

ENGINEERS GEOSCIENTISTS MANITOBA

IN THE MATTER OF:

John Walter Arthur, P.Eng., a Professional
Engineer in the Province of Manitoba

AND IN THE MATTER OF:

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

CHARGE

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

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

IN THE MATTER OF: John Arthur, 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*

CHARGE

TAKE NOTICE that the Investigation Committee (the “**Committee**”) of the Association of Professional Engineers and Geoscientists of the Province of Manitoba (“**EGM**”) formulates the following charge.

John Arthur, P. Eng, while registered as a professional engineer in the Province of Manitoba, displayed conduct which constitutes professional misconduct or unskilled practice in that:

10 Armour Crescent (the “Armour Crescent Charge”)

1. In the course of providing professional engineering services respecting a residence at 10 Armour Crescent in Winnipeg, Manitoba (the “**Armour Residence**”), John Arthur (“**Mr. Arthur**”) (either directly and/or operating 6137262 Manitoba Ltd. operating as John Arthur Consulting [“**John Arthur Consulting**”]) engaged in conduct detrimental to the public interest, conduct unbecoming a professional engineer and misconduct in the practice of professional engineering, contrary to sections 46(1)(a), 46(1)(b), 46(1)(c) and 46(1)(d) of *The Engineering and Geoscientific Professions Act* (the “**Act**”) and Canons 2 and 5 of EGM’s *Code of Ethics* (effective November 2018) (the “**Code of Ethics**”) by:
 - a. misleading his client, Richard Johns (“**Mr. Johns**”), as to Mr. Arthur’s ability to practice structural engineering by failing to properly advise or clarify with Mr. Johns that he was, at that time, restricted from practicing structural engineering (the “**Restriction**”);
 - b. engaging in the practice of structural engineering, contrary to the Restriction, by providing underpinning location recommendations and coordinating the provision of project information to Bob McDonald (“**Mr. McDonald**”) with RAM Engineering Inc. (“**RAM**”), a third-party structural engineer engaged to complete the remediation design for the Armour Residence; and
 - c. misleading Mr. McDonald by failing to properly advise or clarify with Mr. McDonald that Mr. Arthur was subject to the Restriction.

Particulars of the Armour Crescent Charge

- i. On or about July 14, 2020, a conviction of professional misconduct was registered

against Mr. Arthur with penalties imposed including the Restriction, which was to remain in place until such time as his competence to practice structural engineering had been established in accordance with the terms of the penalty. The Restriction remains in place to this day;

- ii. In or about July 2021, Mr. Arthur and/or John Arthur Consulting were retained by Mr. Johns to assess foundation issues at the Armour Residence. Mr. Arthur attended the residence to perform an inspection. During the inspection, Mr. Arthur took measurements and provided Mr. Johns with recommendations for the location of underpinnings of the house and garage structure;
- iii. On or about September 18, 2021, Mr. Arthur provided further structural engineering recommendations to Mr. Johns;
- iv. On or about October 17, 2021, Mr. Arthur provided unstamped “Partial Underpinning” plans to Mr. Johns. Mr. Johns thereafter requested sealed drawings;
- v. Mr. Arthur engaged a third-party structural engineer, Mr. McDonald of RAM, to finalize the remediation design for the Armour Residence and provide the requested sealed drawings. Mr. Arthur provided Mr. McDonald and RAM with information about the project and site conditions required by Mr. McDonald and RAM to prepare the drawings;
- vi. At no time did Mr. Arthur disclose to Mr. Johns the existence of the Restriction or that a third party structural engineer would be required to produce stamped drawings;
- vii. At no time did Mr. Arthur disclose to Mr. McDonald or RAM the existence of the Restriction; and
- viii. On or about October 21, 2021, Mr. Arthur provided the drawings sealed by Mr. McDonald and RAM to Mr. Johns. The drawings listed John Arthur Consulting on the title bar and included a disclaimer that any inspection during construction would be an additional cost. Mr. Arthur charged Mr. Johns \$1,470.00 for the drawings.

1132 Portage Avenue (the “Portage Avenue Charge”)

2. In the course of providing professional engineering services respecting a commercial building at 1132 Portage Avenue in Winnipeg, Manitoba (the “**Portage Building**”), Mr. Arthur (either directly and/or operating as John Arthur Consulting), engaged in conduct detrimental to the public interest, conduct unbecoming a professional engineer and misconduct in the practice of professional engineering, contrary to sections 46(1)(a), 46(1)(b), 46(1)(c) and 46(1)(d) of the Act and Canon 5 of the Code of Ethics by:
 - a. failing to deliver a design and structural certification for the project at the Portage

- Building, despite being paid by his client for same; and
- b. failing to conduct himself with integrity and to act in the best interests of his client.

Particulars of the Portage Avenue Charge

- i. In or about April 2020, Mr. Kapil Gusain (“**Mr. Gusain**”) retained Mr. Arthur and/or John Arthur Consulting to develop the plans for the construction of a commercial building for a restaurant at the Portage Building. Mr. Arthur was paid fees for this work of approximately \$10,000.00;
- ii. The plans for the Portage Building were submitted by Mr. Arthur to the City of Winnipeg in or about October and December 2020. The drawings were sealed by Mr. Jason Conrad (“**Mr. Conrad**”), a structural engineer and an employee of John Arthur Consulting at the time. The building permit for the Portage Building was issued on or about April 8, 2021;
- iii. Mr. Conrad subsequently refused to issue a structural certification for the Portage Building, as required by the City of Winnipeg to close the permit, due to an internal dispute arising between Mr. Conrad and Mr. Arthur. Mr. Conrad ceased working for John Arthur Consulting in summer or early fall of 2021;
- iv. Mr. Arthur failed to make arrangements for another structural engineer to provide the required structural certification of the Portage Building and requested that Mr. Gusain contact Mr. Conrad directly to obtain the required certification, thereby causing delay to the project completion and involving his client in an internal dispute within John Arthur Consulting;
- v. Mr. Gusain was only able to obtain interim occupancy for the building after personally hiring a third party structural engineer to provide the required certification;
- vi. Mr. Arthur also charged Mr. Gusain \$500.00 to prepare “engineering sealed drawings” for a back shed building at the Portage Building. Those drawings were deemed to be insufficient by the City and were required to be redone at an additional cost to Mr. Gusain; and
- vii. Mr. Arthur has not repaid to Mr. Gusain any monies for the uncompleted designs or designs that were required to be redone.

544 Niagara Street (the “Niagara Charge”)

3. In the course of providing professional engineering services respecting a residence at 544 Niagara Street in Winnipeg, Manitoba (the “**Niagara Residence**”), Mr. Arthur (either directly and/or operating as John Arthur Consulting), engaged in conduct detrimental to the public interest, conduct unbecoming a professional engineer and misconduct in the practice of professional engineering, contrary to sections 46(1)(a), 46(1)(b), 46(1)(c) and 46(1)(d) of the

Act and Canons 2 and 5 of the Code of Ethics by:

- a. misleading his client, Loren Oschipok (“**Mr. Oschipok**”), as to Mr. Arthur’s ability to practice structural engineering by failing to properly advise or clarify with Mr. Oschipok that he was, at that time, restricted from providing structural engineering services as a consequence of the Restriction; and
- b. engaging in the practice of structural engineering, contrary to the Restriction, by participating in a site review and inspection at 544 Niagara Street and advising on structural engineering issues at the Niagara Residence.

Particulars of the Niagara Charge

- i. At all material times, Mr. Arthur was subject to the Restriction thereby preventing him from practicing structural engineering or representing an ability to do so;
- ii. In or about April, 2022, Mr. Oschipok retained Mr. Arthur to provide a structural engineer’s opinion respecting remediation work required for the foundation of his residence at the Niagara Residence;
- iii. During a site visit and inspection on or about April 19, 2022:
 - A. Mr. Arthur was introduced to Mr. Oschipok by a foundation contractor as “the structural engineer”. Mr. Arthur did not correct this characterization;
 - B. Mr. Arthur inspected the interior of the Niagara Residence, took photos and measurements of the interior of the Niagara Residence and created a sketch indicating where friction piles should be installed; and
 - C. Mr. Arthur provided a quote to Mr. Oschipok for providing sealed drawings;
- iv. Mr. Arthur charged Mr. Oschipok \$350.00 for the inspection of the Niagara Residence and, subsequent to the inspection, the foundation contractor provided a quote to Mr. Oschipok for the installation of the friction piles “as per engineer drawing”; and
- v. At no time did Mr. Arthur disclose the Restriction to Mr. Oschipok or otherwise clarify that he was restricted from providing structural engineering services.

182 Harris Boulevard (the “Harris Boulevard Charge”)

4. In the course of providing professional engineering services respecting a residence at 182 Harris Boulevard in Winnipeg, Manitoba (the “**Harris Residence**”), Mr. Arthur (either directly and/or operating as John Arthur Consulting) engaged in conduct detrimental to the public

interest, conduct unbecoming a professional engineer and misconduct in the practice of professional engineering, contrary to sections 46(1)(a), 46(1)(b), 46(1)(c) and 46(1)(d) of the Act and Canons 2 and 5 the Code of Ethics by:

- a. misleading his client, Jeff Wiggett (“**Mr. Wiggett**”) as to Mr. Arthur’s ability to practice structural engineering by failing to properly advise or clarify with Mr. Wiggett that he was, at that time, restricted from providing structural engineering services as a consequence of the Restriction and by providing a business card to Mr. Wiggett that implied that Mr. Arthur was a structural engineer; and
- b. engaging in the practice of structural engineering, contrary to the Restriction, by conducting a site review, providing underpinning location recommendations and coordinating the provision of project information and a draft design to Darren Eddie (“**Mr. Eddie**”) of Edifice Engineering Inc. (“**Edifice**”), a third-party structural engineer engaged to complete the remediation design for the Harris Residence.

Particulars of the Harris Boulevard Charge

- i. At all material times, Mr. Arthur was subject to the Restriction thereby preventing him from practicing structural engineering or representing an ability to do so;
- ii. On or about October 18, 2021, Mr. Wiggett contacted Mr. Arthur to provide a structural engineer’s opinion respecting remediation work required for the foundation of his residence at the Harris Residence;
- iii. During a site visit and inspection on or about October 27, 2021:
 - A. Mr. Arthur provided Mr. Wiggett a business card listing, *inter alia*, “John Arthur Engineering...Structural Engineer...John W. Arthur, P. Eng....,
 - B. Mr. Arthur inspected the Harris Residence, took photos and measurements of the Harris Residence, created a sketch indicating where piles should be installed and provided advice to Mr. Wiggett regarding the remediation of the foundation of the Harris Residence; and
 - C. Mr. Arthur agreed to provide the requisite engineering drawings to Mr. Wiggett for the recommended remediation plan;
- iv. Mr. Arthur charged Mr. Wiggett approximately \$200.00 for the inspection of the Harris Residence;
- v. Mr. Arthur engaged a third-party structural engineer, Mr. Eddie of Edifice, to finalize the remediation design for the Harris Residence and provide sealed drawings. Mr. Arthur provided Mr. Eddie and Edifice with a draft engineering design for the Harris Residence for Mr. Eddie to review and approve;

- vi. On or about December 2, 2021, Mr. Arthur presented to Mr. Wiggett engineering drawings sealed by Mr. Eddie and explained the rationale for the scope of work recommended;
- vii. On or about December 3, 2021, Mr. Wiggett paid Mr. Arthur \$1,470.00 for the engineering drawings;
- viii. At no time did Mr. Arthur disclose the Restriction to Mr. Wiggett or otherwise clarify that he was restricted from providing structural engineering services; and
- ix. In or about the summer of 2022, remediation work was performed on the Harris Residence in accordance with the engineering drawings provided by Mr. Arthur to Mr. Wiggett.

Improper Advertising Charge

5. In the course of providing or offering professional engineering services, Mr. Arthur (either directly and/or operating as John Arthur Consulting), engaged in conduct detrimental to the public interest, conduct unbecoming a professional engineer and misconduct in the practice of professional engineering, contrary to sections 46(1)(a), 46(1)(b), 46(1)(c) and 46(1)(d) and 58(2) of the Act and Canon 2 of the Code of Ethics by:
 - a. while subject to the Restriction, advertising, listing, displaying or using an engineering description, title, designation or term that could lead a person to infer that Mr. Arthur and/or John Arthur Consulting was entitled to engage in the practice of structural engineering thereby misleading the public as to the services that Mr. Arthur and John Arthur Consulting were permitted to provide.

Particulars of the Improper Advertising Charge

- i. At all material times, Mr. Arthur was subject to the Restriction thereby preventing him from practicing structural engineering or representing an ability to do so;
- ii. While subject to the Restriction, Mr. Arthur distributed business cards to members of the public listing, *inter alia*, “John Arthur Engineering...Structural Engineer...John W. Arthur, P. Eng...”, including on or about April 26, 2022 to a prospective customer named Lloyd Shewchuk at 5669 Rannock Ave., Winnipeg, and, as noted above, on or about October 27, 2021 to Mr. Wiggett.

DATED at Winnipeg, Manitoba, this ___ day of _____, 2024.

John Doering, P. Eng. FCSE, FEC, FCAE
Chair, Investigation Committee