

**THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF
THE PROVINCE OF MANITOBA**

IN THE MATTER OF: Jessica A. Manness, P. Eng., a registered member of
the Association of Professional Engineers and
Geoscientists of Manitoba

AND IN THE MATTER OF: *The Engineering and Geoscientific Professions Act,*
C.C.S.M., c. E120

ORDER OF THE DISCIPLINE COMMITTEE

ENGINEERS GEOSCIENTISTS MANITOBA
870 PEMBINA HIGHWAY
WINNIPEG, MANITOBA
R3M 2M7

**THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF
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IN THE MATTER OF:

Jessica A. Manness, P. Eng., a registered member of
the Association of Professional Engineers and
Geoscientists of Manitoba

AND IN THE MATTER OF:

The Engineering and Geoscientific Professions Act,
C.C.S.M., c. E120

WHEREAS the Investigation Committee (the “**Investigation Committee**”) of the Association of Professional Engineers and Geoscientists (“**EGM**”) formulated a Charge of professional misconduct and unskilled practice of engineering against Jessica A. Manness (“**Ms. Manness**”) on May 3, 2021 in connection with Ms. Manness’ submission of versions of a shoring plan to the City of Winnipeg in support of a building permit for the excavation of a condominium building at 123 Scott Street in Winnipeg, Manitoba (the “**Charge**”), a copy of which is attached hereto as Schedule “A”;

AND WHEREAS the Charge was referred to the Discipline Committee of EGM pursuant to s. 35(1)(b) of *The Engineering and Geoscientific Professions Act*, C.C.S.M. c. E120 (the “**Act**”) on August 19, 2019, whereupon the Chair of the Discipline Committee selected a panel for the hearing of the Charge pursuant to s. 39(1) of the Act (the “**Panel**”);

AND WHEREAS a notice of hearing returnable before this Panel on October 28, 2021 at the offices of EGM, 870 Pembina Highway in Winnipeg was served on Ms. Manness’ counsel on behalf of the Ms. Manness on September 17, 2021;

AND WHEREAS the hearing of this matter was duly commenced on October 28, 2021 in accordance with the Act and By-Laws of EGM and then adjourned to permit the scheduling of the substantive hearing of this matter;

AND WHEREAS Ms. Manness now admits, and this Panel so finds, that she committed the following acts as particularized in the Charge and further acknowledges that such acts constitute a violation of 46(1)(a)(c)(d) and (e) of the Act and Canon 2 the EGM *Code of Ethics*:

1. On or about January 28, 2019, February 7, 2019, February 12, 2019 and February 19, 2019, Ms. Manness sealed and submitted several versions of a shoring plan, or analyses regarding same (collectively the “**Unapproved Plans**”), to the City of Winnipeg in support of a building permit for the excavation of a condominium development at 123 Scott Street in Winnipeg, Manitoba.

2. On or about February 27, 2019, Ms. Manness sealed and submitted a further version of the shoring plan to the City of Winnipeg, which design was approved for permit.

3. The Unapproved Plans were deficient and inadequate, and would have posed a serious risk of failure and risk to the public had they been approved in that one, or all, of the Unapproved Plans:

- a. lacked adequate information and detail, including soil parameter detail and procedural information relating to the installation of structural components;
- b. assumed generic instead of site-specific soil properties;
- c. displayed uneconomical, impracticable and/or non-feasible design elements;
- d. contained calculation errors;
- e. utilized Working Stress Design instead of Limit States Design as required by Canadian standards; and
- f. contained unlikely, incorrect and/or unsupported assumptions, with potential for serious consequences;

4. By submitting the Unapproved Plans to the City of Winnipeg, Ms. Manness demonstrated professional misconduct and unskilled practice of professional engineering, contrary to s. 46(1)(a)(c)(d) and (e) of the Act, and Canon 2 of the *Code of Ethics* (adopted October 18, 2018) and the public interest by:

- a. displaying a lack of knowledge, skill, judgment and understanding of design principles in both structural and geotechnical engineering and of shoring installation techniques, contrary to s. 46(1)(a)(c) and (e) of the Act;
- b. undertaking an engineering assignment which fell outside of her area of professional competence, contrary to s. 46(1)(a)(c)(d) and (e) of the Act and Canon 2 of the *Code of Ethics*;
- c. placing undue reliance on the City of Winnipeg upon submission of the Unapproved Plans in order to ensure that her designs were adequate and to identify deficiencies in the design work, contrary to s. 46(1)(a)(c) and (e); and
- d. failing to practice in a careful and diligent manner and in compliance with applicable legislation, contrary to s. 46(1)(a)(c)(d) and (e) of the Act and Canon 2 of the *Code of Ethics*.

AND WHEREAS the Panel heard submissions relating to penalty from counsel for Ms. Manness and from counsel for the Investigation Committee;

NOW THEREFORE, THIS PANEL ORDERS THAT pursuant to ss. 47, 48 and 50 of the Act:

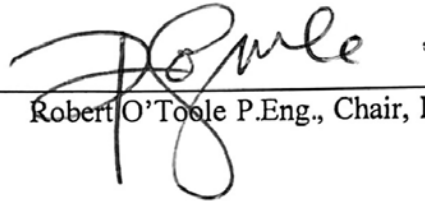
- a. Ms. Manness be and hereby is reprimanded;
- b. Ms. Manness be restricted from the practice of structural engineering until such time as she satisfies the Investigation Committee of her competency in the practice of structural engineering pursuant to the following process:
 - i. A structural engineer, as identified and retained by Ms. Manness (the “**Structural Assessor**”), will be appointed to engage in an assessment process over a period of approximately 6 months, or such longer period as the Structural Assessor may reasonably require to complete this process (the “**Structural Assessment Period**”);
 - ii. The Structural Assessor so retained will:
 - (a) be a professional engineer duly registered under the Act and in good standing;

- (b) not currently under investigation by the Investigation Committee or before the EGM Discipline Committee; and
 - (c) have demonstrated experience in the area of structural engineering;
 - iii. During the Structural Assessment Period, the Structural Assessor will assess Ms. Manness' competency in the practice of structural engineering in such a manner as he or she deems fit;
 - iv. Thereafter, the Structural Assessor will provide a written report to the Investigation Committee and Ms. Manness on the issue of Ms. Manness' competency in the practice of structural engineering for consideration by the Investigation Committee;
 - v. Upon receipt and review of the report, the Investigation Committee will advise Ms. Manness whether the restriction on her entitlement to practice structural engineering is lifted, along with an explanation if the restriction is not so lifted;
 - vi. Ms. Manness will reasonably co-operate in all aspects of the structural engineering competency assessment; and
 - vii. Ms. Manness will bear the costs of the Structural Assessor, if any;
- c. Ms. Manness be restricted from the practice of geotechnical engineering until such time as she satisfies the Investigation Committee of her competency in the practice of geotechnical engineering pursuant to the following process:
 - i. A geotechnical engineer, as identified and retained by Ms. Manness (the "**Geotechnical Assessor**"), will be appointed to engage in an assessment process over a period of approximately 6 months, or such longer period as the Geotechnical Assessor may reasonably require to complete this process (the "**Geotechnical Assessment Period**");

- ii. The Geotechnical Assessor so retained will:
 - (a) be a professional engineer duly registered under the Act and in good standing;
 - (b) not currently under investigation by the Investigation Committee or before the EGM Discipline Committee; and
 - (c) have demonstrated experience in the area of geotechnical engineering;
 - iii. During the Geotechnical Assessment Period, the Geotechnical Assessor will assess Ms. Manness' competency in the practice of geotechnical engineering in such a manner as he or she deems fit;
 - iv. Thereafter, the Geotechnical Assessor will provide a written report to the Investigation Committee and Ms. Manness on the issue of Ms. Manness' competency in the practice of geotechnical engineering for consideration by the Investigation Committee;
 - v. Upon receipt and review of the report, the Investigation Committee will advise Ms. Manness whether the restriction on her entitlement to practice geotechnical engineering is lifted, along with an explanation if the restriction is not so lifted;
 - vi. Ms. Manness will reasonably co-operate in all aspects of the geotechnical engineering competency assessment; and
 - vii. Ms. Manness will bear the costs of the Geotechnical Assessor, if any;
- d. Ms. Manness shall make a contribution to EGM's costs in the amount of \$5,000; and

- e. Information relating to the disposition of this matter shall be published in accordance with EGM's policy on publication.

DATED at the City of Winnipeg in the Province of Manitoba this 23rd of December, 2022



Robert O'Toole P.Eng., Chair, Discipline Committee Panel

Ray Hoemsen, FEC, P.Eng., Member, Discipline Committee Panel

Jerald Peters, MAA Member, Discipline Committee Panel

- e. Information relating to the disposition of this matter shall be published in accordance with EGM's policy on publication.

DATED at the City of Winnipeg in the Province of Manitoba this ____ of _____, 2022

Robert O'Toole P.Eng., Chair, Discipline Committee Panel
Digitally signed by Ray Hoemsen,
Ray Hoemsen, P. Eng. P. Eng.
Date: 2022.12.23 08:36:26 -06'00'

Ray Hoemsen, FEC, P.Eng., Member, Discipline Committee
Panel

Jerald Peters, MAA Member, Discipline Committee Panel

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DATED at the City of Winnipeg in the Province of Manitoba this ____ of _____, 2022

Robert O'Toole P.Eng., Chair, Discipline Committee Panel

Ray Hoensen, REC, P.Eng., Member, Discipline Committee
Panel

Jerald Peters, MAA Member, Discipline Committee Panel