work completed to date substantially complied with the plans and specifications, and with the National Building Code of Canada standards.

c. Veto Varma, P. Eng., operating as Jaya Engineering, did not hold paramount the safety, health and welfare of the public, contrary to subsection 20(2)(a) of the Regulatory Bylaws by providing sealed compliance letters from between February 2012 until January 2014 certifying that the structural and foundation work completed to date substantially complied with the plans and specifications, and with the National Building Code of Canada standards.

d. Veto Varma, P. Eng., operating as Jaya Engineering, did not practise in a careful and diligent manner contrary to subsection 20(2)(b) of the Regulatory Bylaws by providing sealed compliance letters from between February 2012 until January 2014 certifying that the structural and foundation work completed to date substantially complied with the plans and specifications, and with the National Building Code of Canada standards.

4. At the outset of the hearing, it was confirmed that the Discipline Committee was properly constituted. Mr. Varma, through his legal counsel, waived a reading of the charges and entered pleas of guilty to the allegations as set out in the Notice of Hearing. Counsel further indicated that an Agreed Statement of Facts and Joint Submission were being filed and put forward in Exhibit A.

5. An Order was issued by the Discipline Committee (as outlined below) at the conclusion of the June 12, 2024, hearing with reasons to follow. The within report constitutes those reasons.

II. Evidence

6. At the outset of the hearing, the following Agreed Statement of Facts was filed as Tab 6 of Exhibit A with the Discipline Committee:

Background:

1. Veto Varma, P. Eng. has been a member of APEGS since August 1, 2007, and was a member at all material times, holding registration number 13860.
2. At all material times, Mr. Varma, P. Eng. was a structural consultant at, and operating as, Jaya Engineering.
3. Mr. Varma, P. Eng. held "Permission to Consult" with APEGS. His field of practice is listed as "Structural Engineering Buildings, industrial and oilfield structures; vibration analysis."
4. At all material times, Mr. Varma, P. Eng. was subject to the Act.

The Project

5. In or about 2011, Mr. Varma, P. Eng. was retained by Windermere Properties Ltd. ("**Windermere**"), to be the structural engineer on the Project.
6. Between February 2012 and January 2014, Mr. Varma, P. Eng. provided regular compliance letters. In these compliance letters Mr. Varma, P. Eng. was representing he physically attended at Project site to inspect the structural design and construction. However, Mr. Varma, P. Eng. did not physically attend at the Project site to inspect the structural design and construction.
7. Mr. Varma, P. Eng. did not raise concerns with the structural design or construction in any of his compliance letters.
8. Effective February 4, 2014, MNP became the Receiver of Windermere.
9. Following an independent engineering review, MNP became aware of structural defects at the Project which required significant remediation, which occurred in 2015.

10. Mr. Varma, P. Eng. was not involved in the remediation.
11. If remediation had not occurred, Mr. Varma, P. Eng.'s failure to inspect the Project, had the potential to put future owners of the condominium at significant risk.
12. While several issues were identified by the reviewing engineer, MNP became aware of three critical concerns:
 - (a) Mr. Varma, P. Eng.'s engineered drawings lacked the required detail. This caused the below grade wall reinforcement to be improperly placed, meaning the wall did not have adequate capacity;
 - (b) Nine (9) steel beams supporting the main floor did not have adequate capacity and needed to be replaced; and
 - (c) The screw pile designed was completed based on original concrete pile loading. These calculations were off by 3x in magnitude.
13. Windermere's contract with Mr. Varma, P. Eng. for the Project was terminated in August 2015.
14. On July 4, 2019, Eric Sirrs of MNP submitted a written complaint regarding Mr. Varma, P. Eng.'s work on the project.
15. In or about September 2019, BBK was engaged to provide a structural analysis of the existing building.
16. BBK reported that the Project did not meet the National Building Code of Canada standards and presented a public safety risk.
17. On January 23, 2020, BBK wrote to APEGS, advising of their concerns with regard to structural deficiencies on the Project.
18. In response to APEGS' investigation, Mr. Varma, P. Eng. explained that while he was the structural engineer responsible for the Project, there was a misunderstanding as to the responsibility for the final design of the screw piles. Mr. Varma believed that the third-party screw pile contractor hired by the general contractor would be responsible for an updated engineered design of the foundation system.
19. The third-party screw pile contractor reported to Eric Sirrs of MNP that it was not responsible for the design of the screw pile system and was not retained by the general contractor for same. As a result it relied upon prior draft drawings that were

significantly under-designed. Mr. Varma, P. Eng. failed to confirm the responsibility for the foundation design. He failed to attend and inspect the foundation at the Project site, yet signed off on compliance letters incorrectly assuming that the draft design had been modified to sufficient standards and implemented.

20. As a result of Mr. Varma, P. Eng.'s failures, the insufficient foundation system was constructed based upon insufficient design and without being inspected.

7. Counsel for both the Investigation Committee and Mr. Varma executed the Agreed Statement of Facts.

III. Findings on Guilt

8. Upon reviewing and considering the evidence, submitted by way of the Agreed Statement of Facts, the Discipline Committee accepts Mr. Varma's guilty plea and finds him guilty of professional misconduct and professional incompetence as defined in *The Engineering and Geoscience Professions Act*, SS 1996, c E-9.3 [Act].

IV. Consideration of Joint Submission

9. Having accepted that Mr. Varma is guilty of professional misconduct and professional incompetence, consideration then turned to an assessment of the appropriate penalty. Counsel for both the Investigation Committee and Mr. Varma confirmed that Tab 13 of Exhibit A represented their joint submission regarding penalty (the "**Joint Submission**"). The Joint Submission seeks the following:
 - a. Veto Varma, P. Eng., will receive a written reprimand for professional incompetence, professional misconduct, and breaches of the Code of Ethics.
 - b. Veto Varma, P. Eng. shall successfully complete the APEGS online Law and Professionalism Course and the Professional Practice Examination.
 - c. Veto Varma, P. Eng. shall practice under a licence restriction limiting his unsupervised practice to single residential structures. Any practice involving commercial projects requires supervision by a professional engineer approved by the Registrar of APEGS, at Mr. Varma's expense. Mr. Varma may seek removal of this licence restriction upon providing proof satisfactory to the Registrar of the equivalent of 12 months of supervised commercial work.
 - d. Veto Varma, P. Eng. will be required to pay a fine of \$10,000.
 - e. Veto Varma, P. Eng., shall have twelve (12) months from the date of this decision to pay the amount of the fine, and complete the online Law and Professionalism Course and the Professional Practice Examination.

- f. This Decision shall be published on the APEGS website and in *The Professional Edge*, with names.

The parties confirmed that they would not be calling any evidence respecting the Joint Submission. They also provided a number of cases to the Discipline Committee in Tabs 14 to 18 of Exhibit A.

10. In support of the Joint Submission, counsel for the Investigation Committee indicated that Mr. Varma's actions constituted serious professional misconduct and that the case law provided included comparable misconduct and penalties.
11. Counsel for Mr. Varma also submitted that the Joint Submission should be accepted. He made submissions indicating that Mr. Varma's actions were negligent and that the gravity of his misconduct was high; however, there were mitigating factors such as Mr. Varma's acceptance of responsibility (including his choice not to raise issues such as delay), cooperation and lack of any evidence of ongoing risk. Mr. Varma's counsel spoke to how specific deterrence of Mr. Varma and general deterrence would be accomplished through the proposed penalty as publication of the order would have a significant impact on Mr. Varma's reputation and would deter other members from being in the same circumstance. Mr. Varma's counsel also made submissions respecting how and why joint submissions are generally owed deference.
12. After reviewing the Joint Submission, the Discipline Committee posed questions to counsel for the Investigation Committee and Mr. Varma in regard to the clarity of the proposed penalty. In their responses to those questions, both counsel advised:
 - a. In paragraph 3 of the Joint Submission, the parties intended that the Registrar would have discretion over whether to approve a proposed supervisor;
 - b. Similarly, the parties intended that removal of the license restriction noted in paragraph 3 is not automatic upon Mr. Varma's application. Instead, the Registrar will have discretion over whether to remove the license restriction based on the materials provided by Mr. Varma;
 - c. In paragraph 4 of the Joint Submission, the fine of "not less than \$10,000" is intended to be a fine in the amount of \$10,000; and
 - d. While the Joint Submission does not address enforcement of the penalty, any failure to comply with the penalty ordered by APEGS amounts to misconduct within the meaning of s. 30(d) of the *Act*.

While counsel's responses provided clarity to the language of the Joint Submission, it is the Discipline Committee's expectation that future proposed penalties will clearly

address (a) who may be accepted as a supervisor by the Registrar such as the amount of experience required and whether the supervisor may have any relationship with the member; (b) whether removal of a license restriction is automatic or discretionary on application; (c) the specific amount of any fine being sought; and (d) in appropriate circumstances, consequences of non-compliance with a penalty such as suspension of the member's license.

13. The Discipline Committee then considered the Joint Submission in view of the law. The Discipline Committee noted the decision in *Camgoz v College of Physicians and Surgeons (Sask)*, 1993 CanLII 8952 (Sask QB) [*Camgoz*]. *Camgoz* outlines factors to be taken into consideration when implementing a penalty.
14. The Discipline Committee also considered the legal effect of the Joint Submission. At law, joint submissions should not be disregarded unless there are good or cogent reasons for doing so: *Rault v Law Society of Saskatchewan*, 2009 SKCA 81. In the criminal context, the Supreme Court has explained the high bar that must be met in *R v Anthony-Cook*, 2016 SCC 43, which was recently summarized by the Saskatchewan Court of Appeal in *Xiao-Phillips v Law Society of Saskatchewan*, 2024 SKCA 44 as follows:

[146] Under the *Anthony-Cook* framework, a sentencing judge cannot depart from a joint submission unless the proposed sentence would bring the administration of justice into disrepute or it is otherwise not in the public interest. This threshold means that the sentence must be so “markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system” (at para 33, quoting from *R v Druken*, 2006 NLCA 67 at para 29, 215 CCC (3d) 394). Further, when assessing a joint submission, the sentencing judge should “avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts” (*Anthony-Cook* at para 33, quoting from *R v O.(B.J.)*, 2010 NLCA 19 at para 56, 252 CCC (3d) 498).

15. As the Discipline Committee advised the parties during the hearing, the Discipline Committee is prepared to accept the Joint Submission. In so doing, the Discipline Committee considered the Joint Submission, the Agreed Statement of Facts, and the submissions of counsel. It also considered the nature and gravity of Mr. Varma's conduct, the need for specific and general deterrence, the possibility of rehabilitation of Mr. Varma, and the cases jointly provided by the Investigation Committee and Mr. Varma in Tabs 14 – 18 of Exhibit A. The Discipline Committee also considered the constraining nature of the Joint Submission, and concluded that the Joint Submission was not unfit, unreasonable or contrary to the public interest.

V. Order

16. Upon consideration of the evidence and the submissions of both counsel respecting the Joint Submission, the Discipline Committee issued the following order for professional misconduct and professional incompetence committed by Mr. Varma:
- a. That Veto Varma, P. Eng., receive a written reprimand for professional incompetence, professional misconduct, and breaches of the Code of Ethics.
 - b. That Veto Varma, P. Eng. successfully complete the APEGS online Law and Professionalism Course and the Professional Practice Examination.
 - c. That Veto Varma, P. Eng. practice under a licence restriction limiting his unsupervised practice to single residential structures. Any practice involving commercial projects requires supervision by a professional engineer approved by the Registrar of APEGS, at Mr. Varma's expense. Mr. Varma may seek removal of this licence restriction upon providing proof satisfactory to the Registrar of the equivalent of 12 months of supervised commercial work.
 - d. That Veto Varma, P. Eng, pay a fine of \$10,000.
 - e. That Veto Varma, P. Eng., shall have twelve (12) months from the date of this decision to pay the amount of the fine, and complete the online Law and Professionalism Course and the Professional Practice Examination.
 - f. That this Decision shall be published on the APEGS website and in *The Professional Edge*, with names.

Respectfully submitted and ordered on behalf of the Discipline Committee at Regina, Saskatchewan, this 11th day of July, 2024.

**Original signed by Panel*

Robert Court, P.Eng., Chair, Hearing Panel

John Breakey, Public Appointee, Hearing Panel

Bennet Awume, P.Eng, Member, Hearing Panel

Ian Fleming, P.Eng. Member, Hearing Panel

Marcia Fortier, P.Geo., Member, Hearing Panel