

ACMG Complaint CR1901 – Expanded summary and rationale

Preliminary Review Members:

- Rod Gibbons (chair) – ACMG/IFMGA Mountain Guide with 35 years guiding experience; 13 years on the ACMG Conduct Review Committee, many years on the Heli-Cat Canada Standards Committee
- Paul Berntsen – ACMG/IFMGA Mountain Guide with 35 years guiding experience and 13 years on the ACMG Conduct Review Committee
- Marni Virtue – Member of the public; 5 years on the Conduct Review Committee; extensive outdoor recreational experience in all disciplines
- Each member was verified by Jeremy Mackenzie, the chair of the ACMG Conduct Review Committee for absence of real or apprehension of bias

Procedure:

- The complaint was separated into four individual complaints:
 - CR1901a: Complaint against Merrie-Beth Board
 - CR1901b: Complaint against Benjamin Paradis
 - CR1901c: Complaint against Lisa Paulson
 - CR1901d: Complaint against the ACMG
- CR1901c was dismissed on jurisdictional grounds since Lisa Paulson was not acting in her capacity as a guide or member of the ACMG
- CR1901d was dismissed on jurisdictional grounds since administrative reviews may not review the administering organization
- Upon receiving an amended complaint from the complainant, the decision was made to focus on the allegations contained in the amended document
- Evidence and opinion were collected from a total of 17 people including the complainant.
- Each of the 23 allegations/statements (21 against Merrie-Beth Board and 2 against Benjamin Paradis that were different from those against Merrie-Beth Board) was examined by each panel member both individually and as a collective, in light of the evidence and opinion collected, with a view to determining whether any could have represented a potential breach of any aspect of the ACMG Code of Conduct

Evidentiary Summary

Below is a list of allegations/ statements from the complaint against Merrie-Beth Board followed by those against Benjamin Paradis. After each allegation/ statement is a summary of evidence/ information used by the PRC and the rationale.

Guides told the clients to pack an avalanche probe and shovel and to wear a transceiver for the climb (clients were never asked to demonstrate competency with this equipment, there was no training, demonstration or practice using avalanche transceivers, probing or digging, clients were not told how to protect

themselves from an avalanche, or what best practices are if you are caught in an avalanche)


Evidence supports this allegation. Clients were told to and did bring transceivers, probe and shovels, but **no companion rescue training was provided**. The guides' rationale was that the guests on this course were more experienced clients each of whom had previous training and experience. The PRC conducted an interview with the Technical Director of the ACMG about standards or best practices in carrying avalanche safety equipment and companion rescue training in an ice climbing setting. The interview revealed that there are no clear standards/ best practices in the ice climbing world. The proposed remedy identifies that carrying transceivers while ice climbing is a relatively new practice and the inclusion of shovels and probes even newer.

Although, in this instance, training for the guests would not have changed the result, the PRC believes trusting that the clients had training experience was not adequate. The guides could have done a better job on this point and the panel felt this could reasonably be improved through proposed remedy number 1. While the PRC does not have the mandate to create a standard/ best practice for all guides, it took the opportunity to ask these two guides to agree to this change in practice. Further rationale is provided in the remedy.

Guide did not explain the nature of the terrain the ice climb Massey's was identified as a Class III-a black route on the ATES scale.

Guides did not explain the nature of the terrain the other clients were climbing was also Class III, black routes.

The above two allegations are combined.

The evidence supports these allegations in the sense that the ATES scale was not covered. However, there were several testimonials from both guides and guests on the course that the subjects of terrain and hazard were covered on more than one occasion. **Evidence was also provided that the complainant was on a similar course in a previous year during which the Field area was avoided due to the high avalanche hazard and more committing terrain.** 

The PRC concluded that the ATES scale is not used by all guides or all the time by any guide. There are many different ways to evaluate terrain and hazard and the ATES scale, like most single source concepts, has limitations. ATES 2 terrain may not always be less hazardous than that of ATES 3. The PRC believes the core of this allegation is the principle of explaining hazard and terrain not the ATES scale itself. Therefore, there was no potential breach of the Code of Conduct as terrain and hazard were covered with the clients.

Guides did not explain to clients how to use the guide's radio, SPOT or IN-REACH, nor were the clients given any emergency contact information.

The evidence does not support this allegation. Testimony showed the topics of pack contents and communication equipment was covered in an evening discussion with the guests. However, one source indicated that, at the time this discussion was going on, Ms. Kloet was still upstairs in her room. While



there was no explanation as to why Ms. Kloet was in her room at the time, the PRC believes there is sufficient evidence that this discussion occurred and it was a case of bad timing that Ms. Kloet missed it.

Avalanche transceivers were not tested prior to the morning departure from the hostel.

The evidence supports this allegation/statement. However, testimony showed that the reasons for not having done the check at the hostel were twofold:

- Fear of outside electrical interference
- To avoid potential conflicts with trains on the approach. Transceivers were checked prior to entering avalanche terrain.

The PRC believes this was a prudent choice under the circumstances and concluded this was not a potential breach of the Code of Conduct.

Merrie-Beth Board States, "I know we are wearing avalanche transceivers and carrying avalanche equipment, but if I had any concerns about avalanches, we wouldn't be here today." She repeats this statement on one further occasion.

No evidence / testimony was provided that contradicted this statement. As it is not a clear allegation of wrongdoing, the PRC interpreted this statement as suggesting the guide was unaware or unappreciative of the potential hazard. However, the PRC believes that, even if Ms. Board said this, it does not clearly represent a lack of awareness or appreciation for the potential hazard.

Avalanche transceivers were only checked as the group left the CP railway tracks-the suggestion to test the transceivers came from one of the clients in the group.

As indicated above, it is correct that transceivers were checked as the group left the railway tracks. However, evidence from both guides and guests indicated that Ms. Board did, herself, call for the transceiver check. One guest, who is an ACMG Ski Guide, performed the check and was, in turn, checked by Mr. Paradis.

Merrie-Beth Board states that normally a group would get ready in a little protected "cave" behind an ice curtain.

Ms. Board denied having said this and testimony provided from multiple sources indicated the "cave" was not big enough to be used this way. They also explained that the icicles hanging above the "cave" were a clear overhead hazard that the guides determined to be too great. Although the PRC could not determine whether Ms. Board said the above, the guides' decision to avoid the 'cave' due to overhead hazard was a sound one and therefore was not a potential breach of the Code.

Approaching the fourth and final pitch, Merrie-Beth Board and Benjamin Paradis offer an opportunity to lead.

Evidence supports this statement. It also showed that both guides discussed the potential hazard throughout the climb including the winds aloft, temperature and timing of the day. One of the pre-established goals of the course was to allow clients to lead if and when the guides determined it to be appropriate. The guides determined this was reasonable based on their understanding of the regional avalanche hazard and their evaluation of conditions at the time.

At the top of the route, around 1pm, Merrie-Beth Board offers opportunity to 'do laps' on the first pitch. All but one guest is interested in this and the offer is rescinded.

Although evidence supports this statement, it must be noted that the change from standard time to daylight saving time occurred only two days previous making the relative time around noon. Although the statement intimates that the guides were unaware or unappreciative of the potential hazard, this appears to be refuted by the ongoing hazard discussions described above.

Evidence showed that rescinding the offer to 'do laps' was based on concern over one guest's cold feet, which the PRC believes is in keeping with best practices.

There is a walk-off route through the trees, however, the guides choose to rappel the descent of this ice climb.

While the evidence supports this statement, testimony from multiple guides indicated that the walk off can actually expose climbers to greater potential avalanche hazard while traversing to the vertical portion of the walk off. All guides interviewed indicated that they always rappel this ice climb.

The PRC believes the technique the guides used to move the group on descent was a good choice and in keeping with best practices.

Clients and guides begin to remove their harness, crampons and gear. They put on additional clothing, have something to drink and eat. Everyone leaves their packs on the platform they built for themselves at the beginning of the day.

Evidence supports the above statement. Although it is just a statement from the complainant rather than an allegation, it is included because it forms part of the reason for the third proposed remedy. The rationale provided in the remedy explains that the guides should make an effort in the future to ensure that not all the safety gear is unsecured at the same time.

A client mentioned she would like to practice building V-threads. Three guest go to the waterfall and begin building V-threads. Benjamin Paradis demonstrates the strength of the V-thread by chipping away at the ice with his ice ax. Merrie-Beth Board is standing in or near the ice cave, Sonja Findlater is standing down slope and in clear view of Merrie-Beth Board, meters away from the safety of the cave that Merrie-Beth Board is standing.

All it would have taken to keep Sonja Findlater out of harm's way was for Merrie-Beth Board to ask Sonja Findlater to move closer to her while she took off her crampons.

When the avalanche came down, Sonja Findlater was immediately struck. She didn't have a chance.

While the V-thread practice is not in question, previous testimony has already indicated that the cave was threatened by visible overhead hazard – hence the decision to avoid it. Other testimony indicates that Ms. Findlater was standing near and slightly below Ms. Board. Additional information indicates the presence of a hand on the shoulder of someone close to the ice at the time the avalanche struck, after which the hand disappeared. This suggests that, while standing close to the ice is often the safest location, it may not always be a guarantee that one will not be hit.

Merrie-Beth Board is screaming incoherently. She is shrieking and yelling and frantic.

Much of the testimony does not support this statement. The evidence showed that Ms. Board was clearly yelling for others to switch their transceivers to “receive”. The PRC believes the yelling was a reasonable response under the circumstances. The evidence also showed that Ms. Kloet was, at the time, buried above her head and down slope. It is possible that what Ms. Kloet heard was different or less clear than what others heard.

All the bags, shovels and probes have been blown away and buried in the avalanche. Merrie-Beth Board lost her phone in the avalanche. It is my understanding that the guides were not able to call out for help as they did not have a phone or radio. The guides were not able to inform anyone that they had no shovels or probes. The rescuers only have an ice ax, crampons and helmets to dig out Sonja.

The evidence partly supports this allegation. All the shovels and probes were lost/ buried in the avalanche, the fact of which forms the primary basis for proposing the third remedy. The rationale in the remedy document covers the PRC's thoughts.

However, evidence showed that Ms. Board did not lose her phone as she received a warning by phone seconds before the avalanche struck. Both guides were communicating with the outside and knew rescue assistance was being organized. They chose to focus on rescue efforts with what they had. The guide who sent the warning arrived soon on the scene with a shovel and probe.

Evidence supports the final sentence - the group had very limited equipment to work with. The PRC believes the group, including Ms. Kloet did an excellent job with the rescue in spite of very difficult circumstances. They never gave up and focussed on the priorities / triage as they were trained to do.

I have been buried to just over my head. My feet are buried over a meter deep.

This statement is not an allegation but was confirmed by several other testimonies. Testimony also indicates that more than one person helped Ms. Kloet dig herself out in keeping with proper training/ triage. One guide initially ensured Ms. Kloet was able to breathe and help herself before moving on.

Others checked on/ helped her as they could as time went on. The group's focus was on the life-threatening excavation.

Merrie-Beth Board approached me as I am pushing snow away from myself and asked me for my gloves as one of the guides was digging out Sonja with bare hands. I gave my gloves to Merrie-Beth Board. I am now digging myself out with bare hands.

The testimony confirmed this action. However, the PRC does not believe this constitutes a potential breach of the Code as the rescue was still focused on highest priority, as they were trained to do.

Another client arrives on site. She was in Sarah Hueniken's climbing group. Sarah Hueniken had told this client at the car to 'empty your pack of everything but your avalanche gear and follow me. Sarah Hueniken left before the client. When the client arrived at the avalanche site, she was asked for her shovel. The client did not bring her shovel or probe - she didn't realize those tools were part of the 'avalanche gear.'

While it is correct that Ms. Hueniken's client arrived with no shovel or probe, evidence indicates that it was not because the client did not understand what comprises avalanche safety gear. Having recently taken an AST 1 course, the client mistakenly left the gear behind due to the excitement of responding to an unfamiliar and dangerous situation. Regardless of the reason, it is not germane to a potential breach of the Code by Ms. Board or Mr. Paradis.

Other than to come over to take my gloves, Merrie-Beth Board does nothing to help dig me out of the snow.

While evidence supports this contention, the PRC believes that Ms. Board was focussed on the correct priorities. She was aware that others were checking on Ms. Kloet from time to time. The PRC does not believe this was a potential breach of the Code.

Allegations against Benjamin Paradis are largely the same as those above with the following two exceptions.

The two groups rappel the route, single file, in two rappels. Benjamin Paradiis goes first. He sets up an anchor of two screws and builds a V-thread for the second rappel. All six climbers arrive at the two screw anchor. Benjamin Paradis sets up his rappel off the V-thread through the anchor material. As Benjamin Paradis sets up his belay device, he unclips from the main anchor and I remind him to lock his rappel device carabiner as it was open, before he begins his descent.

Testimony supports this statement and further explains that Mr. Paradis was still clipped to two clients who were clipped to the main anchor. It was also added that although he was able to give the lock a quarter turn, his carabiner was locked. Guides regularly ask clients to check one another. The PRC doesn't believe this was a potential breach of the Code.

Benjamin Paradis brings me an ice ax to help dig me out, but leaves it out of my reach.

Testimony supports this statement. The PRC believes that this was an unfortunate event that occurred in the anxiety of the moment and that it does not constitute a potential breach of the Code as the guides were still focused on the proper priorities and Ms Kloet was no longer in danger.



Conclusion

Based on the training that PRC members have received as well as our cumulative experience, we believe that the information we obtained provided a clear picture of what occurred that day and that we have a solid understanding of the events surrounding the incident, and thus that our proposed remedies are the best way forward. We know that no remedy can undo the tragedy and trauma surrounding the incident, but we don't believe that, in this instance, a hearing will provide further clarity.

Remedies

The explanations provided in the remedy proposals require no additional clarification. However, it may be added that remedy number 2 was not a response to a specific allegation. There was clear evidence that a thorough guides meeting was held but the PRC believes that written documentation of these meetings is in keeping with best practices.

Collective Time Spent on Review:

Greater than 150 hours