



# Safety Codes Council

## **COUNCIL ORDER No. 0015493**

### **BEFORE THE PRESSURE EQUIPMENT SUB-COUNCIL**

**On April 8, 2019**

**IN THE MATTER OF** the Safety Codes Act, Revised Statutes of Alberta 2000, Chapter S-1.

**AND IN THE MATTER OF** the Cancellation of Alberta 4<sup>th</sup> Class Power Engineer's Certificate of Competency pursuant to Section 42(3) of the Safety Codes Act, R.S.A. 2000 c. S-1 ("Act") (See Appendix 1), issued 07 February 2019 by the Administrator at the pressure equipment safety authority ("Respondent") to the Power Engineer ("Appellant").

**UPON REVIEWING AND CONSIDERING** the Cancellation of the Certificate of Competency and the materials submitted **AND UPON HEARING** the arguments made by the parties; **THIS COUNCIL ORDERS THAT** the Cancellation of the Certification of Competency is **CONFIRMED**.

## **Reasons for the Decision**

### **Introduction:**

1. The Appeal concerns the cancellation of the Appellant's Alberta 4<sup>th</sup> Class Power Engineer's Certificate of Competency.

### **Appearances, Preliminary, Evidentiary, or Procedural Matters:**

2. Appearing for the Appellant, the Appeal Panel ("Panel") heard from the Power Engineer.
3. Appearing for the Respondent, the Panel heard from the Administrator at the pressure equipment safety authority.
4. Several individuals from the pressure equipment safety authority and the Safety Codes Council ("Council") attended the hearing as observers.
5. At the commencement of the hearing, the Appellant and Respondent confirmed there were no objections to any members of the Panel, and that the Council in general and the Panel in particular had jurisdiction to hear and decide the appeal.
6. The Appeal Panel Chair ("Chair") then explained the process to be followed in hearing the appeal, and asked the parties to confirm whether there were any objections to The Record (Paragraph 8 below, items 1 to 5). The Appellant and Respondent confirmed that there were no objections to any of the written materials submitted to the Panel prior to the hearing.
7. During the hearing, the Appellant and the Respondent introduced and agreed to allow the distribution of additional pieces of evidence, listed in the Record below as items 6 and 7.

### **The Record:**

8. The Panel considered, or had available for reference, the following documentation:
  1. Notice of Appeal, received 04 March 2019
  2. Acknowledgement letter from the Council dated 07 March 2019
  3. Notification of hearing letter dated 12 March 2019
  4. Hearing Brief from the Appellant marked as "Exhibit 1 Appellant" dated 22 March 2019
  5. Hearing Brief from the Respondent marked as "Exhibit 1 Respondent" dated 21 March 2019
  6. Email from an employee of the pressure equipment safety authority to the Appellant sent 30 January 2019, marked as "Exhibit 2 Appellant", dated 08 April 2019

7. Email from the Respondent summarizing the 11 July meeting with the Appellant, sent to Alberta Municipal Affairs representatives on 11 July 2018; marked as “Exhibit 2 Respondent”, dated 08 April 2019

## **Position of the Parties**

### **Appellant's**

- 9.** It is the position of the Appellant that their 4<sup>th</sup> Class Power Engineer's Certificate of Competency should not be cancelled, and the Appellant is willing to work towards its reinstatement.
- 10.** In February 2017, after the Appellant had written their last 3<sup>rd</sup> Class exam in another jurisdiction, they were approached by an individual claiming to be an employee of a Regulatory Authority outside of Alberta ("RA") and offered the Appellant help with certificates and steam time.
- 11.** The Appellant e-transferred (on 11 May and 11 July 2018) money to the RA representative in exchange for scanned copies of their 4<sup>th</sup> and 3<sup>rd</sup> Class certificates via email.
- 12.** In 2018, the Appellant was applying for jobs and created online profiles and attached the scanned certificates received from the RA representative. The proof of them having been received was not retrievable by the Appellant because the e-mails 'were deleted after 90 days', though the Appellant was able to produce a record of an e-mail received from the pressure equipment safety authority (item 6 of the Record above) that was more than 90 days old.
- 13.** The Appellant graduated as 3<sup>rd</sup> Class power engineer, wrote 3<sup>rd</sup> Class exams in another jurisdiction, and applied for certifications with the help of the RA representative.
- 14.** On 11 July 2018, the Appellant had a 'brief meeting' with the Respondent during which they discussed the issue of a forged 3<sup>rd</sup> Class Certificate of Competency in the Appellant's name. Part of the resolution was the issuance of 4<sup>th</sup> Class Certificate of Competency under the condition that the Appellant report their employment status as a power engineer monthly for a total of 24 months to ABSA.
- 15.** The Appellant admitted utilizing the forged 3<sup>rd</sup> class certificate of competency in their application to the Employer, but only by accident, as the Appellant was applying for many jobs on Indeed (a job application platform) at the time, and their historical file uploads were still stored on the profile. The Appellant also stated that they unintentionally represented themselves as a 3<sup>rd</sup> class power engineer only in error on the selection boxes within the Indeed application, due to the large volume of applications the Appellant had been submitting online at the time.
- 16.** The Appellant was sure that the 3<sup>rd</sup> Class Certificate of Competency they paid for was valid in Alberta and another jurisdiction; however, the Appellant admits that they should have checked it.
- 17.** The Appellant tried to get hard copies of the 4<sup>th</sup> and 3<sup>rd</sup> Class certificates from the RA representative in January 2019 to forward to the Appellant's Employer, but the RA representative requested more money and then stopped responding.

- 18.** The Appellant believed there was a misunderstanding relating to the conditions of reporting to the pressure equipment safety authority, which led to cancellation of their 4<sup>th</sup> Class Certificate of Competency.

### **Respondent's**

- 19.** It is the position of the Respondent that the Appellant continued to misrepresent their qualifications by using forged certificates and exam marks after the issuance of the conditional 4<sup>th</sup> Class Certificate of Competency. It is the Respondent's stance that submission of false credentials not only compromises public safety, but it undermines the credibility of the power engineer certification program and a person who forges his or her credentials cannot be trusted to represent power engineers.
- 20.** In December of 2017, the Appellant did hold a 4<sup>th</sup> Class Certificate of Competency in another jurisdiction and initiated the transfer process from that province to Alberta, but they did not follow through on the process.
- 21.** The Appellant got a position as a 3<sup>rd</sup> Class power engineer in Alberta having presented their employer with a falsified 3<sup>rd</sup> Class Certificate of Competency in Alberta that the Appellant made for themselves using information they found on the internet. Upon discovery of the fraud, the employer terminated the employment of the Appellant.
- 22.** This led to an investigation by the Respondent where the Appellant did admit that they falsified the certificate. In the course of investigation, the Respondent determined that the Appellant met the certification requirements prescribed in the Power Engineer's Regulation and was eligible under the Canada Free Trade Agreement as the holder of a valid certificate issued by another jurisdiction, to be issued a 4<sup>th</sup> Class Certificate of Competency in Alberta with conditions on 11 July 2018.
- 23.** At the meeting on the 11 July 2018, the Respondent let the Appellant know that the 4<sup>th</sup> Class Certificate of Competency was issued with the conditions as a consequence of the Appellant's dishonest behaviour and that any further evidence of dishonest behaviour by the Appellant regarding the power engineer's certification would result in additional consequences. The Appellant agreed to the conditions on the 4<sup>th</sup> Class Certificate of Competency and signed that they read and understood them.
- 24.** On 18 January 2019, the pressure equipment safety authority received a call from RA concerning the Appellant's background. The Respondent found out that the Appellant got a position in another jurisdiction by submitting falsified 3<sup>rd</sup> Class Alberta and 3<sup>rd</sup> Class another jurisdiction Certificates of Competency, and a pressure equipment safety authority's exam results letter for a 2<sup>nd</sup> Class examination that was successfully completed in Alberta.
- 25.** Email exchanges between the pressure equipment safety authority and RA revealed that the Appellant had presented the same fraudulent 3<sup>rd</sup> Class Certificate of Competency that they had previously presented in Alberta.
- 26.** The Appellant had also misrepresented themselves as the recipient of the exam results that belonged to another person. This information was further confirmed by the pressure equipment safety authority with the another jurisdiction Company where the

Appellant had been employed.

- 27.** The Respondent cancelled the Appellant's 4<sup>th</sup> Class Certificate of Competency pursuant to Section 42(3) of the Act.

## Findings of the Appeal Panel:

*The Appeal Panel makes the following findings:*

- 28.** The Act clearly defines the various “responsibilities”, beginning with those of the Minister responsible for the Act. Section 4 (1) of the Act (see Appendix 2) gives the Minister overall responsibility to “co-ordinate and encourage the safe management and control of anything, process or activity to which this Act applies.”
- 29.** Section 14 (1) of the Act (see Appendix 3) gives the Minister the authority to “appoint persons as Administrators and prescribe their powers and duties [...]”. The Minister did this when appointing the Respondent as the Administrator for the pressure equipment discipline as outlined in Section 3(4) of the Ministerial Order P:003/17 (see Appendix 4).
- 30.** In this case, the Appellant acquired his 3<sup>rd</sup> Class Certificate of Competency through an individual not related to the pressure equipment authority either in another jurisdiction or Alberta and admitted to falsifying their 3<sup>rd</sup> Class Certificate of Competency. While the Appellant may have misinterpreted their reporting conditions outlined in their conditional 4<sup>th</sup> Class Certificate of Competency to which they signed, the Appellant continued to misrepresent themselves as a 3<sup>rd</sup> Class power engineer to gain employment and did not exercise the due diligence to remove documentation that misrepresented themselves as a 3<sup>rd</sup> Class power engineer from their online job application profile they utilized to gain employment.
- 31.** Within the spirit of the Act and under the authority of Section 42 (3) of the Act (see Appendix 1), the Respondent, as part of his responsibility as Administrator, determined the Appellant’s actions and their continued employment as a power engineer in Alberta would result in an unsafe condition, presenting a danger to persons or property.
- 32.** Therefore, the Panel upholds the decision of the Administrator to cancel the Appellant’s 4<sup>th</sup> Class Certificate of Competency.

Signed at the City Edmonton            )  
in the Province of Alberta            )  
this 16<sup>th</sup> Day of April A.D. 2019        )

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Chair, Pressure Equipment Sub-Council Appeal Panel

## **Appendix 1**

### **Provisions of the Safety Codes Act:**

The *Safety Codes Act* (S-1, RSA 2000), as amended provides, *inter alia*:

#### **Part 3**

#### **Standards**

#### **Certificate issues**

**42(3)** An Administrator may suspend or cancel a certificate of competency if the Administrator, on reasonable and probable grounds, is of the opinion that

- (a)** The person no longer complies with the requirements of this Act for a certificate of competency, or
- (b)** the person does not comply with this Act when acting pursuant to certificate of competency.



## **Appendix 2**

### **Provisions of the Safety Codes Act:**

The *Safety Codes Act* (S-1, RSA 2000), as amended provides, *inter alia*:

#### **Part 1**

#### **Responsibilities**

##### **Government**

**4(1)** The Minister shall, in accordance with this Act, co-ordinate and encourage the safe management and control of any thing, process or activity to which this Act applies.

## **Appendix 3**

### **Provisions of the Safety Codes Act:**

The *Safety Codes Act* (S-1, RSA 2000), as amended provides, *inter alia*:

#### **Part 2**

#### **Administration**

#### **Administrator Appointed**

**14(1)** The Minister may appoint persons as Administrators and prescribe their powers and duties and may make an order fixing or governing the terms and conditions of service, including remuneration and expenses, applicable to an Administrator if the person is not an employee as defined in the *Public Service Act*.

## Appendix 4

### Provisions of the Ministerial Order No. P:003/17:

Appendix to Ministerial Order No. P:003/17 Order for the Appointment of Administrators provides, *inter alia*:

**3** The following persons are appointed with the prescribed powers and duties during their term of employment, subject to any terms and conditions set out below,

**(4)(a)** [The Respondent], as employed by the Alberta Boilers Safety Association, is appointed administrator for pressure equipment, with the powers and duties of an administrator pursuant to:

- (i)** Sections 15, 37, 38, 39, 40, 46, 48, 49, 50, 51, 52, 56, 57, 58, 59, 61, 62 and 63 of the Safety Codes Act, for pressure equipment;
- (ii)** Section 42 of the Safety Codes Act for certificates of competency for pressure equipment established under the Power Engineers Regulation (AR 85/2003), Pressure Welders Regulation (AR 169/2002) and the Pressure Equipment Safety Regulation (AR 49/2006);
- (iii)** Section 7 of the Administrative Items Regulation (AR 16/2004);
- (iv)** the Power Engineers Regulation (AR 85/2003);
- (v)** the Pressure Equipment Safety Regulation (AR 49/2006); and
- (vi)** the Pressure Welders Regulation (AR 169/2002).