

**IN THE MATTER OF  
THE ENGINEERS AND GEOSCIENTISTS ACT,  
R.S.B.C. 1996, c. 116, as amended  
and  
IN THE MATTER OF JAMES W.E. HALAREWICZ, P. Eng.**

**DETERMINATION OF THE DISCIPLINE COMMITTEE**

Hearing Date: August 28 and 29, 2018

Discipline Committee Panel: Thomas Leung, P.Eng., Struct. Eng., F.E.C., Chair  
Dr. Peter Bobrowsky, P.Geo.  
Jaswinder Bansal, P.Eng.

Counsel for the Association: Andrew Gay, Q.C.  
Kyle Ferguson

Counsel for the Member: None

**A. Introduction**

[1] A panel of the Discipline Committee (the "Panel") of the Association of Professional Engineers and Geoscientists of the Province of British Columbia doing business as Engineers and Geoscientists BC (the "Association") conducted an inquiry to determine, pursuant to s. 33(1) of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the "Act"), whether James W.E. Halarewicz, P.Eng. has acted contrary to ss. 30(4) and 44 of the Act, Principle 7 of the Association's *Code of Ethics* and engaged in unprofessional conduct. Mr. Halarewicz is, and was at all material times, a member of the Association.

[2] The particulars of the allegations against Mr. Halarewicz are set out in two Notices of Inquiry. The first Notice of Inquiry (File No. T17-040) dated June 6, 2018 alleges:

1. You demonstrated unprofessional conduct in February 2017 when, in response to inquiries from the Architectural Institute of British Columbia ("AIBC"), a professional regulatory body, your responses were discourteous and unprofessional, particulars of which include the following:
  - a. On February 6, 2017, an AIBC staff member ("AIBC Staff Member #1") wrote to you advising you that you may be in contravention of the *Architects Act* because of your use of the terms "architect", "architecture" and "architectural" on the website of your company, Bgahler Design Build Inc., on your LinkedIn profile, and in online advertisements;
  - b. On February 13, 2017 you responded by email to AIBC Staff Member #1, with comments that were lewd, overtly sexual, crude, and irrelevant to the issue she raised with you.

- c. On February 15, 2017, AIBC's General Counsel, Director of Professional Conduct and Illegal Practice, contacted you by telephone and you confirmed that you had sent the February 13, 2017 email to AIBC Staff Member #1 and you confirmed that you would not send any further emails to AIBC Staff Member #1; and
    - d. Following the phone call with AIBC's General Counsel, on February 15, 2017, you emailed AIBC Staff Member #1 again and made comments that were lewd, overtly sexual, crude, and irrelevant to the issue she had raised with you.
  2. Your conduct set out above at paragraph 1 is contrary to Principle 7 of the Association's Code of Ethics.
  3. In 2017, the Association's Investigation Committee opened an investigation into your conduct described above at paragraph 1. By letter dated November 1, 2017, a subcommittee of the Investigation Committee requested your responses to its questions pursuant to s. 30(4) of the Act. You demonstrated unprofessional conduct when you failed to provide a subcommittee of the Investigation Committee with information it requested and with responses to its inquiries, and instead provided a discourteous and irrelevant response to the subcommittee's inquiries, particulars of which include the following:
    - a. In an email message to the Association's Investigation Manager dated November 21, 2017, you accused the Association of colluding with the AIBC and hacking your website, you implied that the Association's staff are untruthful, and you graphically described particular sexual objectives which you sought to fulfil with AIBC Staff Member #1 and AIBC Staff Member #2.
  4. The conduct set out at paragraph 3 is contrary to s. 30(4) of the Act.
  5. By failing to comply with requests from the subcommittee of the Investigation Committee for information and answers to inquiries, and instead responding with an irrelevant and discourteous communication, the conduct set out at paragraph 3 is also contrary to Principle 7 of the Association's Code of Ethics.

[3] The second Notice of Inquiry (File No. T18-012/014) dated July 4, 2018 alleges:

1. You demonstrated unprofessional conduct in 2016 and 2017 when, after being selected to undergo a Practice Review in accordance with the Association's Practice Review Guide, you refused to comply with the Practice Review Committee's request for a site visit, including an interview, notwithstanding the following requests from the Practice Review Committee and warnings from the Practice Review Committee that you were required to comply with their requests:
  - a. On June 29, 2016, the General Reviewer, Doug Williams, P.Eng. ("Mr. Williams") contacted you by telephone to schedule an interview and you questioned the process by which you have been selected to undergo a Practice Review and refused to schedule an interview;

- b. On October 3, 2016, Peter Mitchell, P.Eng., FEC, the Association's Director of Professional Practice, Standards and Development ("Mr. Mitchell") wrote to you to advise that your failure to comply with a request for an interview could result in your professional conduct being investigated;
- c. On October 13, 2016, Mr. Williams emailed you to advise that he would be proceeding with a practice review and requested that you contact him to set up a time for an interview. You responded by email on October 17, 2016 to say that you would have a lawyer represent you and that your lawyer would get in contact with Mr. Mitchell;
- d. On November 24, 2016, Mr. Mitchell wrote to you advising you that he had not been contacted by you or your legal counsel. Mr. Mitchell requested that, by January 6, 2017, you contact him to further discuss this matter or that you contact Mr. Williams to coordinate a site visit. You responded to Mr. Mitchell by letter on December 23, 2016 (the "December 23, 2016 Letter"), stating:

The administrators of APEGBC engage in fraud and corruption, and themselves do not meet the engineering and licensing qualification requirements that they impose on the practicing engineers of the APEGBC.

The administrators of APEGBC over twenty years have tried to prevent me from being licensed as professional engineer, and earn a living as engineer.

I was targeted by you, the administrators of APEGBC to undergo a practice review to discredit me and have me lose my licence as professional engineer in BC. The selection by the administrators of APEGBC for me to undergo a practice review was not random. It was deliberate and malicious.

**The mandate to protect the public from engineering, manufacturing, and construction errors and omissions, hazards, and accidents may not be used to camouflage the fraud and corruption by the administrators of APEGBC.**

My lawyer will contact you as necessary and at his/her discretion.

[errors and emphasis in original]

- e. On October 17, 2017, the Association's Investigation Manager wrote to you to advise you, amongst other things, that the Association had not received a response from you or your counsel with respect to coordinating a site visit for the purpose of a practice review; the Practice Review Committee had referred your failure to comply with Mr. Williams' request for an interview to the Investigation Committee; and that to avoid any action being taken by the Investigation Committee you should contact the Professional Practice Department and comply with the requirements of the Practice Review. You responded by letter on October 18, 2017 to the Association's Director, Professional Practice (the "October 18, 2017 Letter"), making irrelevant accusations against, amongst other things, the [REDACTED] and making irrelevant attacks against the experience of the Association's senior staff.

2. You demonstrated unprofessional conduct by responding to the correspondence set out above at paragraphs 1(d) and 1(e) requesting an interview and site visit, with irrelevant and discourteous communications, particulars of which include the following:
  - a. the December 23, 2016 Letter; and
  - b. the October 18, 2017 Letter.
3. The conduct set out at paragraphs 1 and 2 is contrary to s. 44 of the Act.
4. You demonstrated unprofessional conduct in 2017 and 2018 when, in the course of the Investigation Committee's investigation into your alleged failure to comply with requests from the Practice Review Committee in violation of section 44 of the Act, you failed to provide a subcommittee of the Investigation Committee (the "Subcommittee") with the information it requested and with responses to its inquiries, particulars of which include:
  - a. On November 10, 2017, the Association's Investigation Manager advised you that the Subcommittee requested that you provide a response to the Investigation Committee's concerns that your December 23, 2016 letter to Mr. Mitchell and your October 18, 2017 letter to the Association's Investigation Manager were unprofessional and in breach of the Code of Ethics, and to provide evidence of the allegations that you made against the Association staff members by December 1, 2017;
  - b. You did not respond to the November 10, 2017 letter from the Association's Investigation Manager;
  - c. On December 4, 2017, the Association's Investigation Manager wrote to you again and reminded you that pursuant to s. 30(4) of the Act, you were required to provide information requested by the Subcommittee and to answer any inquiries of the Subcommittee. The Association's Investigation Manager requested a response to the Subcommittee's request by December 11, 2017;
  - d. Rather than fulfilling your obligation to comply with the requests from the Subcommittee made by way of letters dated November 10 and December 4, 2017, you responded to the Association's Investigation Manager on December 13, 2017 with a discourteous and irrelevant email, stating, amongst other things:

As far as I am concerned, I have answered EGBC's correspondence to me adequately. The complaint against me is a Civil matter and it should be handled by our BC's Civil Court.

The Engineering Act was set-up by the APEGBC/EGBC to prevent the APEGBC/EGBC directors from legal and financial liability. More important the EGBC as is does not represent Professional Practicing Engineers, as most of the engineers want to have nothing to do with the directors of the APEGBC/EGBC. As is the APEGBC/EGBC has been a corrupt entity that has only marginal support.

The APEGBC/EGBC has colluded with AIBC to prevent me from being professionally employed as Architect and Engineer, and that is criminal!

The APEGBC/EGBC has hacked my website, and so far has not answered any of my questions.

- e. On January 8, 2018, you sent a letter to the Chief Regulatory Officer and Deputy Registrar of the Association making irrelevant accusations against the Association and its senior staff, including an allegation that the Association hacked your computer and deleted an email message from your computer, and that the Association has colluded against you with the Architectural Institute of British Columbia.
5. By failing to provide the Subcommittee with information it requested, and by failing to answer inquiries made by the Subcommittee, and instead responding with irrelevant and discourteous communications, the conduct set out at paragraph 4 is contrary to s. 30(4) of the Act.
6. You demonstrated unprofessional conduct in June 2018 when, in response to a letter from the Association's counsel asking if you consent to having two inquiries heard together, you wrote a letter to the Association's counsel dated June 24, 2018 that was profane, misogynistic, discourteous and contemptuous of the Association's regulatory function.
7. The conduct set out above at paragraphs 1(d) and (e) and 4(d) and (e) and 6 is contrary to Principle 7 of the Association's Code of Ethics.

[4] On July 30, 2018, the Panel granted the Association's application to have the two inquiries heard together in a single hearing.

#### **B. Service**

[5] Mr. Halarewicz did not attend the hearing or have counsel represent him.

[6] The Panel heard evidence on the issue of service under s. 32(2) of the Act. Counsel for the Association filed two affidavits of service confirming that both Notices of Inquiry were personally served on Mr. Halarewicz. The Panel determined that service had been effected in accordance with the Act and determined to proceed with the hearing in Mr. Halarewicz's absence. The Panel delayed the commencement of the hearing for a short period to ensure that Mr. Halarewicz had adequate time to appear if he so chose.

#### **C. Burden and Standard of Proof**

[7] The burden of proof lies on the Association which must prove its case on a civil standard of balance of probabilities. To make a finding of unprofessional conduct, the Panel must find that it is more likely than not that the facts alleged occurred and the evidence must be "sufficiently clear, convincing and cogent" to satisfy that test: *F.H. v. McDougall*, [2008] 3 S.C.R. 41; *Kaminski v. Assn. of Professional Engineers and Geoscientists of British Columbia*, 2010 BCSC 468.

**D. Relevant Statutory Provisions**

[8] The allegations in the Notices of Inquiry engage the following provisions of the Act:

30(4) A member, licensee or certificate holder being investigated under subsection (3) must

- (a) provide the committee or subcommittee conducting the investigation with any information or records in the possession or control of the member, licensee or certificate holder that the committee or subcommittee may require,
- (b) answer, within a reasonable time and in the manner specified by the committee or subcommittee, any inquiries of the committee or subcommittee, and
- (c) appear, on request, before the committee or subcommittee.

...

44 If a practice review committee is created under section 10(1)(d), a member, licensee, or certificate holder

- (a) must, on request, provide the practice review committee with any relevant information, record, document or thing, and
- (b) may not refuse to comply with a request under paragraph (a) on the grounds of confidentiality.

[9] The allegations also engage Principle 7 of the *Code of Ethics*:

Professional Engineers and Professional Geoscientists shall act at all times with fairness, courtesy and good faith to their associates, employers, employees and clients, and with fidelity to the public needs. They shall uphold the values of truth, honesty and trustworthiness and safeguard human life and welfare and the environment. In keeping with these basic tenets, members and licensees shall:

...

- (7) conduct themselves with fairness, courtesy and good faith towards clients, colleagues and others, give credit where it is due and accept, as well as give, honest and fair professional comment.

**E. Evidence**

**(i) Evidence relating to allegations in Notice of Inquiry T17-040**

[10] The Association called Thomas Lutes, General Counsel and Deputy Chief Executive Officer of the Architectural Institute of British Columbia ("AIBC"), to give evidence concerning two emails that Mr. Halarewicz sent to two female staff members at AIBC and Mr. Lutes' telephone discussion with Mr. Halarewicz.

[11] Mr. Lutes testified that the Chief Executive Officer of AIBC referred him to Mr. Halarewicz's website (<http://bgahler.com>) in the summer of 2016. The website appeared to represent Mr. Halarewicz as an architect and his firm as an architectural firm. As Mr. Halarewicz was not a member of the AIBC, an unauthorized practice investigation was opened.

[12] Mr. Lutes testified that a senior female staff member at AIBC (Staff Member #1) wrote to Mr. Halarewicz to inform him of AIBC's concerns regarding his website and marketing on August 31, 2016. On November 7, 2016, Mr. Halarewicz emailed Staff Member #1's assistant to advise that he was leaving town for five weeks but would rectify the issues upon his return. Following further communications, Mr. Halarewicz again advised the assistant on January 4, 2017 that he would be making the requested changes to the website.

[13] Mr. Halarewicz made some changes to his website but they were not sufficient to address the AIBC's concerns. Mr. Lutes testified that Staff Member #1 wrote to Mr. Halarewicz on February 6, 2017 to indicate that further changes were required to bring his website and LinkedIn profile into compliance with the *Architect Act*. On February 13, 2017, Mr. Halarewicz responded to Staff Member #1 with the following email that he also copied to another female staff member at AIBC on (Staff Member #2):

Dear [full name of Staff Member #1]

Doll, 'might equals might not'.

My dear take daddy out for lunch somewhere nice so we can resolve that awful misunderstanding between us.

Girl, also pay for a hotel for us beforehand, so after I can take you to the hotel and we can party there!

Happy Valentine's! Give daddy a French kiss!

J. Wesley E. Halarewicz  
AIA, PE, PEng  
Bgahler Design Build Inc.

[14] Mr. Lutes testified that he received a copy of the email from Staff Member #1 on February 15, 2017 and was shocked by its content. Mr. Lutes stressed the importance of having women in key positions at AIBC to ensure diversity. As Mr. Halarewicz identified himself as a professional engineer, Mr. Lutes wondered whether someone had hacked his email account. Mr. Lutes testified that he telephoned Mr. Halarewicz that day to ask whether he had sent the email. Mr. Halarewicz confirmed to Mr. Lutes that he

had sent the email to Staff Member #1. Mr. Lutes asked Mr. Halarewicz if he considered the email to be appropriate. Mr. Halarewicz responded that he would not send any more emails.

[15] Mr. Lutes testified that Mr. Halarewicz sent a second email to Staff Member #1 approximately two hours later, and again copied Staff Member #2 on that email. Mr. Halarewicz also attached a jpg photograph of himself to the email which read:

[First name of Staff Member #1],

If you are good, you can bounce on my face.

You can bring [first name of Staff Member #2] with you.

There is nothing as great in life as a 'dame' with a good muff!

Hugs and kisses.

J. Wesley E. Halarewicz  
AIA, PE, PEng  
Bgahler Design Build Inc.

[16] Mr. Lutes testified that he received a copy of the email from Staff Member #1 that day. Staff Member #2 also notified Mr. Lutes of the email. Mr. Lutes and the Manager of Human Resources at AIBC contacted the Vancouver Police Department later that afternoon. On February 20, 2017, Mr. Lutes filed a complaint with the Association regarding: (a) the content of the two emails; and (b) the concern that Mr. Halarewicz was misrepresenting his professional qualifications by using the "architect" title (the "AIBC complaint").

[17] Mr. Jesse Romano, the Investigation Manager, provided evidence concerning the investigation of the AIBC complaint. Mr. Romano testified that, on March 7, 2017, Efrem Swartz, Director, Legislation, Ethics and Compliance, provided written notification of the AIBC complaint to Mr. Halarewicz. Mr. Swartz requested a written response to both of the allegations raised in the AIBC complaint. Mr. Romano emailed that written notification to Mr. Halarewicz on behalf of Mr. Swartz.

[18] Mr. Romano testified that he received the following email from Mr. Halarewicz in response to Mr. Swartz's letter on March 21, 2017:

Mr. Efrem Swartz, LLB

APEGBC has no business to tell me not to go after and romance the AIBC ladies. APEGBC has no jurisdiction over my conversations with AIBC.

APEGBC is trying to prevent me from working as engineer and architect, told AIBC not to licence me as architect in BC, and hacked my website a number of times.

APEGBC must explain what unprofessional and inappropriate conduct is, and how it is established.

The administrators of APEGBC are incapable to understand real architects and engineers!

LEADER OF THE:

JUSTICE, PROSPERITY, AND HAPPINESS PARTY OF CANADA

J. Wesley E. Halarewicz

AIA, PE, PEng

[Errors in original]

[19] Mr. Romano emailed Mr. Swartz's response on May 10, 2017. Mr. Swartz explained that Mr. Halarewicz's communications were directed to a professional regulator and were allegedly offensive and unprofessional. He indicated that there were numerous Canadian decisions and Association discipline decisions confirming that communications of this nature could form the basis of discipline. Mr. Swartz noted that Mr. Halarewicz had failed to respond to the AIBC allegation that he was holding himself out as an architect and again invited him to provide a more detailed response.

[20] Mr. Romano testified that Mr. Halarewicz did not provide a further response to Mr. Swartz's May 10, 2017 letter.

[21] Mr. Romano testified that a subcommittee of the Investigation Committee was appointed to investigate the AIBC complaint. On November 1, 2017, at the direction of the subcommittee, Mr. Romano wrote to Mr. Halarewicz to request responses to the following questions by November 22, 2017 pursuant to s. 30(4) of the Act:

1. Did you author and send the Emails to AIBC?
2. What communications did you have with AIBC after the email of February 13, 2017 was sent? Did you confirm to Thomas Lutes, General Counsel/Deputy Chief Executive Officer, Director of Professional Conduct and Illegal Practice, AIBC, that you wrote the emails and that you would not email [Staff Member #1] further? If so, why did you email [Staff Member #1] again on February 15, 2017?
3. Did [Staff Member #1] and/or [Staff Member #2] give you any indication that either individual was interested in pursuing a romantic relationship?
4. How did you expect your emails to be received and interpreted by [Staff Member #1] and [Staff Member #2]?
5. How do you interpret the role of a professional regulator such as AIBC? Do you believe communications with a professional regulator are considered professional communications or personal communications?
6. As AIBC was communicating with you about the use of protected titles and your professional practice, do you interpret their communications with you and your responses to them as professional communications or personal communications?

7. We noted the Emails were signed with your name and professional designations. As your professional designations were included in your email signature, do you interpret your correspondence with AIBC as professional communications and as representing yourself as an engineer?

[22] Mr. Romano testified that Mr. Halarewicz did not provide a response to the seven questions; however, on November 21, 2017, he received the following email from Mr. Halarewicz:

Directors of EGBC,

RE: T17-040 – Professional Conduct Complaint against James W. Halarewicz, P.Eng

We in Canada have a Legal Court System, and our Judges work very hard to establish what is right and wrong! So Canada is not a bad country to live in!

The principal purpose of the Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) is to make sure that our engineers are well trained, are competent, and do good work. The administrators or APEGBC themselves also ought to be well trained and experienced as engineers to govern the practicing professional engineers, and ought to be truthful! The administrators of the APEGBC have been doing a horrendously bad job running the APEGBC.

Hence the fact that I told [Staff Member #1] and [Staff Member #2] to have a three-some with me and to suck my cock, as I remember, is a Civil Legal matter that ought to be handled by our Civil Courts! The administrators of the APEGBC (or is it the EGBC now?) have no jurisdiction in the Canada's Civil Court matters! The EGBC has colluded with the AIBC to prevent me from working as architect, and hacked my website. Both EGBC and AIBC are a farce and are not justified to have authority! Who makes up the EGBC Investigation Committee and the subcommittee appointed to investigate the complaints against me, and how were the committees elected?

During the last Council election how many EITs and people with limited licences voted? In the event what percentage of professional engineers licensed with the EGBC voted in the Council election last year? Who do you actually represent?

James W. Halarewicz, AIA, PE, PEng  
Bgahler Design Build Inc.

[Errors in original]

[23] By letter dated December 4, 2017, Mr. Romano reminded Mr. Halarewicz that he had not provided a response to the subcommittee's questions and reiterated that a response was required under s. 30(4) of the Act. Mr. Romano directed Mr. Halarewicz to provide his responses to the subcommittee's questions (as set out in the November 10<sup>th</sup> letter) by December 11, 2017.

[24] Mr. Romano testified that he received the following email response from Mr. Halarewicz on December 13, 2017:

Mr. Romano,

As far as I am concerned, I have answered EGBC's correspondence to me adequately. The complaint against me is a Civil matter and it should be handled by our BC's Civil Court.

The Engineering Act was set-up by the APEGBC/EGBC to prevent the APEGBC/EGBC directors from legal and financial liability. More important the EGBC as is does not represent Professional Practicing Engineers, as most of the engineers want to have nothing to do with the directors of the APEGBC/EGBC. As is the APEGBC/EGBC has been a corrupt entity that has only marginal support.

The APEGBC/EGBC has colluded with AIBC to prevent me from being professionally employed as Architect and Engineer, and that is criminal!

The APEGBC/EGBC has hacked my website, and so far has not answered any of my questions.

James Wesley E. Halarewicz,  
AIA, PE, PEng

Leader of the:  
Justice, Prosperity, Happiness  
Party of Canada

Vancouver, BC – Centre of the World!

Goal in Life: To have a 3-some and make-out with the:  
Barristers and Solicitors: [insert names of two prominent female lawyers in Canada]!

[Errors in original]

**(ii) Evidence relating to allegations in Notice of Inquiry T18-012/014**

[25] The Association called three witnesses to give evidence concerning the allegations in Notice of Inquiry T18-012/014: (a) Peter Mitchell, P.Eng., the Association's Director of Professional Practice, Standards and Development; (b) John Douglas Mitchell, P.Eng., who was appointed as the general reviewer for Mr. Halarewicz's practice review; and (c) Mr. Romano.

[26] Mr. Mitchell testified that the Practice Review Committee ("PRC") administers the Association's practice review program. He explained that practice reviews are a key tool for ensuring that members are meeting minimum standards of practice. Mr. Mitchell referred the Panel to the Association's *Practice Review Guide* (April 2015) which provides additional background concerning the purpose of practice reviews:

1.0 PREAMBLE

The Practice Review Program of the Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) is intended to be an educational and professional development

process for the benefit of its members and licensees (collectively referred to as "Members"), as well as a proactive quality assurance check on their practices.

APEGBC initiated Practice Review through changes to the *Engineers and Geoscientists Act* (the Act) and the Bylaws of the Association. The following section of the Bylaws provides the authority for Practice Review:

*14(c) By means of a practice review process, the details and implementation of which shall be authorized by Council, Council may cause the professional practice of members and licensees to be reviewed.*

[27] Mr. Mitchell testified that practice reviews are conducted: (a) on a random basis; (b) upon request of a member who wishes to have his/her practice examined; (c) on referral by the Registrar or the Investigation Committee; (d) by order of the Discipline Committee; or (e) when Council has reason to believe that the practice of a member is questionable. The random selection process involves placing the names of members into a database which generates a random selection of identification numbers which are then assigned to members who are selected for a practice review.

[28] Mr. Mitchell testified that Mr. Halarewicz was randomly selected to undergo a practice review in October 2015; however, the practice review was initially deferred as Mr. Halarewicz's firm, Bgahler Design-Build Inc., intended to seek certification through the Association's Organizational Quality Management (OQM) Program. Mr. Mitchell explained that employees of companies that are OQM certified are exempt from random practice reviews.

[29] Mr. Mitchell testified that the practice review was re-initiated after Mr. Halarewicz confirmed that his firm was not proceeding with OQM process for certification. On or about May 4, 2016, Mr. Halarewicz submitted the Practice Review Questionnaire which is the first step in the practice review process. He also submitted a Practice Review Challenge Form seeking to have the practice review deferred for a year for personal reasons. On May 24, 2016, the Manager, Quality Assurance Programs, asked Mr. Halarewicz whether he was currently providing engineering services relating to structural designs and permitting of designs. On May 26, 2016, Mr. Halarewicz confirmed by return email that he was and currently had several small projects on the go.

[30] Mr. Mitchell testified that he was not prepared to defer the practice review because Mr. Halarewicz was engaged in engineering projects and had self-identified deficiencies in his Practice Review Questionnaire. By letter dated June 1, 2016, Mr. Mitchell advised Mr. Halarewicz that the practice review would not be deferred. He also indicated that Mr. Williams had been appointed as the general reviewer and would be in contact shortly.

[31] Mr. Williams provided evidence via Skype as he was out of the country at the time of the hearing. He testified that he was appointed as the general reviewer for Mr. Halarewicz's practice review and received a copy of the Practice Review Questionnaire which had been submitted. Mr. Williams stated that he telephoned Mr. Halarewicz on June 29, 2016 to schedule an interview. During that telephone call, Mr. Halarewicz expressed concern to Mr. Williams that he had been unfairly targeted for a practice review and indicated that he did not wish to schedule an interview which is the second step of the practice review process. By email dated July 8, 2016, Mr. Williams advised Mr. Mitchell that Mr. Halarewicz felt he had been unfairly targeted for the practice review and questioned the Council's right to review his work.

[32] Mr. Mitchell testified that he wrote to Mr. Halarewicz on October 3, 2016. He confirmed in that letter that Mr. Halarewicz had been randomly selected to undergo the practice review and that Mr. Williams would be contacting him again to initiate the review. Mr. Mitchell cautioned that a failure to comply with Mr. Williams' request for an interview would result in a request for a professional conduct investigation.

[33] Mr. Williams testified that he emailed Mr. Halarewicz on October 13, 2016. Mr. Williams requested that Mr. Halarewicz call him as soon as possible to set up an interview.

[34] On October 17, 2016, Mr. Williams received the following email from Mr. Halarewicz:

Doug, I will have a lawyer represent me. He will get in contact with Peter soon.

[35] Mr. Williams responded by return email that he was not sure how a lawyer could assist him with a practice review but assumed that he was not interested in scheduling the interview. Mr. Williams testified that he forwarded the email exchange to Mr. Mitchell. Mr. Mitchell diarized the file for a month to await contact from Mr. Halarewicz or his counsel.

[36] Mr. Mitchell testified that he did not hear from Mr. Halarewicz's legal counsel. On November 24, 2016, Mr. Mitchell wrote to Mr. Halarewicz to confirm that he had not been contacted. Mr. Mitchell directed Mr. Halarewicz to contact him to discuss the matter or contact Mr. Williams to schedule a site visit by January 6, 2017; he indicated that failure to comply would result in a referral to the Association's regulatory compliance department.

[37] Mr. Williams testified that Mr. Halarewicz did not contact him subsequent to November 24, 2016 and he was therefore unable to proceed with an interview or site visit.

[38] Mr. Mitchell testified that he received the following email response from Mr. Halarewicz on December 23, 2016:

Mr. Peter Mitchell, Peng  
Direct, Professional Practice, Standards and Development

#### ENGINEERING PRACTICE REVIEW

The administrators at APEGBC engage in fraud and corruption, and themselves do not meet the engineering and licensing qualification requirements that they impose on the practicing engineers of the APEGBC.

The administrators of APEGBC over twenty years have tried to prevent me from being licensed as professional engineer, and earn a living as engineer.

I was targeted by you, the administrators of APEGBC to undergo a practice review to discredit me and have me lose my license as professional engineer in BC. The selection by the administrators of APEGBC for me to undergo a practice review was not random. It was deliberate and malicious.

**The mandate to protect the public from engineering, manufacturing, and construction errors and omissions, hazards, and accidents may not be used to camouflage the fraud and corruption by the administrators of APEGBC.**

My lawyer will contact you as necessary and at his/her discretion.

J. Wesley E. Halarewicz

AIA, PEng, PE

[Errors and emphasis in original]

[39] Mr. Mitchell testified that he submitted a report to the Practice Review Committee concerning Mr. Halarewicz's refusal to participate in the practice review. He confirmed that Mr. Halarewicz had not contacted the Association directly or through counsel nor had he contacted Mr. Williams to schedule a site visit. The Practice Review Committee resolved to investigate the concern that Mr. Halarewicz had contravened s. 44 of the Act.

[40] On October 11, 2017, Mr. Halarewicz advised Mr. Swartz by email that he was preparing to file a complaint with the Canadian Anti-Fraud Centre and the Royal Canadian Mounted Police ("RCMP") against the Association for hacking his website and email. Mr. Romano testified that the Association never received notice of a complaint from these organizations.

[41] Mr. Romano testified that he provided written notification to Mr. Halarewicz of a second investigation on October 17, 2017. The second investigation concerned Mr. Halarewicz's failure to comply with Mr. Williams' request for an interview as a potential breach of s. 44 of the Act. Mr. Romano urged Mr. Halarewicz to comply with the requirements of the practice review to avoid any action being taken by the Investigation Committee.

[42] Mr. Romano testified that Mr. Halarewicz sent the following email to the [REDACTED] [REDACTED] on October 18, 2017 (with copies to the Chief Executive Officer of the Association and to the B.C. Ministry of Labour and Ministry of Environment):

Ms. \_\_\_\_\_,

Set me straight. Few years ago the Association of Professional Engineers and Geoscientists of British Columbia had a problem with a woman who in her resume claimed that she graduated with a Master Degree in engineering or geoscience (I don't remember) from [REDACTED] University, but the university did not have a graduate program in engineering or geoscience, and the woman did not hold a graduate degree in engineering or geoscience. The case went to court and the court rendered some kind of a decision.

Is this woman you? I believe so. You were [REDACTED] and now you are the [REDACTED] at the Engineers and Geoscientists, British Columbia; and [REDACTED]

To serve and protect. [Name of CEO] has never explained what she did at [REDACTED] nearly [REDACTED] and her engineering work experience at best is dubious. [REDACTED] engineering work experience is also marginal and limited. You have never had and ran your own

firm. For what company did you work as the [REDACTED], and why did you leave the firm?

James W Halarewicz,  
PEng, PE, AIA

[43] Mr. Romano testified that he received the following email from Mr. Halarewicz on November 8, 2017:

Dear Sir or Madam

Re: Professional Conduct Complaint against James W Halarewicz, P.Eng.  
File No.: T18-012

Please excuse my tardiness. I had some work to take care of and forgot about the due date for this response.

I decline to a Professional Practice review by EGBC for the following reasons:

1. I was not randomly chosen for the review. EGBC chose me deliberately to prevent me to earn a living and to discredit me
2. EGBC does not represent the professional practising engineers. What percentage of the licensed professional practicing engineers, voted during the last Engineering Council election?
3. The EGBC is a fraudulent and corrupt administration. Mr. Williams is a crony of Mr. Mitchell and EGBC supplements Mr. Williams' professional existence
4. The directors of the EGBC themselves don't meet the professional qualifications that they impose on the practicing engineers. The key directors of the EGBC have limited professional engineering work experience at best, and are not qualified to assess the qualifications of the practicing engineers. Both Mr. Mitchell and Mr. Williams need to pass the FE and PE exams that I have passed to question my competence.

J.W.E. Halarewicz, AIA, PE, PEng  
Bgahler Design Build Inc.

[Errors in original]

[44] By letter dated November 10, 2017, Mr. Romano notified Mr. Halarewicz of a third investigation relating to his conduct in sending the December 23, 2016 letter and October 18, 2017 email to the Association and requested a written response. Mr. Romano testified that no response was received.

[45] Mr. Romano testified that Tony Chong, P.Eng., the Chief Regulatory Officer and Deputy Registrar, emailed Mr. Halarewicz on November 15, 2017 expressing concern about the allegations raised against three professional staff members of the Association. Mr. Chong stated that many of the statements contained in Mr. Halarewicz's letter of December 23, 2016 were simply untrue and urged him to apologize to the three staff members whom he had maligned. Mr. Romano testified that Mr. Halarewicz did not withdraw the letter or apologize.

[46] Mr. Romano testified that Mr. Chong received the following email from Mr. Halarewicz on January 10, 2018 attaching the following letter which was dated January 8, 2018:

Mr. Chong, PEng,

Re: Credentials/Request for Apology

Thank you for your email and concerns.

The directors of the Engineers and Geoscientists, British Columbia (EGBC) are quasi engineers at best, set and pay themselves large salaries, and don't disclose what their salaries are. In its 'new brand' website the EGBC directors state that they pay themselves large salaries because (fundamentally) "We are just so good". I don't know of any practicing engineer who thinks that. The directors of the EGBC should not hold tenure position, yet a number of the directors have been with the APEGBC/EGBC for ever.

The directors of the EGBC strive to destroy the careers of the engineers who contest them, and have colluded with the Architectural Institute of British Columbia to prevent me from being employed as engineer and architect.

I believe that I had my computer hacked by the APEGBC/EGBC. I had photos of women in the nude with whom I have been involved, and scanned copies of some legal documents in the pictures drive of my computer. The directors of the APEGBC/EGBC I believe had the pictures drive be attached to my out-going emails. Also a self-incriminating email that was sent to me by EGBC/s Mr. Tony Chong, Peng was deleted. [REDACTED] told me that he believes that the APEGBC/EGBC also hacked his computer and destroyed some emails that they sent to him.

I will be filing a complaint with the RCMP about the EGBC hacking my computer.

There are questions that need to be answered.

\_\_\_\_\_, [REDACTED] Ms. \_\_\_\_\_, were you ever involved in a court case with the APEGBC for misrepresenting your credentials? What was the court case about? There was a report of the court case proceedings posted on the Internet, but the report was removed. Later you were hired as [REDACTED] APEGBC. What work experience that you have qualifies you for [REDACTED] since you have never owned or ran an engineering firm?

\_\_\_\_\_, [REDACTED] Ms. \_\_\_\_\_, in what positions did you work for [REDACTED] nearly (?) 20 years, and what work did you do for [REDACTED]? How much were you paid at [REDACTED] when you left? Why didn't you get licensed as PE in USA since you lived there that long? At [REDACTED] you also didn't work as engineer. How did APEGBC license you as Peng when you have never worked as engineer? You are certainly not qualified, and do not have the right to govern the EGBC.

\_\_\_\_\_, [REDACTED] Mr. \_\_\_\_\_, when and how long did you work as engineer for your friend [REDACTED]? Did you work as engineer for any other firm? What engineering work experience

do you have? At EGBC you are the [REDACTED]  
How so?

[REDACTED], [REDACTED] Mr. [REDACTED], you have held lucrative positions but never, as I can tell, practiced engineering, and were never subject to professional liability.

[REDACTED], [REDACTED] Ms. [REDACTED], in your profiles you have stated that you were in charge of [REDACTED] Really?

James Wesley E. Halarewicz, AIA, PE, PEng  
Bgahler Design Build Inc.

[Errors in original]

[47] The final communication from Mr. Halarewicz was directed to Mr. Andrew Gay, Q.C., discipline counsel for the Association. On June 7, 2018, Mr. Gay wrote to Mr. Halarewicz to ask whether he would agree to have the two inquiries heard together. On June 24, 2018, Mr. Gay received the following response from Mr. Halarewicz:

Re: EGBC Inquiry File No. T-17-040

I won't attend the enquiries with the 'Engineers'. Will the baby doll PEng [REDACTED] be there? Who is that Apache warrior [REDACTED] I have never heard of him. Who elected him as the [REDACTED] [REDACTED] when 80% of the practicing engineers in BC want to have nothing to do with the EGBC association and don't vote? Will the well-trained [REDACTED] the Right Professional Practice Auditor be there? Now where is my mentor the [REDACTED] asshole? EGBC is corrupt and criminal as hell. Do you know that EGBC hacked my computer and attached my pictures drive where I have many photos of ladies naked spread-eagle with whom I have been involved with, and some legal documents to my out-going emails? Do tell the EGBC admin big wigs from me to suck my cock or fuck-off!

When I was 22 yo I picked-up two MILFs, Bridget and Alison, in a nightclub in Wales, and fucked them in Alison's apartment. They were both great except that Alison kept on calling me 'Bastard' as she took me in all her holes.

The first time I saw [name of female senior official at Association], I said to myself 'Damn, [first name of senior official] looks like Bridget'. Hail!

Andrew, we should play soccer or volleyball sometime.

Ahler Halhber  
Leader of the 'Justice, Prosperity, and Liberty' Party of Canada  
Aka: James W. Halarewicz

## F. Analysis and Findings

[48] As Mr. Halarwicz did not participate in the hearing either in person or through counsel, he did not offer any evidence in response to the Association's allegations.

[49] One of the threshold issues in this hearing is whether Mr. Halarewicz sent the subject emails and letters to AIBC and the Association. In relation to the two AIBC emails, Staff Members #1 and #2 were not called to give evidence at the hearing; however, Mr. Lutes testified that he checked their respective email inboxes on the AIBC server and confirmed that they had received the emails in question from Mr. Halarewicz. Mr. Lutes testified that Mr. Halarewicz confirmed during their telephone discussion on February 15, 2017 that he sent the February 13<sup>th</sup> email to Staff Member #1. Both emails were sent from [REDACTED] which Mr. Romano testified was one of the two email addresses which Mr. Halarewicz provided to the Association as his contact email. Although Mr. Halarewicz claimed in several emails to the Association that it had hacked his email account, he did not provide evidence to support that allegation. Mr. Halarewicz had ample opportunity to deny sending the emails during the subcommittee's investigation but did not do so. For all of these reasons, the Panel finds that Mr. Halarewicz sent the subject emails to Staff Member #1 with copies to Staff Member #2 on February 13 and 15, 2017.

[50] The Panel accepts the *viva voce* and documentary evidence tendered by the Association and finds that Mr. Halarewicz sent the emails and letters that are the subject of the Notice of Inquiries.

### (i) Findings in relation to allegations in Notice of Inquiry T27-040

[51] Notice of Inquiry T27-020 contains two allegations. The first is that Mr. Halarewicz demonstrated unprofessional conduct and contravened Principle 7 of the *Code of Ethics* when he provided the emails dated February 13 and 15, 2017 to AIBC which were discourteous and unprofessional. The second is that Mr. Halarewicz demonstrated unprofessional conduct when he failed to provide the subcommittee with a response to several questions and instead provided a discourteous and irrelevant response in which he accused the Association of colluding with the AIBC and hacking his website, attacked the integrity of Association staff, and graphically described particular sexual objectives which he sought to fulfill with the two AIBC staff members in a "three-some".

[52] Unprofessional conduct is established where a member engages in conduct that is a "marked departure" from the standard expected of a competent professional: *Re: Ian Foreman, P.Geo* (August 25, 2015); *Re: Eric Chrysanthous, P.Eng.* (May 17, 2017). In *Re: Chrysanthous, P.Eng.*, for example, the Discipline Committee panel concluded that a member's conduct in sending threatening emails to TransLink staff alleging incompetence, professional impropriety, and dishonesty reflected a significant departure from the standard of professional conduct required of members of the Association and contravened Principle 7 of the *Code of Ethics*. Principle 7 imposes a duty on members to communicate with others with courtesy and good faith and to refrain from making unsubstantiated allegations of misconduct: *Re: Chrysanthous, P.Eng.*, at para. 44.

[53] Turning to the first allegation, the law is clear that professional regulatory bodies have jurisdiction to sanction members for unprofessional communications with third parties: *Ratsoy v. Architectural Institute of British Columbia*, 1980 CanLII662 (BCSC) at paras. 10 – 15; *Erdmann v. Institute of Chartered Accountants of Alberta*, 2013 ABCA 147 at para. 20; *Re: Chrysanthous, P.Eng.* at para. 32. The Panel finds that the Association had jurisdiction over Mr. Halarwicz's communications with AIBC because the content

of those emails undermined the integrity and reputation of the engineering profession. Mr. Halarewicz used his "P.Eng." designation in the signature block of the two emails, holding himself out as a member of the Association, when he sent those emails to the AIBC staff members.

[54] The Association submits that the emails are harassing, demeaning, overtly sexualized, and demonstrate an attitude that women who represent the AIBC in the performance of its statutory duties need not be treated with respect. The Panel agrees. The first email referred to a senior staff member at AIBC as a "doll", "girl" and "my dear" and suggested that she take "daddy" (a reference to Mr. Halarewicz) out for lunch to resolve the misunderstanding and to pay for a hotel room where they could party and concludes with, "(g)ive daddy a French kiss". The second email sent on February 15, 2017 contains further lewd references to suggested sexual activities with both Staff Member #1 and Staff Member #2. The demeaning, misogynistic, and disrespectful nature of the emails is self-evident.

[55] The Panel finds that Mr. Halarewicz engaged in unprofessional conduct by sending crude, sexist, lewd, demeaning and profoundly disrespectful emails to female staff members at AIBC. These emails reflected a marked departure from the standard of conduct required of members of the Association. Communications of this nature are unacceptable in professional discourse. The emails also contravene Principle 7 of the *Code of Ethics* as their demeaning and offensive content reflected a complete lack of courtesy and respect towards AIBC senior staff.

[56] The Notice of Inquiry alleges that Mr. Halarewicz also provided comments that were "irrelevant to the issue" raised by Staff Member #1. While the Panel agrees that Mr. Halarewicz provided irrelevant comments, that, in itself, is not sufficient to establish unprofessional misconduct; however, it does demonstrate a lack of good faith in dealing with another regulatory body investigating the member's conduct. To that extent, the Panel finds that the irrelevant responses contained in both emails contravenes Principle 7 of the *Code of Ethics*.

[57] Turning to the second allegation, the Panel must consider whether Mr. Halarewicz demonstrated unprofessional conduct and contravened s. 30(4) of the Act and Principle 7 of the *Code of Ethics* when he failed to provide the subcommittee with responses to its questions and instead provided a discourteous and irrelevant response in which he accused the Association of colluding with the AIBC and hacking his website, attacked the integrity of Association staff, and graphically described particular sexual objectives which he sought to fulfill with the two female AIBC staff.

[58] The Act authorizes the Investigation Committee or a subcommittee to investigate complaints. Members who are under investigation have a mandatory duty to respond in a meaningful way to inquiries from the Investigation Committee or subcommittee under s. 30(4) of the Act.

[59] The evidence establishes that Mr. Halarewicz was notified of the AIBC complaint and that he was under investigation. On March 7, 2017, Mr. Swartz provided written notification of the AIBC complaint and requested a written response. In a letter dated March 21, 2017, Mr. Halarewicz responded that the Association had no business to tell him "not to go after and romance the AIBC ladies" and maintained that it had no jurisdiction over those communications. On May 10, 2017, Mr. Swartz explained that the Association did have jurisdiction over the AIBC complaint and again requested a response; however, no further response was forthcoming.

[60] On November 1, 2017, Mr. Romano wrote to Mr. Halarewicz to request his response under s. 30(4) of the Act to seven questions relating to the emails sent to AIBC staff. Instead of responding to the

seven questions, Mr. Halarewicz sent an email on November 21, 2017 accusing the administrators of the Association of doing a “horrendously bad job”, colluding with AIBC, and hacking into his website. He continued to maintain that his comments to the AIBC staff was a civil matter for the courts.

[61] Mr. Halarewicz’s assertion that the AIBC complaint was a civil matter was not sufficient to discharge his statutory duty to respond the subcommittee’s seven questions. It was not open to Mr. Halarewicz to decline to respond to the subcommittee’s specific questions on jurisdictional grounds in the absence of a court order relieving him of that obligation. The Panel finds that Mr. Halarewicz’s failure to adequately respond to the subcommittee’s questions contravened s. 30(4) of the Act and Principle 7 of the *Code of Ethics* and constituted unprofessional conduct.

[62] The Panel further finds that Mr. Halarewicz demonstrated unprofessional conduct and contravened Principle 7 of the *Code of Ethics* when he provided a discourteous response to the Association accusing it of colluding with the AIBC, hacking into his website, attacking the integrity of Association staff, and describing his sexual objectives with female staff at AIBC. Making unsubstantiated allegations against the Association and its senior personnel as means of deflecting a complaint investigation is improper and reflects a marked departure from the standard of conduct required from members. The response was also highly disrespectful.

[63] In summary, the Panel finds that Mr. Halarewicz contravened s. 30(4) of the Act by failing to respond to the subcommittee’s seven questions in relation to the AIBC complaint and thereby engaged in unprofessional conduct. The Panel further finds that Mr. Halarewicz’s discourteous and unwarranted response to the subcommittee’s inquiries also demonstrated unprofessional conduct and contravened Principle 7 of the *Code of Ethics*.

**(ii) Notice of Inquiry T18-012/014**

[64] Notice of Inquiry T18-012/014 contains multiple and somewhat overlapping allegations of professional misconduct and contraventions of the Act and *Code of Ethics* based upon Mr. Halarewicz’s refusal to cooperate with the practice review, his failure to respond to inquiries from a subcommittee of the Investigation Committee, and his disrespectful and irrelevant communications to the Association.

**Allegation #1**

[65] The first allegation is that Mr. Halarewicz demonstrated professional misconduct when he refused to comply with the Practice Review Committee’s requests for a site visit, including an interview, in 2016 and 2017. The nature of this allegation requires consideration of the mandatory nature of practice reviews under the legislative scheme.

[66] Section 4.1(1)(a) of the Act provides that it is the duty of the Association to uphold and protect the public interest respecting the practice of professional engineering and the practice of professional geoscience. Section 4.1(2)(b) provides that one of the Association’s objects is to establish, maintain and enforce standards for the qualifications and practice of its members and licensees.

[67] Section 10(1)(d) of the Act authorizes Council to pass bylaws for the establishment of a professional practice review program for members, licensees, and certificate holders, including the creation of a practice review committee to conduct practice reviews as directed by Council, as

recommended by the Investigation Committee or subcommittee or as referred by the Registrar. Section 14(c) of the Association Bylaws provides that Council may cause the professional practice of members and licensees to be reviewed by means of a practice review process, the details and implementation of which shall be authorized by Council. Under the authority of s. 14(c), Council established a Practice Review Task Form which, in turn, developed a Practice Review process which is summarized in the *Practice Review Guide* (April 2015).

[68] Section 44(a) of the Act provides that if a practice review committee is created, a member, licensee or certificate holder must, on request, provide the practice review committee with any relevant information, record, document or thing. The Council has established a Practice Review Committee. In *Re: Ken Dextras, P.Eng.*, June 20, 2008, the Discipline Committee panel considered s. 44(a) of the Act in the context of a member who failed to cooperate with requests for information from the Professional Practice Committee. After failing to respond to requests, Mr. Dextras blocked emails from the Association. The Discipline Committee panel concluded that the member engaged in unprofessional conduct by choosing to selectively ignore appropriate and legitimate requests:

[63] ... the relevant sections of the Act (44 and 30(4)) are clear and unambiguous and that the requirements placed on a member are clear.

[64] It is not open to a member of the Association... to selectively decide which parts of the Act are applicable, which parts he should accept and which parts reject. The powers granted by the legislature are clear and the powers granted a self-governing organization are also clear.

...

[66] ... The Panel finds that Dextras did ignore the reasonable and legitimate requests from the Investigation Committee and chose to ignore or block communications from Association officials charged with day-to-day conduct of the Association affairs. Further, Dextras attempted to by-pass the Investigation Committee by engaging senior officials and elected members in discussions of the matter at hand...

[69] In the present case, Mr. Halarewicz was randomly selected for a practice review in October 2015. After an initial deferral of the practice review, Mr. Halarewicz submitted a Practice Review Questionnaire and a Practice Review Challenge Form seeking to defer the practice review again for personal reasons; however, that request was denied. On June 29, 2016, Mr. Williams contacted Mr. Halarewicz to set up an interview; however, Mr. Halarewicz indicated that he did not wish to set up an interview and questioned the Council's right to review his practice. On October 3, 2016, Mr. Mitchell advised Mr. Halarewicz that the failure to comply with Mr. Williams' request for an interview could result in a professional conduct investigation. Mr. Williams again attempted to set up an interview but received an email from Mr. Halarewicz on May 17, 2016 indicating that he was going to have a lawyer represent him and would be in touch with Mr. Mitchell. He did not contact Mr. Mitchell. In November 2016, Mr. Mitchell wrote to Mr. Halarewicz directing him to contact his office to discuss the matter or to contact Mr. Williams to schedule an interview by January 6, 2017, failing which there would be a referral to the regulatory compliance department. On December 23, 2016, Mr. Halarewicz emailed Mr. Mitchell to reiterate that he had been deliberately targeted and accused the Association of fraud and corruption.

[70] There were subsequent communications between the Association and Mr. Halarewicz; however, at no point did Mr. Halarewicz make himself available for an interview or site visit with Mr. Williams. Following referral to the Investigation Committee, Mr. Romano wrote to Mr. Halarewicz urging him to

comply with the practice review to avoid regulatory action. In an email response dated November 8, 2017, Mr. Halarewicz expressly stated that he was declining the practice review.

[71] Mr. Halarewicz's belief that he had been deliberately targeted, whether sincerely held or not, was not a defensible basis for refusing to participate in the mandatory practice review. Mr. Halarewicz's claim that the Association was engaged in fraud and corruption was irrelevant and did not excuse his refusal to participate. Mr. Halarewicz was clearly asked to participate in the practice review on five occasions. On the last occasion, he advised Mr. Romano that he was declining the practice review. By refusing to schedule an interview or site visit with the general reviewer – the procedures established to gather information for a practice review – Mr. Halarewicz failed to provide the Practice Review Committee with relevant information as required by s. 44(a) of the Act.

[72] The Panel finds that Mr. Halarewicz's failure to comply with the Practice Review Committee's request for a site visit, including an interview, in 2016 and 2017 contravened s. 44(a) of the Act and demonstrated unprofessional conduct.

### ***Allegation #2***

[73] The second allegation is that Mr. Halarewicz contravened s. 44 of the Act and Principle 7 of the *Code of Ethics* and engaged in unprofessional conduct when he responded to correspondence from the Association requesting an interview and site visit with irrelevant and discourteous communications. As set out above, s. 44(a) of the Act requires members to provide information to the Practice Review Committee on request. Principle 7 imposes a duty on members to communicate with others with courtesy and good faith.

[74] The evidence establishes that on November 24, 2016 Mr. Mitchell directed Mr. Halarewicz to contact his office or Mr. Williams to schedule a site visit. On December 23, 2016, Mr. Halarewicz responded by accusing the administrators of the Association of fraud and corruption, of lacking the qualifications to impose requirements on practicing engineers, and of targeting him in a deliberate and malicious manner. In response to Mr. Romano's letter urging compliance with the practice review, Mr. Halarewicz emailed the [REDACTED] on October 18, 2017 directly attacking her qualifications and those of the [REDACTED] and [REDACTED].

[75] Mr. Halarewicz's December 23, 2016 and October 18, 2017 communications were discourteous, disrespectful and contained irrelevant and unsubstantiated allegations. Communications alleging fraud and corruption on the part of the Association and attacking the integrity and qualifications of senior personnel with the Association represent a marked departure from the standard expected of members. The Panel finds that Mr. Halarewicz engaged in unprofessional conduct in sending the December 23, 2016 and October 18, 2017 emails. Further, the Panel finds that Mr. Halarewicz contravened Principle 7 of the *Code of Ethics* as he did not conduct himself with fairness, courtesy or good faith towards the Association, [REDACTED] the [REDACTED] or the [REDACTED]. To the extent that the content of the October 18, 2017 email was also not responsive to the inquiries contained in Mr. Romano's letter, it also contravened s. 44 of the Act.

### ***Allegation #3***

[76] The third allegation is that Mr. Halarewicz demonstrated unprofessional conduct and contravened s. 30(4) of the Act and Principle 7 of the *Code of Ethics* when, in the course of the

Investigation Committee's investigation into his alleged failure to comply with requests from the Practice Review Committee in violation of s. 44 of the Act, he failed to provide the subcommittee with information requested in letters dated November 10, 2017 and December 4, 2017 and responded with irrelevant and discourteous communications. It will be recalled that the November 10<sup>th</sup> letter contained the seven questions relating to the AIBC complaint.

[77] A member under investigation has a statutory duty under s. 30(4) of the Act to provide the Investigation Committee, or a subcommittee, with any information that it requires and to answer any inquiries within a reasonable time. In *Re: Randall W. Hartford, P.Eng.*, (March 5, 2007), the Discipline Committee panel found that the member's failure to respond to requests from the Investigation Committee for information and records constituted unprofessional conduct and contravened s. 30(4) of the Act. The panel observed:

[50] ... As a self-governing profession, responsible, in the public interest, for regulating members, it is important that complaints from the public are addressed expeditiously in a fair and transparent manner. It is not in the public interest or in the interest of the Association, that the complaints procedure be stifled because, for whatever reason, a member declines to respond to legitimate regulatory requests and maintains such scant records, that documents cannot be retrieved or examined. Whatever the origin of a complaint about a member's work, members have a professional obligation to ensure that the Association's complaint process is credible, transparent and accountable and that each member has proper administrative procedures in place. Failure to do so, has professional consequences for the member and credibility issues for the Association.

[78] Similarly, in *Re: Frank Louis Stromotich, P.Eng.*, (August 28, 2007), the Discipline Committee panel concluded that a member's denial of a charge without providing a meaningful response to requests for information also contravened s. 30(4) of the Act:

52 ... Section 30(4) of the Act is mandatory. A member must provide the information or documents requested. In response to the first request from the Investigations Committee, Mr. Thiele's September 26, 2006 letter..., Dr. Stromotich denied the charges, but did not provide any information to help the Investigations Committee examine if there were reasonable and probable grounds to believe that Dr. Stromotich was guilty of unprofessional conduct as the Committee was required to do under the act. The Investigations Committee made a further request for information from Dr. Stromotich asking 19 specific questions set out in Mr. Thiele's December 20, 2006 letter... In response, Dr. Stromotich wrote an email to Mr. Rettie on January 17, 2006...

53 The Panel ... concluded that even though the December 20 letter contained numbered requests for information and the January 17 reply contains a numbered list of statements, there is no correlation between the numbering, or more importantly in the content. It is clear to the Panel that Dr. Stromotich did not respond in any meaningful way to the questions asked by the Investigations Committee in Mr. Thiele's December 20 letter. Therefore, the Panel concluded that Dr. Stromotich's responses to the Investigations Committee failed to comply with section 30(4) of the Act and he is, therefore, guilty of the unprofessional conduct alleged in charge 1.

[79] It is clear that Mr. Halarewicz was notified by letter dated November 10, 2017 that he was under investigation in relation to his communications with the Association regarding the practice review. He was directed in that letter to provide a response under s. 30(4) of the Act by December 1, 2017 to the

subcommittee's concerns that his communications dated December 23, 2016 and October 18, 2017 were unprofessional and contrary to the *Code of Ethics*. As Mr. Halarewicz did not respond to that letter, Mr. Romano sent a follow-up letter on December 4, 2017 again requesting responses to the subcommittee's concerns regarding his unprofessional communications regarding the practice review. Mr. Halarewicz was directed to respond by December 11, 2017.

[80] Mr. Halarewicz did not respond by December 11, 2017. On December 13, 2017, Mr. Halarewicz emailed Mr. Romano in relation to the AIBC complaint investigation (T17-040) and stated that, as far as he was concerned, he had answered the Association's correspondence adequately. Mr. Halarewicz again alleged that the complaint was a civil matter and that the Association was a corrupt entity with only marginal support from its members. Mr. Halarewicz further alleged that the Association engaged in criminal conduct by colluding with AIBC to prevent him from being employed as an architect and engineer and by hacking his website.

[81] On January 8, 2018, Mr. Halarewicz wrote to Mr. Chong repeating the allegations that the Association had colluded with AIBC and hacked his computer which he noted contained photographs of nude women with whom he had been involved. Mr. Halarewicz advised Mr. Chong that he would be filing a complaint with the RCMP and then questioned the qualifications of various Association staff members.

[82] The evidence establishes that Mr. Halarewicz was under investigation and directed to provide information to the subcommittee outlined in the letters dated November 10, 2017 and December 4, 2017, and that he failed to provide the requested information or indeed any meaningful response. Mr. Halarewicz had a duty to respond to the inquiries under s. 30(4) of the Act. His failure to provide a meaningful response contravenes s. 30(4) and constitutes unprofessional conduct.

[83] The Panel further finds that the responses that Mr. Halarewicz provided were irrelevant to the subcommittee's inquiries and discourteous and disrespectful because they raised unsubstantiated allegations of criminal conduct on the part of the Association and professional impropriety on the part of its senior personnel. Mr. Halarewicz's communications reflected a marked departure from the standard required of members of the Association and violated Principle 7 of the *Code of Ethics* as he failed to communicate with fairness, courtesy and good faith with staff at the Association.

#### ***Allegation #4***

[84] The final allegation is that Mr. Halarewicz demonstrated unprofessional conduct in June 2018 when, in response to a letter from the Association's counsel asking for consent to have the two inquiries heard together, he wrote a letter dated June 24, 2018 that was profane, misogynistic, discourteous and contemptuous of the Association's regulatory function.

[85] Mr. Halarewicz's response to Mr. Gay's letter referenced the [REDACTED] of the Association as a "baby doll", contained a culturally inappropriate comment in relation to [REDACTED] and disparaging comments regarding [REDACTED]. The response concluded with the following comments:

... EGBC is corrupt and criminal as hell. Do you know that EGBC hacked my computer and attached my pictures drive where I have many photos of ladies naked spread-eagle with whom I have been involved with, and some legal documents to my out-going emails? Do tell the EGBC admin big wigs from me to suck my cock or fuck-off!

When I was 22 yo I picked-up two MILFs, Bridget and Alison, in a nightclub in Wales, and fucked them in Alison's apartment. They were both great except that Alison kept on calling me 'Bastard' as she took me in all her holes.

The first time I saw [name of female senior official at Association], I said to myself 'Damn, [first name of senior official] looks like Bridget'. Hail!

Andrew, we should play soccer or volleyball sometime.

Ahler Halhber

Leader of the 'Justice, Prosperity, and Liberty' Party of Canada

Aka: James W. Halarewicz

[86] The Association submits that this letter is sexist, obscene, profane, misogynistic and contains personal attacks on Association personnel and is contemptuous of the Association's regulatory function. The Panel agrees. It is plain and obvious that the content of this letter reflects a marked departure from the conduct expected of members of the Association. The Panel further finds that this letter demonstrates a profound lack of courtesy and good faith towards Association staff and thereby contravenes Principle 7 of the *Code of Ethics*.

#### F. Summary

[87] The Panel condemns Mr. Halarewicz's communications with AIBC staff and the Association and its counsel in the strongest terms. These communications were shocking, disrespectful, discourteous, misogynistic, and disgraceful. Mr. Halarewicz demonstrated an utter contempt for the regulatory processes that the Association administers in the public interest. Mr. Halarewicz's refusal to participate in the mandatory practice review and failure to provide a meaningful or substantive response to legitimate inquiries from the subcommittee undermined the Association's statutory mandate of protecting the public from unprofessional conduct and brought the profession of engineering into disrepute.

[88] The Panel requests that the parties provide written submissions on appropriate sanctions and whether costs should be imposed in accordance with the following schedule:

- (a) submissions must be delivered by counsel for the Association to Mr. Halarewicz and the Panel no later than **November 9, 2018**;
- (b) submissions must be delivered by Mr. Halarewicz to counsel for the Association and to the Panel no later than **December 7, 2018**;
- (c) reply submissions may be delivered by counsel for the Association to Mr. Halarewicz and to the Panel no later than **December 21, 2018**.

[89] Submissions for the Panel should be delivered to Angela R. Westmacott, Q.C., counsel for the Panel and may be delivered electronically.

Dated this 11th day of October, 2018 and signed in counterpart.



---

Thomas Leung, P.Eng., Struct.Eng., F.E.C., Chair

---

Dr. Peter Bobrowsky, P.Geo.

---

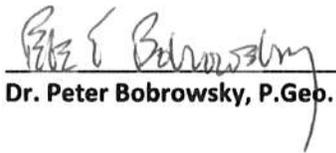
Jaswinder Bansal, P.Eng.

[89] Submissions for the Panel should be delivered to Angela R. Westmacott, Q.C., counsel for the Panel and may be delivered electronically.

Dated this 11th day of October, 2018 and signed in counterpart.

---

**Thomas Leung, P.Eng., Strct. Eng., F.E.C., Chair**



---

**Dr. Peter Bobrowsky, P.Geo.**

---

**Jaswinder Bansal, P.Eng.**

[89] Submissions for the Panel should be delivered to Angela R. Westmacott, Q.C., counsel for the Panel and may be delivered electronically.

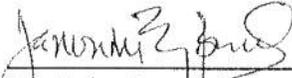
Dated this 11th day of October, 2018 and signed in counterpart.

---

Thomas Leung, P.Eng., Strct. Eng., F.E.C., Chair

---

Dr. Peter Bobrowsky, P.Geo.



---

Jaswinder Bansal, P.Eng.