

**APEGA
DISCIPLINE COMMITTEE**

DECISION

**IN THE MATTER OF A HEARING OF THE DISCIPLINE COMMITTEE
OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND
GEOSCIENTISTS OF ALBERTA ("APEGA")**

**Pursuant to the Engineering and Geoscience Professions Act,
being Chapter E-11 of the Revised Statutes of Alberta 2000**

Regarding the Conduct of Ilhee Jang, P.Eng

Date(s) of Hearing: June 10, 2024, October 21-22, 2024,
December 2, 2024, and January 22-23, 2025
Date of Decision: April 10, 2025
APEGA Discipline Case Number: 23-14

INTRODUCTION AND SUMMARY OF DECISION

Introduction

1. This matter concerns disciplinary proceedings regarding Mr. Ilhee Jang, P.Eng., Member #84536 (the **"Member"**). The proceedings were conducted pursuant to Part 5 of the *Engineering and Geoscience Professions Act* (**"EGP Act"**). The hearing commenced on June 10, 2024, and continued on October 21-22, 2024, December 2, 2024, and on January 22-23, 2025, (the **"Hearing"**) before a Hearing Panel constituted in conformity with s. 45 of the *Engineering and Geoscience Professions General Regulation*, AR 150/99 (the **"Regulation"**).
2. The allegations relate to a period when the Member and the complainant, [REDACTED], (the **"Complainant"**) were working at the same engineering consulting firm. At the time, the Member was a sub-lead for a project while the Complainant was an Engineer in Training (E.I.T.) on the same project. The allegations are that the Complainant, after completing a task and emailing his work to one of his supervisors, was at his desk when the Member came up to his cubicle and advised him that the calculations he had done were wrong and the Member became angry. It is then alleged that the Member placed his hands on the Complainant's neck area in an aggressive and unwanted manner that the Complainant perceived to be an attempt to choke him, while yelling that the Complainant was stupid. Ultimately, the Complainant made a complaint against the Member to APEGA.

Summary of Decision of the Hearing Panel

3. After considering the evidence and materials adduced in the Hearing, the Hearing Panel has concluded that the Member engaged in unprofessional conduct by placing his hands on the Complainant's upper shoulder area in circumstances where such contact was not necessary, invited or encouraged and then calling the Complainant stupid.
4. The Hearing Panel directs the Investigative Committee (the "**IC**") and the Member to provide written submissions on the matter of sanction as directed below:
 - a) The IC will provide submissions on sanctions and costs orders, if any, within two weeks of receipt of this decision;
 - b) The Member will provide submissions on sanctions and costs orders, if any, within two weeks of receipt of the Investigative Committee's submissions;
 - c) The IC may provide a written Reply to the Member's submissions on sanctions and costs within one week of the Member's submissions;
 - d) The Parties may submit a request to discipline@APEGA.ca to vary the above timelines or to make submissions before the Hearing Panel;
 - e) If the Member does not provide a response to the IC's submissions within the time directed, the Hearing Panel may choose to proceed and make its decision on sanctions and costs based on the IC's submissions.

ALLEGATIONS AGAINST THE MEMBER

5. A notice of hearing was issued on January 29, 2024. Attached to this notice of hearing were the allegations against the Member.
6. The allegations consisted of one instance of unprofessional conduct that was alleged to have occurred on February 16, 2023. The Member was accused of unprofessional conduct in his workplace by engaging in a physical and verbal interaction with a co-worker. The particulars of the allegation are as follows:
 - a) At all relevant times, the Member and the Complainant were working for [REDACTED], an engineering company based in Calgary, Alberta (the "**Engineering Firm**");
 - b) The Complainant was a junior process engineer, and the Member was assigned as the Complainant's process sub-lead. The overall process lead was [REDACTED] (the "**Process Lead**");

- c) After completing a task and emailing his work to the Process Lead, the Member came to the Complainant's cubicle and asked him if he had done the calculations described in the email. The Member alleged that the calculations were wrong and became angry;
 - d) The Member placed his hands on the Complainant's neck area in an aggressive and unwanted manner that the Complainant perceived to be an attempt to choke him, and while doing so yelled that the Complainant was "stupid."
7. It was alleged that this conduct constituted unprofessional conduct as defined in s. 44(1) of the EGP Act and was contrary to one or more of Rules of Conduct 3, 4 and 5 of APEGA's Code of Ethics under the Regulation.

ISSUES BEFORE THE HEARING PANEL

8. These proceedings are focused on two issues that arise from the allegations against the Member. The issues before the Hearing Panel are:
- (a) What alleged facts have been established on a balance of probabilities; and
 - (b) Do the facts proven establish conduct by the Member that constitutes unprofessional conduct under s. 44(1) of the EGP Act and/or a breach of the Code of Ethics?

These issues are addressed below after a summary of the hearing process and the evidence adduced through that process.

SUMMARY OF THE HEARING PROCESS

Appearances

9. The parties to the Hearing are outlined below.

Hearing Panel

10. The members of the Hearing Panel of the Discipline Committee of APEGA for this Hearing were:

Robert Swift, P.Eng. (Chair)
 Dr. Jeffrey Pieper, P.Eng.
 Tim Moran, P.Eng., and
 Muriel Dunnigan, public member

(the "**Hearing Panel**"). Neither the IC nor the Member took issue with, or raised any objection to, the members of the Hearing Panel.

Investigative Committee of APEGA

11. Mr. Paul Vogel attended the hearing on behalf of the IC. The IC was represented by its legal counsel, Mr. Derek Cranna of Field LLP.

The Member

12. The Member represented himself through the use of a Korean interpreter, [REDACTED] (the "**Interpreter**"). The Interpreter's assistance during the Hearing and the translation services she provided were of considerable benefit to the Hearing Panel.

Discipline Committee Staff and Independent Legal Counsel

13. The Hearing Panel was assisted by Discipline Committee staff members ("**Staff**").
14. Independent Counsel to the Hearing Panel was Shauna Finlay of Reynolds Mirth Richards & Farmer LLP ("**Independent Counsel**").

Preliminary and Procedural Matters

15. The Hearing Panel dealt with a number of preliminary and procedural issues.

Necessity of an Interpreter

16. The hearing opened on June 10, 2024. At that time, a preliminary issue arose with respect to the Member's communication.
17. First, the court reporter had difficulty transcribing the submissions of the Member which created an issue with respect to having an accurate transcription of the proceedings. Second, the Hearing Panel also expressed concerns with respect to their ability to understand the Member's submissions and the Member's ability to fully present his case.
18. The Hearing Panel considered the role of an interpreter in ensuring that the Member understood the proceedings and could efficiently and effectively participate in the Hearing. It also considered the importance of having a transcript of the proceedings. As a result, the Hearing Panel adjourned in order to enable the Member to retain the services of a qualified translator that would facilitate his participation and engagement with the Hearing. Ultimately, the Hearing proceeded with the assistance of the Interpreter, who translated into Korean the evidence and submissions that were in English, and translated the Member's evidence, submissions, cross-examination questions and closing arguments into English after hearing from the Member. In this way, the Hearing Panel ensured that the Member could fully participate in the Hearing and his evidence could be received and understood clearly by the Hearing Panel. As a result, the Hearing Panel is confident that the Member fully understood the proceedings and was able to fully participate in these proceedings.

Introduction of Documents

19. The Hearing Panel also dealt with the question of whether certain documents, proposed to be used by the Member, would be admitted. The documents at issue initially were:
 - (a) The full text message exchange between [REDACTED] ("**Witness 2**") (a co-worker of the Complainant and the Member) and the Complainant;
 - (b) Notes purporting to be of the Member's former counsel detailing his interviews with various parties mentioned in the Investigative Report; and
 - (c) A letter from the Member's son.
20. The IC objected only to the letter from the Member's son on the basis it was irrelevant to the charges.
21. The Hearing Panel permitted the full text message exchange between Witness 2 and the Complainant and the notes from the Member's former counsel detailing his interviews with various parties mentioned in the Investigative Report. These documents were admitted as Exhibit 4 and 6 respectively. The Member withdrew his request to have the letter from his son admitted.

Additional Documents Proposed to be Introduced During the Hearing

22. Another procedural issue arose just before the hearing was set to resume on January 22, 2025. At this time, cross-examination of the Complainant by the Member was set to resume. The Member proposed to introduce additional documents upon which he wished to rely in the Hearing. The documents consisted of materials from the general disclosure of the IC's investigative file. While the IC was aware of these documents generally, the documents had not been identified by the Member ahead of time as records the Member intended to rely upon or use in the hearing. The IC objected to the use of newly identified documents by the Member in the cross-examination of the Complainant for two reasons. Firstly, the late notice of the Member's intention to rely on these documents was unfair to the Complainant because he had already been directly examined and the IC had not had an opportunity to address these documents with the Complainant. Secondly, the IC questioned the relevance of the documents on the basis that the documents went into the technical process issue that the Member and the Complainant were disagreeing about. The documents did not relate to whether the alleged altercation between the two parties had occurred.
23. Independent Counsel provided advice on the record with respect to the introduction of the documents. Independent Counsel noted that although the Hearing Panel was not bound formally by the rules of evidence, this did not mean that the Hearing Panel was free to admit any evidence that the parties propose. The Hearing Panel is still bound by the rules of procedural fairness and the principles of fundamental justice which means that it must consider whether the documents that are proposed to be admitted are relevant and, if so, whether they are sufficiently reliable to be permitted to be admitted.
24. With respect to relevancy, the question was whether the documents the Member proposed to introduce were sufficiently related to the question of whether the physical and verbal altercation on

February 16, 2023 occurred as alleged. It was noted the IC had suggested the documents were not relevant because the documents either post-date the events in issue or were simply recently generated and not sufficiently relevant or reliable to enter as exhibits. The Member argued that the documents were to be used to challenge the Complainant's credibility.

25. Independent Counsel stated that the Hearing must be conducted in a manner that is fair to both parties, which means the parties must have sufficient notice of issues and documents that will be relied upon by either party. It was noted that the Member had had a significant period of time within which to provide the IC with the documents that he proposed to rely upon. The Complainant had previously given evidence at the beginning of December 2024 and, while many of the documents proposed to be introduced had been seen by the IC as they were from the initial disclosure made to the Member, it was only on January 7, 2025, that the IC was advised that the Member proposed to rely upon those documents in his cross-examination of the Complainant.
26. Therefore, if the Hearing Panel decided that the documents were relevant, they would still have to decide whether allowing them to be introduced and relied upon in the Hearing would be unfair to the IC. Independent Counsel noted the late introduction of these exhibits could be prejudicial because they were proposed to be used in cross-examination of the Complainant and the IC did not have notice these documents would be relied upon. Therefore, they have not had any opportunity to address these documents in their direct examination of the Complainant.
27. The Member responded and provided submissions with respect to the relevance of the documents he proposed to introduce. He advised that his purpose in bringing forward these documents was to show the limited nature of the time spent with the Complainant. He wanted to use the documents to show that the Complainant's involvement in the work the Member was doing was minimal and not sufficient to generate the emotional response alleged to have occurred.
28. The IC argued that the documents were irrelevant because the purpose for which they were being used itself, was irrelevant. The IC's position was that the documents relate to whether or not the amount of work they did together was significant enough for the Complainant to be upset, but the IC pointed out that no particular relationship had been alleged by the IC between the Complainant and the Member. Therefore, whether it was significant or not is not a fact that will prove or disprove the nature of the incident that is alleged to have occurred on February 16, 2023.
29. The decision of the Hearing Panel was to deny the admission of the additional documents. The Hearing Panel determined it would be unfair to the IC to permit the use of the additional documents because the IC would not have had any time or ability to use these documents to prepare the Complainant for direct examination. Given that direct examination had concluded, the IC would have been prejudiced by its witness only being able to respond to such document in cross-examination. Therefore, the Hearing Panel found that the late entry of the proposed documents, along with their tenuous relevancy, militated in favour of denying the admission of such documents.

Summary of Evidence and Submissions

30. As noted above, the Hearing concerned one allegation of unprofessional conduct related to an incident alleged to have occurred on February 16, 2023. Accordingly, the Hearing focused on the events leading up to the incident and the witnesses and parties involved with that incident.

Exhibits

31. A number of documents were admitted as exhibits during the course of the hearing. These are listed in Appendix "A."

Summary of Opening Statements of the IC and the Member

Opening Statement of the IC

32. The IC's opening statement was presented on October 21, 2024. The IC noted that the charges before the Hearing Panel related to a single allegation of unprofessional conduct involving a single incident of verbal and physical altercation that was alleged to have occurred on February 16, 2023, at the Engineering Firm, located in Calgary. The IC advised the Hearing Panel that they would hear evidence regarding that interaction which became heated over the course of an afternoon and related to a process calculation dispute.
33. The IC submitted that if the altercation was proven, the conduct would constitute unprofessional conduct under the EGP Act and would be contrary to its Code of Ethics.
34. The IC indicated that it would call three witnesses:
- (a) [REDACTED] engineering manager with the Engineering Firm, to assist in providing the context within which the Member and the Complainant were working ("**Witness 1**");
 - (b) The Complainant, who was allegedly subjected to the conduct from the Member; and
 - (c) Witness 2, who was a witness to the incident and would provide his information on what happened with respect to the interaction.

Opening Statement of the Member

35. The Member stated that he was looking forward to an opportunity to finally clear his name after waiting to do so. He stated that he did not feel that he had been given an adequate opportunity to explain himself. He noted that he had been a professional engineer since 2007 and had been a member in good standing during that time. He noted he had never had any issues with colleagues or disciplinary actions commenced against him or accusations made against him and that he has always lived by the golden rule. He noted that since turning sixty (60), he had felt that his career in the engineering field was limited. He stated that he felt there were barriers for older individuals, and he has had to be

especially careful with relationships and that a small mistake in his process or interactions could jeopardize his position as a contractor.

36. The Member stated that he did not commit the act that he is accused of and was there to defend his reputation, his career and his family's well-being. He stated that he had been treated as if he was guilty from the outset. He stated that, but for Witness 2, no one in the office had heard him raise his voice or say the word stupid. He also alleged that Witness 2 was colluding with the Complainant. The Member stated that choking would constitute serious violence and something that would leave bruises or some kind of mark, but he noted that there was no medical record and no police report. He stated that he would not admit to something that he did not do and would present evidence that showed the truth and expose the contradictions in the Complainant and Witness 2's statements.

Summary of Witness Evidence at the Hearing

Witness 1

37. Witness 1 was called as a witness by the IC. Witness 1's position with the Engineering Firm is as an engineering manager.
38. Witness 1 testified that he was a chemical engineer who has worked as a process engineer for many years with the Engineering Firm. He stated that his current role with the Engineering Firm is as an engineering manager who oversees quality assurance.
39. Witness 1 testified that the project that the Member and the Complainant were involved in was related to a gas treating facility for an energy company. The Engineering Firm's work related to the preparation of drawings and other materials required for procurement and construction. Witness 1 confirmed that the Member was a senior engineer and he was tasked with managing a portion of the work under the direction of the overall lead process engineer for the project.
40. Witness 1 described the work the Complainant would have been doing as a junior engineer in training, namely calculation work to do with the sizing of piping or equipment and preparing other associated information. He noted that this work sometimes involved process simulation work under the direction of a senior engineer.
41. Witness 1 confirmed that the Member would have been the liaison between the junior engineers and the lead engineer. Witness 1 confirmed that the Complainant was a casual contract employee which meant that he was only paid for the hours that he worked and there was no guarantee of a certain number of hours of work.
42. Witness 1 then reviewed relevant policies and onboarding training that new employees were provided with at the start of their employment. This included a policy entitled "Ethics, Integrity and Code of Business Conduct." Witness 1 confirmed that this policy and others were in service of establishing a safe work environment for all people and that harassment and discrimination are not tolerated. The policy also reinforced the importance of reporting incidents of harassment.

43. IC counsel drew Witness 1's attention to the definitions portion of the harassment policy which included a definition of harassment as including "unnecessary physical contact such as touching, patting, pinching, or punching." Witness 1 confirmed that this was included to provide specific examples of behavior that would constitute harassment under the policy. Witness 1 reviewed with the Hearing Panel a portion of the policy which provided that although an act may be unintended, the test for whether a behavior is unacceptable is whether a reasonable person knows or ought to know that the behavior would be considered unwelcome or offensive by the recipient.
44. Witness 1 confirmed that the onboarding procedure with new employees provided employees with exposure to these policies and directed employees to where they can find them. He confirmed that employees are expected to be familiar with the policies. Witness 1 then confirmed that the Member had signed an acknowledgement that indicated that he had read and understood the company's policies on these matters.
45. Witness 1 stated he was unaware of the complaint by the Complainant against the Member until the Complainant's contract was terminated and the Complainant made the allegations against the Member. He confirmed that the Engineering Firm had conducted an investigation into the Complainant's complaint. The outcome was that the Member as well as the Process Lead were to take some related training. Witness 1 did not know whether or not the Member had in fact completed that training. Witness 1 confirmed he had not witnessed any of the interactions between the Complainant and the Member.
46. Witness 1 was then cross-examined by the Member. The Member took Witness 1 to a portion of the Investigative Report that contained a summary of Witness 1's previous statement to the APEGA investigator. In the relevant portion of the statement, Witness 1 said that he understood that Witness 2 witnessed the Member putting his hands on the Complainant's shoulders and uttering "stupid, stupid, stupid," and this was the only eyewitness account of the incident. The Member then asked whether the allegations were made solely on the basis of one false eyewitness. Witness 1 did not agree with this characterization. He noted that the recommendation to take additional training was made after an investigation that followed notification of the alleged event and was based on a number of interviews that were done with a number of people.
47. The Member then took Witness 1 to a number of documents which consisted of the text message exchange between Witness 2 and the Complainant after the Complainant had been terminated and once the Complainant had reported the incident. While the Member took Witness 1 to these documents, he did not ask Witness 1 any further questions, but merely made a number of statements related to the documents he was showing Witness 1. The Member was directed to ask the witness questions as opposed to directing statements to him. The Member advised he had no further questions for Witness 1. The IC advised they had no re-direct questions for Witness 1 and so he was then excused.

Witness 2

48. Witness 2 was another E.I.T working at the Engineering Firm who sat in a cubicle across from the Complainant. Witness 2 started on the 13th of February, 2023. His overall supervisor was the Process Lead who was overseeing most of the projects. There were also other lead engineers for each project that Witness 2 reported to. Witness 2 confirmed that the Member was the main lead for the Casing Gas Project for the energy company. While Witness 2 was initially involved in another project, adjacent to him in the area where he was located in the Engineering Firm office were individuals working on the Casing Gas Project.
49. Witness 2's description of what occurred on February 16, 2023 began as follows:

“So I don’t remember if it was the same day or even a few days before, but I remember [the Complainant] explaining to me that he was working on a heat exchanger calculation with [the Member] and he was voicing his frustration about every time he’d do an iteration of corrections, that it would be bounced back and saying oh no you’re not doing this correctly either from [another supervisor] or [the Member].”
50. Witness 2 confirmed that on the day in question he was sitting at his desk and the Member and the Complainant were having a discussion at the Complainant's desk. Witness 2 stated that the incident occurred sometime in that conversation. He stated that the Member had put his hands around the Complainant's neck, somewhat on his shoulders and neck area, and could hear him say “stupid, stupid, stupid.” Witness 2 stated the Member then went back to his desk and mumbled some additional words or made an exhaustive sigh. Then the Complainant came up to Witness 2, a little shook up asking “hey did you see that?”. Witness 2 confirmed that the Member's placement of his hands on the Complainant's shoulders did not look to him like a friendly gesture.
51. Witness 2 was cross-examined by the Member. Witness 2 confirmed that he did not hear yelling of the words “stupid,” it was just loud enough for him to hear. Witness 2 also confirmed that the word “stupid” was uttered while the Member was at the Complainant's desk and not when he was back at his own desk, or walking away. Witness 2's evidence was that the Member said “stupid, stupid, stupid” at the Complainant's desk.
52. Witness 2 was asked a number of questions by the Hearing Panel. Witness 2 was asked why he didn't intervene if there was some kind of choking happening. Witness 2 confirmed that he did not feel that choking was the right word to be used. Witness 2 stated that his evidence was that he saw the Member “place his hands on shoulders and around his neck and that's what I saw.”
53. Witness 2 was questioned about the Complainant's position at the time of the incident. He was asked whether the Complainant was sitting or standing and Witness 2 confirmed that the Complainant was sitting upright in his chair.
54. Witness 2 testified that as he worked more with the Member, he found there were times when the Member would put his hands on Witness 2's shoulders to convey encouragement or a job well done.

55. The Hearing Panel found that Witness 2 appeared to have a clear memory of what occurred on February 16, 2023, and was unshaken on cross-examination. The Hearing Panel gave significant weight to Witness 2's evidence given that it was consistent with his text messages with the Complainant after the incident, his statement to the APEGA investigator, and was not compromised by cross-examination.

The Complainant

56. The Complainant was the last witness called by the IC.
57. The Complainant provided a brief summary of his educational background and working history. He outlined his Bachelor's Degree in Chemical Engineering and his Master's Degree in Chemical Engineering, both from the University of Alberta. He confirmed he had completed his Master's just prior to starting work at the Engineering Firm.
58. The Complainant confirmed that while he was working at the Engineering Firm, he was a process Engineer-In-Training. He noted that he was involved in running simulations, day-to-day activities for process engineers, hydraulic checks, pressure checks, preparing drawings, and other deliverables requested by his leads. He noted that he worked for a number of different process leads.
59. The Complainant confirmed that when he began at the Engineering Firm, he was working on a project which was overseen by the Member and the Process Lead. He received tasks from both the Member and the Process Lead and would work on those tasks with the Member. The information would then go back to the Process Lead. He stated that during this time, about seventy per cent (70%) of his work was with the Member, about twenty per cent (20%) of it was with the Process Lead and five to 10% (5-10%) was with other process leads.
60. The Complainant confirmed that he worked for the Member for only a few days prior to the incident.
61. The Complainant described how communication was difficult with the Member. He said that he found it difficult to understand what he was actually being tasked to do and found that he would go in circles without a solid understanding of what he was doing and whether it was right or wrong. The Complainant described the Member as a bit moody and that "he had a 0 to 100 kind of switch."
62. The Complainant confirmed that Witness 2 sat right next to the Complainant, just to the left of his cubicle.
63. The Complainant began describing the incident that occurred on February 16, 2023. The Complainant indicated that a simulation task had been given to them by the Process Lead. The Member was helping the Complainant set up the input to the model. Ultimately, the Complainant was to be tabulating results in an excel table and then providing it to the Process Lead. Initially, the results were not accepted and the Process Lead sent back the table with a request to do it again. The issue is that it appeared that the Complainant and the Member had a different understanding of what was being asked by the Process Lead.
64. The Complainant relayed a conversation that he had with the Member where they argued about what the Process Lead was asking from them. The Complainant indicated that he did the table as directed

by the Member. It was sent to the Process Lead who then sent the email back again with a request that it be revised. The Complainant described going back and forth, with the Process Lead sending the spreadsheet back to the Complainant and the Member at least five or six times and requesting they properly complete the spreadsheet. During this time, frustration was starting to build between the Member and the Complainant. The Complainant stated that on the close-to-last attempt, the Member was getting quite frustrated and the Complainant was getting stressed out, so the Complainant tried to include all the different cases based on his understanding of the parameters and attached spreadsheets doing the calculations in both ways. He communicated to the Process Lead that he was not really sure which one represented the format the Process Lead wanted for the results and could he please advise on which method of reporting he wanted.

65. The Complainant was asked to describe the incident that occurred between himself and the Member. The Complainant stated that the Member came over to his cubicle and “angrily” asked him about the email with the calculations that he had just sent. The Complainant stated the Member then placed both his hands around his neck angrily and then shook his head and called him stupid. The Complainant stated that he was called stupid multiple times and then the Member went back to his desk but kept walking back and forth between the Complainant’s desk and his own. The Complainant said that he himself sat at his own desk for about ten to 15 minutes. The Complainant stated that the action was aggressive but not damaging to him. The Complainant confirmed that he then sent an email to the entire group stating that he wanted to have a meeting to sort out what the task was they were to be doing.
66. The Complainant was asked to depict exactly how the Member had put his hands on the Complainant. The Complainant reiterated that the Member placed both his hands around the Complainant’s neck (at the base of the neck) and gave a squeeze. He stated that Witness 2 had sent him a Teams message asking if he was okay.
67. The Complainant was asked whether, when he sent an email at 4:07 p.m. on February 16, 2023, he could tell whether the incident had happened before or after the sending of that email. The Complainant suggested that he sent an email at 3:50 p.m. right after the event had occurred.
68. The Complainant’s evidence about who the “stupid” comment was directed to was that the Member had said “stupid” right to his face while the Member’s hands were on him. Therefore, the Complainant stated he was certain the comment was directed to him.
69. The Complainant was asked whether after the incident he made any report about it to the Engineering Firm. He stated that he did not. He stated he had conveyed there was a communication problem but he did not report what the Member had done to him. He indicated he felt like he was replaceable so he didn’t want to report anything at that time. He stated he tried multiple times to resolve the communication issues but while he tried to resolve the issue without making a report, it did not matter because within three months he was gone from the Engineering Firm anyway.
70. The Complainant stated that he made a report after he was terminated because he was told the reason for his termination was he had a conflict with one of his leads. The Complainant stated that he tried to justify that conflict and articulate that it was not wholly accurate and that he had been assaulted by that lead. The Complainant stated that after the incident, he had avoided the Member.

71. The Complainant then reviewed his email from April 26, 2023, to the Engineering Firm which outlined the incident. He had been requested to write this email after he had described the incident with the Member during his exit interview. The Complainant indicated that he did not hear anything about the outcome of any investigation at the Engineering Firm, which was why he decided to make a complaint to APEGA.
72. The Complainant reviewed the text messages that he had exchanged with Witness 2 around April 24, 2023. The Complainant confirmed that the text message exchange between him and Witness 2 was spontaneous and not part of a plan to collaborate with respect to the complaint.
73. The Complainant was cross-examined by the Member. The Complainant was questioned about the circumstances of his termination from the Engineering Firm. The Member took the Complainant to a portion of the Investigation Report where the Process Lead had been interviewed and had advised that the Complainant was terminated because of a budget reduction and issues with his performance and behaviour. The Member put to the Complainant the Process Lead's statements in his interview with APEGA that the Complainant got angry and sour when he was terminated and in order to protect himself mentally, he had to blame somebody. The Complainant responded that he was simply told in his interview that he was being let go because of a conflict with one of his leads. He also stated that he had not made so many mistakes and that the communication issues had more to do with the Member than anything else. The Complainant became argumentative and indicated that there was no indication at all that he had performance issues.
74. The cross-examination between the Member and the Complainant was somewhat fraught. The Member continued to put things to the Complainant that he did not accept.
75. The Member suggested that he (the Member) was given advice to speak more slowly and clearly to the Complainant and he asked the Complainant whether he remembered having a conversation about that. The Complainant stated that his recollection was that the Member had angrily told him that he had been insulted by the Complainant complaining about communication problems with the Member to the Process Lead.
76. The Member put a number of scenarios and conversations to the Complainant, essentially setting out his version of the events. The Complainant did not accept that version of events and consistently indicated that he did not recall the events occurring in the manner described by the Member.
77. The Member put to the Complainant that he had simply referred to himself as stupid, which the Complainant did not accept. Specifically, the Member suggested to the Complainant that because his work (the Complainant's) had been rejected nine times, the Member felt sorry for the Complainant. He suggested to the Complainant that he (the Member) went behind the Complainant and patted the Complainant gently on the shoulders to encourage the Complainant saying that "you still have time to make a good impression on the process manager."
78. The Complainant specifically rejected this recollection. The Member suggested this had been around 3:10 p.m. on February 16, 2023. The Complainant did not agree with this timing. The Complainant stated that the sequence of events was that the incident occurred, then he sent the email to the Process Lead about having communication problems. Then the Complainant was called into the

Process Lead's office and after that, the Member was called into his office. Then he said the Member left his office and spoke to Witness 2 and the Complainant.

79. The Complainant was cross-examined vigorously by the Member on the sequence of events and whether the Complainant's version of events was likely based on the emails that had gone between the parties. However, the Complainant consistently rejected the Member's version of events.
80. The Complainant was then asked a series of questions about whether the Member had conveyed to the Complainant that he was concerned about the Complainant's job prospects after hearing from the Process Lead that the Complainant was making a number of errors. The Complainant did not agree that he recalled the conversation in this manner.
81. Finally, the Member went through a series of questions with the Complainant about why he did not resist or shout for help at the time of the incident. The Complainant replied that the incident was brief and caught him by surprise. He also reiterated that it had not caused any physical damage.

The Member

82. The Member gave his evidence by telling his version of events to the Hearing Panel.
83. The Member started off by stating that the entire allegation was pure fabrication. The Member outlined his views of the investigation process and his view that it should have been obvious that the allegations were fabricated. The Member referred to the seven minutes between the 3:30 p.m. email from the Complainant and the 3:37 p.m. email response from the Member about the heat exchanger calculations. The Member alleged that the emails between himself and the Complainant on February 16, 2023, do not support the allegations nor the Complainant's version of events.
84. The Member described to the Hearing Panel how the proceedings have been challenging for him. The Member noted that he had joined the Engineering Firm on February 6, 2023, after the Complainant had joined. He noted that the Process Lead had asked him to help the Complainant because the Complainant was having a hard time carrying out certain tasks. The Member described how at the beginning of February he had been asked to create a simulation and send it to the Complainant. He noted that the next day he had to respond to a question from the Complainant. The Member described the Complainant coming to him multiple times asking questions between February 7 and 10, 2023. So, the Member stated that on February 16, 2023, which was just like another day for him, he went to work at 6:00 a.m. and started working on the simulation. He noted that around 2:00 p.m. that day the Process Lead had come to talk to him. In the Process Lead's office, he was asked what he thought of the Complainant. The Member's evidence was that he told the Process Lead that it seemed like the Complainant was trying really hard and so maybe just needed more time. The Member stated that the Process Lead commented that the Complainant had made many errors. The Member stated that he told the Process Lead he would help the Complainant. He noted that the Process Lead had asked him to keep the conversation private between them.
85. The Member said after that, around 2:30 p.m., he came out of the Process Lead's office and noticed that both the Complainant and Witness 2 were waiting by the Member's seat. So, although the Process

Lead had asked him to keep it private, he decided he would help out the Complainant by telling him that he was making mistakes and that he was not in a very good place. The Member stated that he was trying to help the Complainant, but noted the Complainant had twisted this into an alleged threat. The Member stated that the other thing he had been asked to do was keep an eye on the Complainant and report back to the Process Lead. But the Member said that he indicated to the Process Lead that he would not do that. The Member stated that after that brief conversation with Witness 2 and the Complainant, he went back to his desk around 2:40 p.m. That's when he indicated he opened the email that had been sent by the Complainant to the Process Lead. It basically said that the Complainant did not understand certain things that the Member had just explained to him. The Member indicated that he had been told in the meeting with the Process Lead that the Process Lead would deal with the Complainant from then on.

86. The Member stated that he was happy for that because he could then focus on his work without distractions. The Member then stated that after February 16th, and having the conversation with the Complainant, that was the last physical interaction with him ever.
87. So, between the Process Lead and the Complainant, there was some exchange going on and the Member indicated that he was carbon copied and he helped out with the simulation and sending the attachment back and forth. But after February 16, he felt like the Complainant was the kind of person that could actually bring harm to him and so he decided to stay away from him. The Member stated there was no physical interaction with the Complainant whatsoever after 2:40 p.m. that day.
88. The Hearing Panel notes that although the Member stated that he did not have any physical interaction with the Complainant after 2:40 p.m. on February 16, 2023, the Member did admit that at some point he placed his hands on the Complainant's shoulders. The Complainant's evidence was that he had done so in an encouraging manner. His evidence was also that he had walked away from the Complainant calling himself (the Member) stupid.
89. This evidence was directly contradicted by the evidence of Witness 2 who stated that the Member had placed his hands, during a moment of frustration, on the Complainant's shoulders and looked at him while calling him stupid. The Member's evidence was that after this discussion at 2:40 p.m., before standing up to go to the washroom, he said "I'm stupid, this is just my luck." The Member's evidence was that he said this to himself while looking at his own computer screen. He stated that the Complainant asked him, "Did you say that to me?" but the Member's evidence is that he made a gesture pointing at himself indicating that he was referring to himself. He states that this occurred around 3:00 p.m. to 3:10 p.m. It was at that time, he says, he saw the Complainant plop his head on his desk. He stated he then went over to the Complainant and assumed that he was feeling embarrassed and the Member touched the Complainant's back softly first and then stood at his side and did an encouraging shoulder massage gesture. The Member stated that Witness 2 was sitting at his desk at the time and noticed the Member by the Complainant, lifted his head and kind of looked at them and gave them a very quick glance and then went back to his studying.
90. The Member's evidence was that he said something to the Complainant during this interaction along the lines of, "You and I are both on probation and we're in the same boat."

91. The Member then indicated that he had been working extremely hard, that he had no Sundays or Saturdays off and that he was working over 10 hours a day. He felt like everything came upon his shoulders and that he was responsible for making the project go ahead.
92. The Member indicated that his reason for going through some of the work the Member was doing at the time was to illustrate that he himself was quite busy with his own work and did not have much interaction with the Complainant and did not really supervise him and so when he went back at 3:30 p.m. to where the Complainant was sitting, he really did not have any reason to be anything other than encouraging because he did not have to deal with him anymore given the Member's conversation with the Process Lead. The Member then went through a number of emails from February 16, 2023, in order of time during that day as a review before the Hearing Panel. The Member confirmed that the purpose of going through those emails was to show that nothing really happened on February 16, 2023, and the emails do not suggest that something happened on February 16 as alleged.
93. The Member was cross-examined by counsel to the IC.
94. The Member confirmed that he was aware of the harassment policy of the Engineering Firm and that he understood that unwanted or unnecessary contact or touching was something that could constitute harassment and could result in disciplinary action.
95. The series of emails from February 16, 2023, were put to the Member. He was asked to confirm that his workstation was close to that of the Complainant and it only would have taken a few seconds to go from his desk to the Complainant's desk area.
96. The Member was asked about the pressure and responsibility he felt in relation to the project he was working on at the time of the alleged incident. However, in contrast to his earlier direct evidence, the Member indicated that he was just working the regular expected hours and was not overly stressed. The Member also, contradicting his earlier evidence, suggested that he was not overly bothered by questions and interruptions from the Complainant.
97. The Member was also confronted by the initial statements he made to the APEGA investigator in which he denied he had ever touched the Complainant. The Member stated this was because he did not consider the encouraging pat he had given the Complainant to be something the investigator was asking about.
98. The Member briefly provided a couple of comments in redirect of his evidence. He referred to the witness interviews undertaken by his previous lawyer and reiterated that their evidence was that the Member was not a violent person and only touched people in an encouraging way. He also reiterated his submission that the text messages between Witness 2 and the Complainant should be carefully reviewed.

Summary of Closing Arguments Made by the IC

99. The closing submissions of the IC noted that the focus of the charges really related to allegation (d) of the Notice of Charges, where it is alleged that the Member placed his hands on the Complainant's neck area in an aggressive and unwanted manner and that the Complainant perceived this to be an

attempt to choke him, and while doing so, yelled that the Complainant was stupid. The IC noted that this engaged Rule 5 of the Rules of Conduct under the Code of Ethics which requires all professional members to uphold and enhance the honour, dignity and reputation of the profession and the ability of the profession to serve the public interest. The IC argued that this provision was breached by the alleged actions of the Member. A key factor that the IC impressed upon the Hearing Panel was that the Complainant was a junior engineer in training who was starting his first position after school at the Engineering Firm in January 2023. The IC noted that when assessing the Complainant's reaction to the alleged incident, it is important to recognize that he was in a junior position, concerned about his employment and his future employability. The IC contrasted this with the position of the Member who was a much more senior engineer, much more experienced and, the IC suggested, was clearly feeling significant pressure to perform work as a contractor and working long hours and with significant responsibilities. The IC pointed to the emails that were exchanged between the Complainant and the Member on February 16, 2023, and pointed to indications in those emails that reflected the frustration being expressed by both parties over their communication. The IC also pointed to the Member's evidence that he was frustrated with the Complainant and felt that he had been "thrown under the bus" when the Complainant communicated to the Process Lead that the Complainant had difficulty understanding the Member.

100. The IC pointed out that the Complainant was clear and forthright in his testimony and that he described the Member as placing his hands near his neck and calling him stupid. He noted the testimony that the incident lasted a matter of seconds, that the Complainant did not suffer any injuries and that he was more shocked than injured. The IC noted that these comments were consistent with those of Witness 2 who also witnessed the same events on February 16, 2023. The IC noted that Witness 2's evidence was very similar to that of the Complainant. Witness 2 noted that he observed the Member placing his hands on the neck or shoulders of the Complainant and that the phrase "stupid" was repeated to the Complainant. The IC noted that Witness 2 was unshaken in cross-examination and was a reliable witness who corroborated the Complainant's testimony. The IC also suggested that there was no evidence that, in fact, the two witnesses had colluded to come to the same story. The IC noted that their case is based on the assumption that professional members cannot lay hands on people, and they cannot lay hands on people or colleagues in a manner that the subject believes is threatening, nor can they verbally abuse them. The IC stated it is about appropriate decorum and interactions in the workplace.
101. The IC addressed whether this incident, that could be described as a workplace issue, should rise to the level of a professional regulatory finding. The IC argued that, firstly, the complaint is about appropriate professional decorum with colleagues generally, not just in the workplace. Secondly, the IC argued that this is the kind of inappropriate conduct that, even while it may not rise to a level of criminal or assaultive behavior, is injurious to the dignity, honour and reputation of the profession.
102. The IC characterized the Member's evidence as less than credible and noted that he was often unwilling to directly respond to questions. The IC asserted the Member's evidence attempted to soften or diminish the Member's responsibility in this case. In his evidence in direct, he talked about the time, workload and stress that he was under in terms of finishing this work. However, in cross-examination the Member stated that he was not stressed at all about any of these issues. Although his emails

indicate that he was frustrated with the Complainant, in his cross-examination he denied all of the circumstances of his frustration and asserted that he was acting in a comforting and encouraging way throughout. The IC also noted that initially when the Member responded to the APEGA investigation, he denied touching the Complainant at all aside from shaking hands with him the first time he met him on February 6, 2023. This is contradicted by the evidence he gave later about giving the Complainant a reassuring pat on the back. Further, neither of the other witnesses support this version of events.

103. The IC also commented on the weight to be given to documents versus the testimony of live witnesses. The IC commented that when a live witness is presented, their evidence can be challenged. Therefore, the IC recommended that the Hearing Panel rely on and give more weight to the testimony of live witnesses that were challenged on cross-examination over interview summaries. Counsel for the IC then went on to discuss some of the documents that were put before the Hearing Panel. He noted that some of the documents contained hearsay information that cannot be taken for the truth of its contents and such documents should be afforded less weight by the Hearing Panel. The IC also cautioned the Hearing Panel against relying on statements that simply speak to the character of the Member. He noted that these statements are hearsay and also irrelevant. Therefore, the IC suggested that statements introduced for the purpose of speaking to the Member's character as not being someone who could engage in these activities should be given little to no weight by the Hearing Panel.

Summary of the Closing Argument of the Member

104. The Member started out by reviewing his unblemished career and asserted that he had a reputation for being kind, helpful and well-meaning. He specifically described himself as a person who encourages colleagues through "small, friendly gestures like tapping or gently squeezing their shoulders." He noted that he was not subject to any previous complaints. The Member noted that he had been mentoring the Complainant and continued to help him even after the alleged incident answering personal and career-related questions. The Member questioned whether this sounded like the behaviour of someone who would choke someone in a fit of rage.
105. Further, the Member referred the Hearing Panel to the environment, being an open workspace, where such an act would not go unnoticed. He noticed that it was a small cubicle office where anyone could hear everything and yet noted that the only witness to the alleged choking incident was Witness 2 who, the Member alleged, was colluding with the Complainant. The Member referred to the text messages as evidence of this collusion. The Member also noted that the Complainant was headstrong, incompetent and had issues with other colleagues, not just the Member.
106. The Member suggested that the Complainant was angry after being let go and needed someone to blame. The Member suggested that the content of the text messages between Witness 2 and the Complainant are evidence of this need to blame someone and the animosity towards the Member. The Member suggested that Witness 2 and the Complainant overheard him muttering "stupid" to himself at his desk and took that innocent comment and twisted it into the narrative that is before the Hearing Panel. The Member suggested that Witness 2's evidence has changed from seeing the Member grab the Complainant's neck to just his shoulders.

107. He also suggested that the Complainant had alleged that the grabbing of him was from the side, whereas Witness 2 had suggested that he was standing behind him. The Member suggested that these inconsistencies are evidence that their story is not accurate or true. The Member urged the Hearing Panel to carefully review the evidence of the scenarios presented and the version of events put forward by the Member, and the version of events put forward by the Complainant.

LEGAL PRINCIPLES THAT APPLY

Onus and Standard of Proof

108. In a discipline hearing, the onus is on the IC to prove the facts alleged in the Notice of Hearing. This means the IC must establish, on a balance of probabilities, that it is more likely than not that the facts alleged occurred.
109. If the alleged particulars are found to be established on a balance of probabilities, the Hearing Panel must determine whether the proven conduct constitutes unprofessional conduct.

Unprofessional Conduct

110. Unprofessional conduct is described in s. 44(1) of the EGP Act.¹ Reference is also made to the Code of Ethics of the profession. The portions of the Code of Ethics alleged to be applicable in this case are Rules 3, 4 and 5. These are titled “Rules of Conduct” and provide:

3. *Professional engineers and geoscientists shall conduct themselves with integrity, honesty, fairness, and objectivity in their professional activities.*

¹ S. 44(1) of the EGP Act:

Any conduct of a professional member, licensee, permit holder, certificate holder or member in training that in the opinion of the Discipline Committee or the Appeal Board

- (a) is detrimental to the best interests of the public,
- (b) contravenes a code of ethics of the profession as established under the regulations,
- (c) harms or tends to harm the standing of the profession generally,
- (d) displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, or
- (e) displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation

undertaken in the practice of the profession, whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee or the Appeal Board finds.

4. *Professional engineers and geoscientists shall comply with applicable statutes, regulations, and bylaws in their professional practices.*

5. *Professional engineers and geoscientists shall uphold and enhance the honour, dignity, and reputation of their professions and, thus, the ability of the professions to serve the public interest.*

Decision of the Hearing Panel as to Whether the Conduct is Factually Proven

111. Applying the foregoing legal principles and considering the evidence before it, the Hearing Panel finds as set out below:

Allegation (a) *At all relevant times, [the Member] and the Complainant, were working for [the Engineering Firm], an engineering company based in Calgary, Alberta;*

112. This allegation is established and was not in issue at the Hearing. It was acknowledged that all relevant times, the Member and the Complainant worked together at the Engineering Firm in Calgary and this was confirmed by each of the witnesses.

Allegation (b) *[The Complainant] was a junior process engineer, and [the Member] was assigned as [the Complainant]’s process sub-lead. The overall process lead was [the Process Lead];*

113. This allegation is established and was not in issue at the Hearing. It was acknowledged that, at all relevant times, the Complainant was an E.I.T. working as a junior process engineer. The Engineering Firm’s contract was his first job after obtaining his Master’s degree. It was established (and not challenged by the Member) that he was working on the same project with the Complainant and, up until February 16, 2023, they worked together on the same process simulation with the Member working with the Complainant on his simulation calculations.

Allegation (c) *After completing a task and emailing his work to [the Process Lead], [the Member] came to [the Complainant]’s cubicle and asked him if he had done the calculations described in the email. [The Member] alleged that the calculations were wrong and became angry;*

114. This is the series of events testified to by the Complainant. The Member denied that this occurred. Witness 2’s evidence was that he had observed the Complainant and the Member arguing throughout the day about the calculations. However, he did not testify about any allegations specifically made by the Member to the Complainant about incorrect calculations just before the incident.

115. The Hearing Panel finds that the emails from the afternoon of February 16, 2023, do show frustration growing between the two parties with respect to the simulation calculations. This frustration is reflected in the terseness of the exchanges, and the reaching out of the Complainant for assistance from the Process Lead to resolve any misunderstandings. Witness 2’s testimony also supports that tension was building through the day generally and that the Member seemed frustrated and impatient.

The Member's own evidence was that he was being interrupted and was relieved when he was no longer interrupted by the Complainant asking questions.

116. Therefore, the Hearing Panel finds there is sufficient evidence that allegation (c) is established on a balance of probabilities, meaning it is more likely than not that the Member was becoming frustrated and annoyed at the Complainant.
117. However, the Hearing Panel noted it has not attached significant meaning to the inclusion by the Member of an exclamation mark in addressing the Complainant. This is because, upon review of the various documents before the Hearing Panel, it appears this is something the Member does often. There are emails in Exhibit 1 – Hearing Documents that are addressed to the IC and to the Process Lead that also use exclamation marks in circumstances where the balance of the email does not reflect any kind of need for emphasis in addressing the recipient.² Therefore, the Hearing Panel is not prepared to attribute a frustrated intention to the Member based only on the use of an exclamation mark.

Allegation (d) *[The Member] placed his hands on [the Complainant]'s neck area in an aggressive and unwanted manner that [the Complainant] perceived to be an attempt to choke him, and while doing so yelled that [the Complainant] was "stupid."*

118. With respect to whether the Member placed his hands on the Complainant's neck area, the Hearing Panel notes that Witness 2, the Complainant and the Member all testified that the Member had put his hands on the neck/shoulder area of the Complainant. The difference between the versions of events described by the various witnesses was the context and what the Member intended to convey through such an act. Therefore, the Hearing Panel found it was clearly established that the Member had laid his hands on the Complainant when such contact was unnecessary and uninvited. The Hearing Panel found such contact was done without permission. None of the witnesses suggested such contact had been invited. The Complainant's testimony was that he was surprised. Therefore, the Hearing Panel finds that, regardless of whether such contact was "aggressive," it was neither invited nor necessary.
119. The Hearing Panel considered the Member's version of events, and whether it was possible the Member had simply put his hands on the Complainant to provide an "encouraging massage" to him. The Hearing Panel rejected this version of events for a number of reasons. Firstly, this directly contradicted the testimony of Witness 2 who both the Member and the Complainant confirmed witnessed the interaction. Witness 2 confirmed that, from an outsider's perspective, the action did not look friendly. The Hearing Panel gave Witness 2's version of events more weight than the Member's testimony because it found the Member's evidence contradictory and, while sincere, unreliable. As noted earlier, the Member often changed his characterization of his state of mind or events based on the questions being asked. Further, Witness 2's version of events was consistent with his earlier testimony. His version of events did not change over time. This may be contrasted with the Member's version which did change from his initial position of not having any physical contact with the Complainant to giving him an encouraging back pat or brief massage.

² See Tab 4, Tab 6 (p. 17 and 35) and Tab 8, Exhibit 1

120. With respect to calling the Complainant “stupid,” the Hearing Panel noted that there was clear evidence that the word “stupid” had been spoken. The Member testified that he said this to himself while both the Complainant and Witness 2 testified that the word “stupid” had been directed to the Complainant.
121. The Hearing Panel considered whether it was more likely that the Member said this to himself or directed this to the Complainant. The Hearing Panel considered the evidence of Witness 2 that the comment was said while the Member was looking at the Complainant and had his hands on the Complainant’s neck/shoulder area. The Hearing Panel also considered the context of that afternoon’s work exchanges between the Complainant and the Member. The Hearing Panel found there was little evidence that the word “stupid” had been uttered while walking away from the Complainant. In short, the Hearing Panel finds it more likely than not that the Member did call the Complainant stupid.
122. Therefore, while the Hearing Panel does not find that the Member placed his hands on the Complainant’s neck/shoulder area in an aggressive manner, it does find that the Member put his hands on the Complainant’s neck/shoulder area in a moment of frustration which was unwanted and unnecessary. The Hearing Panel further finds that the Member did call the Complainant stupid, regardless of whether he did this in a yelling voice or an ordinary voice.

Is Such Conduct Unprofessional Conduct?

123. The Hearing Panel considered whether the conduct it found had occurred was “unprofessional conduct” pursuant to s. 44(1) of the EGP Act. Specifically, the Hearing Panel considered whether this incident was appropriate to be addressed as a professional disciplinary matter as opposed to as an internal human resources issue by the Engineering Firm.
124. The Hearing Panel found it was appropriate to address this conduct in professional disciplinary proceedings for a number of reasons.
125. First, this matter involved unwanted and unnecessary contact. The Hearing Panel found that such contact between professional colleagues did not reflect the mutual respect and consideration that professional colleagues should expect from one another and are entitled to. Second, the Hearing Panel felt it was important to reinforce the respect professionals should have for individuals’ physical boundaries and person. Third, the Hearing Panel considered the context of the Member being a senior member of the profession who was supervising and working with a very junior member of the profession. The Hearing Panel concluded that, even if not aggressive, in any professional context, going up to someone and laying hands on them and using that to express some frustration in the moment was unprofessional, particularly when accompanied by calling someone stupid.
126. The Hearing Panel found that such actions also breached Rule of Conduct 5 because such actions did not treat the Complainant in a respectful manner with due regard to his dignity as a professional colleague. The Hearing Panel found that such conduct should not be tolerated between professional colleagues much less between a senior and junior member of the profession.

127. Therefore, the Hearing Panel finds the Member did engage in unprofessional conduct under s. 44(1) of the EGP Act and in breach of Rule of Conduct 5 of the Code of Ethics.

CONCLUSION

128. For the reasons set out in this decision, the Hearing Panel finds the Member did engage in unprofessional conduct under s. 44(1) of the EGP Act.
129. As set out in the Introduction, further submissions on sanction are directed to be provided as set out in para. 5 of this Decision.

Dated this 10th day of April, 2025.

On behalf of the Hearing Panel of the APEGA Discipline Committee:

Robert Swift

Signed with ConsignO Cloud (2025/04/10)
Verify with verifio.com or Adobe Reader.



Robert Swift, P.Eng., Discipline Committee
Panel Chair

Signed by Tim Moran (2025/04/15)
Verify with verifio.com or Adobe Reader.



Timothy Moran, P.Eng., Discipline Committee
Panel Member

Jeff Pieper

Signed with ConsignO Cloud (2025/04/14)
Verify with verifio.com or Adobe Reader.



Dr. Jeffery Pieper, P.Eng., Discipline Committee
Panel Member

Muriel Dunnigan

Signed with ConsignO Cloud (2025/04/14)
Verify with verifio.com or Adobe Reader.



Muriel Dunnigan, Discipline Committee Panel
Member

Appendix “A” – List of Exhibits

No.	Description	Date
1	Index of Documents provided by the Investigative Committee (15 documents - including the Notice of Hearing, Communications between APEGA and the Member, documents that relate to the complaint arising from the Engineering Firm, legislation and the Code of Ethics)	
2	References used in the Member’s cross-examination of Witness 1	
3	APEGA Investigation Report	
4	Text messages between the Complainant and Witness 2	
5	Email from the Complainant to the APEGA investigator for the IC	May 14, 2023
6	Summaries of witness interviews by former counsel for the Member (the interviews are purported to be with the Process Lead, Witness 2 and a third party)	