



Decision of the DC Panel – Mr. Hazen Habash, P. Eng.

In the matter of: Mazen J. Habash, P. Eng., a Professional Engineer registered in the Province of 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

MAZEN J. HABASH, P. ENG., while registered as a professional engineer in the Province of Manitoba, displayed conduct which constitutes professional misconduct, in that:

Mr. Habash 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. Habash 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, comply with all reporting requirements of EGM's CPD program and pay a fine of \$1,000.00 to EGM;
 - b. pay an additional fine of \$500.00 to EGM if he failed to comply with the requirements of sub-paragraph a. above; and
 - c. within thirty (30) days of the issuance of the Order, pay costs of \$3,500.00 to EGM.
2. Mr. Habash'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. Habash 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. Since the Disciplinary Hearing started at 1150 instead of 1100 as originally scheduled (due to a lengthier than scheduled previous Disciplinary Hearing immediately beforehand) any additional time was waived in the event the Member or Counsel for the Member chose to appear at the Disciplinary Hearing.
7. The Disciplinary Panel ruled that the Disciplinary Hearing could proceed in the absence of the Member.
8. 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.
9. The Disciplinary Panel was advised that:
 - a. The Member had failed to comply with the prior order (EXHIBIT 1, TAB A).
 - b. The Member has not complied with EGM's provisions for CPD.
 - c. The Member had been served the prior Order, was still non-compliant and non-responsive.
 - d. Mr. Habash is a Registered Member of EGM, status is "Suspended".
10. The Disciplinary Panel ruled that Jurisdiction was established, based upon:
 - a. Mr. Habash was a Member at the time of the Charge (per EXHIBIT 2, Paragraph 2).
 - b. The Disciplinary Hearing was convened within the requisite time limits (per Bylaw 15.5.1 and EXHIBIT 2 Paragraph 10).
 - c. Sufficient notice was provided (per Bylaw 15.5.1.2 and EXHIBIT 1, Paragraph 6).

11. 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 appeared to have ignored EGM with respect to this Matter; and
 - d. that the Member had failed to comply EGM's CPD requirements and the subsequent Disciplinary Order.
12. The Disciplinary Panel was also asked to consider whether or not the Member was considered to be "Ungovernable" (per the previously referenced "Kuny" citation).
13. 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.
14. The Disciplinary Hearing was adjourned.
15. An in-camera discussion was then held by the Disciplinary Panel to consider and deliberate about the information presented at the Disciplinary Hearing.
16. 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 has continued to disregard EGM and has not provided any evidence of any intent to comply with EGM's CPD requirements; and
 - c. The Member had no apparent intent to comply with the previous Disciplinary Order.
17. 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.
18. The Disciplinary Panel ruled that the Penalty shall be as follows:
 - a. Certificate of Registration to be cancelled, without any further Hearing(s) per s. 47.4 of the Act, if this Disciplinary Order and any other outstanding Disciplinary Order are not complied with within 30 days.
 - b. Fine of \$2,500, due within 30 days.
 - c. Required to comply with EGM's CPD requirements.
 - d. Ordered to return Member Certificate and Seal if the Member remains non-compliant.
 - e. Costs of \$3,500 (representing approximately two thirds of EGM costs).
 - f. Publication in accordance with EGM Bylaws.
 - g. Barred from (applying for) reinstatement until all Disciplinary Orders are complied with.
 - h. The Penalty is in addition to any penalties from the previous Disciplinary Order.
19. 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*.

20. 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.