

IN THE MATTER OF ***THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT*** AND IN THE MATTER OF  
AN INVESTIGATION RESPECTING **SCOTT O. GULLACHER, P.ENG.**

---

**ORDER**

---

**MEMBERS OF THE HEARING PANEL:**

Daniel Kishchuk, P.Eng., Chair

Daryl Andrew, P.Eng.

Chanelle Joubert, P.Geo.

**COUNSEL FOR THE INVESTIGATION COMMITTEE:**

Lyle Jones, P.Eng., LL.B.

**COUNSEL FOR THE MEMBER:**

Khurram Awan, LL.B.

Titli Datta, LL.B.

**COUNSEL FOR THE DISCIPLINE COMMITTEE:**

Greg Fingas, LL.B.

Andrea Johnson, J.D.

ORDER OF THE HEARING PANEL APPOINTED AND EMPOWERED BY THE DISCIPLINE COMMITTEE OF **THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS OF SASKATCHEWAN** PURSUANT TO SECTIONS 33, 34, AND 35 OF **THE ENGINEERING AND GEOSCIENCE PROFESSIONS ACT**, CHAPTER E-9.3 of the Statutes of Saskatchewan, 1996 as amended (HEREIN REFERRED TO AS THE “ACT”), AND SECTION 22(4) OF **THE ENGINEERING AND GEOSCIENCE PROFESSIONS REGULATORY BYLAWS, 1997** as amended (HEREIN REFERRED TO AS THE “BYLAWS”), TO HOLD A HEARING INTO THE CONDUCT OF **SCOTT O. GULLACHER, P.ENG.**

## 1 PREAMBLE

---

In the Decision and Interim Order signed January 24, 2023, the Hearing Panel reported that it considered five counts of professional misconduct alleged against Scott O. Gullacher, P.Eng., a member of the Association of Professional Engineers and Geoscientists of Saskatchewan (herein also referred to as the Member) arising out of matters 33-18-05 and 33-19-04. Based on the evidence presented in the pre-disposition phase of this hearing, the Hearing Panel determined that three counts had been proven.

The Hearing was reconvened on March 13, 2023, pursuant to section 34 of the Act to hear submissions with respect to disposition of matters 33-18-05 and 33-19-04.

## 2 THE DISCIPLINE HEARING

---

The Hearing was reconvened at 10:00 a.m. on March 13, 2023, via Microsoft Teams virtual meeting. At 5:00 p.m., the Hearing was adjourned to 1:00 p.m. on March 20, 2023.

At 1:00 p.m. on March 20, 2023, the Hearing resumed and proceeded until adjournment at 4:20 p.m.

The Investigation Committee was represented by Lyle Jones, P.Eng., LL.B. and Chris Wimmer, P.Eng., APEGS Director of Investigation and Compliance.

Scott O. Gullacher was present on March 13, 2023, and on March 20, 2023, and was represented by Khurram Awan, LL.B., legal counsel and by Titli Datta, LL.B., legal counsel.

The Chair of the Hearing Panel established notice of hearing by filing proof that a Notice of Discipline Hearing had been forwarded to Scott O. Gullacher and his legal counsel pursuant to the Act and the Bylaws. Scott O. Gullacher and his legal counsel acknowledged receipt of the virtual hearing meeting link and his legal counsel acknowledged Notice of Hearing within the time limits prescribed by the Act. Attendance at the hearing by Scott O. Gullacher was further evidence of the satisfactory service of the virtual hearing meeting link and Notice of Discipline Hearing upon Scott O. Gullacher.

### 3 DOCUMENTS PRESENTED

---

The following documents were received by the Hearing Panel and are attached hereto:

**From the Investigation Committee:**

- Investigation Committee Submissions as to Disposition
- EGBC and Duerichen
- EGBC and Petrovich
- EGBC and Rice – Decision
- EGBC and Rice – Disposition
- Jinnah and Alberta Dental Association and College
- Estimate of Costs
- Hearing Cost Estimates – March 2023

**From the Member:**

- Brief of Law on Behalf of Scott Gullacher
- Book of Authorities on Behalf of Scott Gullacher
- Book of Documents on Behalf of Scott Gullacher
- Support Letters
- 2019onsc3905 (CPSO and Doyle)
- EGPA Act Extracts

### 4 EXHIBITS

---

The Hearing Panel accepted as Exhibits, and entered as evidence, the following documents and are attached hereto:

D19. Proof of service email of virtual hearing meeting link to Scott O. Gullacher’s legal counsel, Khurrum Awan.

D20. Notice of hearing attached to the virtual hearing meeting link email to Khurrum Awan.

D21. Read receipt from Khurrum Awan.

D22. Email from Scott O. Gullacher acknowledging receipt of the virtual hearing meeting link.

D23. Estimate of Costs; superseded by: Hearing Cost Estimates – March 2023

D24. Book of Documents on Behalf of Scott Gullacher and Support Letters

D25. Receipt of virtual meeting request Mar 20\_Scott Gullacher

D26. Receipt of virtual meeting request Mar 20\_K Awan

These Exhibits continue with the numbering scheme established in the Decision and Interim Order document and are appended hereto.

## 5 DISPOSITION

---

### Introduction

Section 35 of the Act provides that where a discipline committee finds that a member's conduct constitutes professional misconduct, it may formulate one or more disciplinary orders. To inform this process, the Hearing Panel asked both the Investigation Committee and the Member for Submissions as to Disposition.

Counsel for the Investigation Committee submitted and discussed:

1. An *Investigation Committee Submissions as to Disposition* document that included, *inter alia*, sentencing and mitigation considerations and a proposed set of orders.
2. How the sentencing and mitigation considerations should be interpreted and applied in the present case.
3. Decisions for cases that the Investigation Committee considered to be relevant to its position in the present case.

Counsel for the Member submitted and discussed:

1. A *Brief of Law on Behalf of Scott Gullacher* document that presented and discussed factors that counsel considered to be relevant and applicable to the present case. The Brief of Law document also included a proposed set of orders based on the discussed factors.
2. A *Book of Authorities on Behalf of Scott Gullacher* document that included decisions for cases that the Member considered to be relevant to his position in the present case.
3. A *Book of Documents on Behalf of Scott Gullacher* that included, *inter alia*, letters of support and letters regarding oversight on behalf of Mr. Gullacher, and a curriculum vitae for Mr. Gullacher.
4. Testimony from Mr. Gullacher and from selected authors of the letters of support and letters regarding oversight.

The Hearing Panel acknowledges that the ultimate purpose of imposing disciplinary orders is to support governance of the engineering profession in the public interest, with protection of the public being its overriding objective. The Hearing Panel, therefore, undertook to develop and impose a set of orders that protect the public and that demonstrate that the profession is prepared to regulate the professional conduct of its members.

### Methodology

The methodology employed by the Hearing Panel involved:

1. Developing a consolidated list of factors and considerations based on:
  - Thirteen factors identified in the Brief of Law on Behalf of Scott Gullacher.

- Twelve Sentencing Considerations submitted by the Investigation Committee.
  - Seven Mitigating Considerations submitted by the Investigation Committee.
2. Giving consideration to the submissions by the Investigation Committee, the submissions by the Member, and the Hearing Panel's findings of fact, the Hearing Panel developed a set of findings for each of the presented factors and considerations. Based on these findings, the factors and considerations were placed into one of three groups:
    - Those judged to be relevant to the present case.
    - Those judged to be not applicable to the present case.
    - Those judged to be neutral due to the circumstances of the case or due to lack of information.
  3. Analyzing a consolidated list of relevant factors and considerations within the context of the submissions and developing a set of reasoned, purpose-driven orders. The consolidated list noted above consists of the twelve factors discussed in the following Analysis and Discussion section.

## **Analysis and Discussion**

### **1. Nature, Seriousness and Impact of the Conduct**

The Investigation Committee argued that the conduct of the Member was serious in that it jeopardized public safety. The Investigation Committee also argued that the circumstances and facts of the matter favour expulsion of the Member and that if Mr. Gullacher later applies for reinstatement as a member of the Association, practice restrictions and conditions can be dealt with through APEGS' admissions process at such time.

Counsel for the Member argued that cancellation of a professional license should only be ordered in extremely serious cases. Counsel for the Member further argued that expulsion of the Member would not be a proportional disciplinary measure.

Deliberations by the Hearing Panel considered the arguments for and against expulsion of the Member in conjunction with the other factors and considerations discussed below. The decision of the Hearing Panel respecting expulsion is addressed in section 6.

Counsel for the Member argued that Mr. Gullacher's conduct was not intentional. The Hearing Panel allows that the outcomes effected by the Member's conduct were not intended. However, the Hearing Panel finds that the decisions and actions of the Member were planned and deliberate.

Counsel for the Member argued that, despite the bridges not conforming with the specified standards, some of the affected bridges were functional with limitations. The long-term impacts

of the identified nonconformities are not yet known so the Hearing Panel found it difficult to consider this condition as reducing the severity of the Member's misconduct.

Copies of Inertia Solution's professional liability insurance policies for the June 1, 2017, to June 1, 2018, period and for the June 1, 2018, to June 1, 2019, period were submitted as Tabs 7 and 8 of the Book of Documents, Exhibit D24.

The Member's counsel argued that the Hearing Panel should consider as a mitigating factor that the Member had professional liability insurance coverage in place.

The Hearing Panel accepts that having professional liability insurance is prudent business practice. However, the Hearing Panel concludes that:

1. Having professional liability insurance is not necessarily an indicator of careful or diligent practice on the part of the Member.
2. Insurance contracts utilized by professional engineering service providers are not a substitute for careful and diligent practice.

Counsel for the Member argued that the Hearing Panel should consider as a mitigating factor the fact that two of the charges were not established. The Hearing Panel's finding is that the proven charges reflect serious misconduct that should not be diminished by such arguments.

Counsel for the Member argued that the Hearing Panel should take into account the fact that while the potential consequences of the bridge failure were serious, no one was harmed. However, the Hearing Panel finds that public safety was imperilled and that there was a real possibility of injury or death. On this basis, the Hearing Panel maintains that the conduct of the Member is serious.

The Hearing Panel recognises that the public has a rightful expectation that bridges and other infrastructure be designed, constructed and maintained such that the infrastructure performs as intended and that public safety is not in doubt. The conduct of the Member produced a condition whereby public safety was at an unacceptable level of risk.

In its deliberations, the Hearing Panel considered impacts resulting from the professional misconduct of the Member, including financial impacts, asset performance impacts, inconvenience of expected users, public safety, and life-cycle implications.

In consideration of the above, the Hearing Panel finds the misconduct of the Member to be very serious.

## **2. Maintaining the Public's Confidence in the Integrity of the Profession**

The Act delegates to the Association and to its Council the responsibility and authority to regulate the engineering profession in Saskatchewan in the public interest.

The public interest is served and protected through the Association's ability and authority to:

- Regulate the practice of professional engineering.

- Establish and enforce standards for membership and licensure.
- Regulate proficiency and competency required by professional engineers to safeguard the public.
- Promote and improve the proficiency and competency of members.

The Association's responsibility to govern the engineering profession in the public interest includes, but is not limited to, prosecution of formal complaints and disciplining members whose conduct has been found to constitute professional misconduct.

The Hearing Panel interpreted that public confidence in the integrity of the engineering profession is established and maintained when the profession consistently holds true to its purpose, principles, values, and obligations. In practice, this involves exercising its powers in a principled, open, and rigorous manner that provides assurance to the public that the public's interests are served and protected.

The Hearing Panel emphasizes that conduct that does not hold paramount the safety, health and welfare of the public is unacceptable. The serious nature of the Member's misconduct and the actual and potential consequences were weighted heavily by the Panel when developing disciplinary orders. The engineering profession in Saskatchewan must honour its social contract of public regulation and have the public interest as its primary consideration.

### **3. Frequency, Duration and Pattern of Conduct**

Counsel for the Investigation Committee argued that the Member's misconduct constituted a repeated pattern over multiple aspects of several bridge projects. Conversely, counsel for the Member argued that the relatively short period of time in which the projects were undertaken supported that the misconduct did not constitute a pattern.

The Hearing Panel recognizes that the misconduct arose, at least in part, from the Member's failure to recognize his own limitations and not from conscious malfeasance. Rather, the Member took on these projects believing that he was providing professional engineering services in a careful and diligent manner. The catastrophic failure of the Dyck Memorial Bridge started a sequence of events that resulted in the discovery of technical deficiencies in other bridge projects. The failure of the Dyck Memorial Bridge also led to the Member not taking on new bridge projects.

Ultimately, the Member did not independently recognize his limitations or the deficiencies in his work. It was the failure of the Dyck Memorial Bridge that effectively halted any potential repetition of the Member's misconduct and resulted in the relatively short time frame referenced by counsel for the Member.

The Member was found guilty of misconduct in regard to six bridge projects. The offences took place within a discrete and limited period of time. Deficiencies were found in the engineering of multiple elements of the bridges. The Hearing Panel found the frequency, duration, and pattern

of the misconduct to be neither a strong mitigating factor nor a robust aggravating factor on balance.

#### **4. Member's Acknowledgement of Responsibility, Restitution and Remorse**

When the Dyck Memorial Bridge failed, the Member provided professional engineering services and funded repairs intended to return the bridge to operation. These services and repairs allowed the bridge to be returned to service, subject to restrictions. During the disposition phase of the hearing, the Member acknowledged his responsibility for the failure of the Dyck Memorial Bridge in the Brief of Law and during the hearing he apologized to the Rural Municipalities, APEGS, his family and other stakeholders affected by his actions.

The Member's counsel also argued that the Member's plea of "no contest" and the decision to not contest the Machibroda Report (Exhibit D11) or the Associated Engineering Report (Exhibit D13) should also be considered a mitigating factor. It was argued that the Member's actions reduced the burden on the Investigation Committee and on the Hearing Panel.

The Hearing Panel recognizes that the Member has accepted responsibility for his actions and acknowledges the Member's goodwill in funding the initial repairs to the Dyck Memorial Bridge. However, the Member did not accept responsibility until after the Hearing Panel's findings of "guilty" and the issuance of the written judgement. The Member's decision to plead "no contest" and to not contest the findings of the two reports was not considered to have substantially reduced the scope, cost or duration of the investigation. The investigation and discipline processes were extensive and significant resources had to be expended.

The chronology of the investigation is contained within Exhibit D16. The Member's counsel and the counsel for the Investigation Committee provided conflicting interpretations of the perceived level of cooperation that the Member afforded the Investigation Committee during the investigation. The Member's counsel noted that the Investigation Committee did not bring any charge in relation to non-compliance with the investigation.

The Hearing Panel found this factor to be neither mitigating nor aggravating.

#### **5. Extent of Disregard for Professional Obligations**

A Professional Engineer's first obligation is to public safety. Deliberate disregard for professional obligations strikes at the core of what it means to be a Professional Engineer. Another core obligation of a Professional Engineer is to understand one's own competencies and limitations; this is foundational to protecting public safety.

The Hearing Panel was not provided with evidence that the Member acted with wilful blindness or with the knowledge that he was proceeding in a manner that was not careful and diligent. The Member's misconduct may be characterized as a failure to achieve his professional obligations, and not as a disregard for his obligations.



As such, the Hearing Panel found this factor to be neither mitigating nor aggravating.

## **6. Previous Findings / Prior Record**

The Member has no record of previous complaints submitted to APEGGS. The Hearing Panel considered this to be neither a mitigating factor nor an aggravating factor.

## **7. Potential for Reformation, Remediation or Rehabilitation**

The Member is a relatively young professional. He advised the Hearing Panel that he now appreciates the importance of staying within one's area of competence and of seeking guidance from colleagues. The Member has expressed willingness to limit his scope of practice and to accept other limitations or measures that could support his return to practicing as a professional engineer in a safe, careful and diligent manner.

The Hearing Panel finds that the evidence suggests that the Member appears to be a good candidate for rehabilitation.

## **8. Character of the Member**

The Association of Professional Engineers and Geoscientists' *Good Character Guideline* defines good character as having "moral and ethical strength . . . socially acceptable attributes or traits which undoubtedly include, among others, integrity, candour, empathy, and honesty".

Counsel for the Member submitted Exhibit D24 – Book of Documents on behalf of Scott Gullacher which contains multiple letters of reference for the Member. They describe the Member as an outstanding worker who conducts himself professionally and describe the Member's work as innovative and high quality. The Member is also described as being a person of high integrity, good moral character, honest, and hard-working. No evidence was presented to dispute these claims. The Hearing Panel notes that several of these letters originate from individuals having a personal history and friendship with the Member.

There was also testimony from the Member that expressed his remorse for his conduct and the effects his decisions have had on the community, profession, colleagues, friends, and family. The Hearing Panel does not perceive that the Member had any malicious intentions regarding his professional conduct.

The Hearing Panel found the Member's character to be neither a mitigating nor aggravating factor.

## **9. Age and Experience of the Member**

The Member graduated from the College of Engineering at the University of Saskatchewan in 2010 and obtained his professional engineering designation in 2013. The Brief of Law, submitted on behalf of the Member, admits that Mr. Gullacher did not have the experience of a lead engineer, a pre-requisite for a project of this complexity.

The Member's degree of experience does not excuse him from being professionally accountable for his actions. The Brief of Law indicates that the Member undertook the bridge design and construction projects despite not having the requisite experience. The Member's limited competency and experience in certain aspects of the work should have triggered the Member to seek recommendations from a 'lead engineer'. The Member's age and experience was considered by the Hearing Panel. The Hearing Panel concludes that the age and experience of the Member allows for the opportunity for him to gain insight from his misconduct and practise successfully in the future.

## **10. Effects and Impacts on the Member of Sanctions**

The Interim Order imposed on the Member on June 8, 2022, included a requirement that he not practice professional engineering. The orders are not imposed to cause additional hardship for the Member but are implemented to protect the public.

The Hearing Panel heard testimony from the Member that he has incurred out-of-pocket expenses of \$250,000 to repair the Dyck Memorial Bridge. The Member also testified that he is raising a young family and was supporting his family when working as a professional engineer. As a result of the Interim Order and loss of his business, Inertia Solutions Inc., the Hearing Panel understands that the Member's family has been negatively impacted due to his inability to practice professional engineering since June 8, 2022.

Additional testimony from Mr. Gullacher stated that his friends and family have suffered emotionally from the negative media coverage and public response to this hearing. The Member, who is living and working out-of-province, expressed the desire to return to Saskatchewan and to resume working as a professional engineer in Saskatchewan.

The Hearing Panel acknowledges that the Member has experienced personal and reputational effects as a result of the failure of the Dyck Memorial Bridge. The Hearing Panel finds that the role of the engineering professional and their obligation to uphold public safety are such that the impacts argued by the Member's counsel are not a mitigating factor when determining sanctions.

## **11. Need for Deterrence**

The Hearing Panel places significant weight on the need for deterrence for both Mr. Gullacher and other professional members. A member's understanding of their competencies and

working within their scope of practice are of extreme importance to reduce risk to the public and to ensure the integrity and proper practice of the engineering profession.

Specific deterrence has likely occurred for the Member in the form of negative publicity and reputational damage, costs incurred for bridge repair, and Interim Order restrictions. The orders imposed by the Hearing Panel also seek to communicate to the public and other professional members of the Association the severity and consequences associated with the actions of the Member and to encourage other members to practice according to the Engineering and Geoscience Professions Act and The Engineering and Geoscience Professions Regulatory Bylaws.

## **12. Parity and Proportionality**

A fundamental tenet of determining disposition is that the order must be both proportionate to the nature and gravity of the offence and on par with dispositions imposed on similar practitioners in similar circumstances.

The principle of proportionality, as interpreted by the Hearing Panel, requires that elements of an order, individually and as a whole, be proportionate to the nature and seriousness of the misconduct. Proportionality is driven by the nature and gravity of the proven misconduct and informed by consideration of other factors.

The principle of parity, as interpreted by the Hearing Panel, requires that elements of an order, individually and as a whole, be comparable to those imposed on similar practitioners in similar circumstances. Thus, parity is necessary for proportionality to be fulfilled.

It is possible for different parties to advance a wide range of arguably proportional dispositions on the same facts. A comparison to other cases supports procedural fairness and natural justice. The application of the principles of proportionality and parity serves to avoid arbitrary decisions.

The Hearing Panel received submissions from the Investigation Committee and from the Member that reflected their respective positions as to what a proportional and par order contain. This included decisions with disposition elements from other cases they deemed to be relevant to this hearing, but the Hearing Panel determined these decisions to be distinguishable on the facts.

Counsel for the Investigation Committee reported that there are no similar cases that the Hearing Panel might use for direct comparison but provided decisions for cases involving professional engineers that included disposition elements similar to those sought in the present case. Counsel for the Member provided decisions for cases that did not involve professional engineers but were argued to be relevant and sufficiently similar to the present case for purposes of determining disposition.

The Hearing Panel was not provided with decisions that involved similar professionals in substantially similar circumstances — only decisions that the counsels considered to be persuasive to their respective positions.

It is within this context that the Hearing Panel proceeded to determine a set of orders that are proportional in absolute terms within the boundaries of the proposed disposition orders. The Hearing Panel referenced the parties' books of authorities to inform the analysis of the disposition factors and determination of the orders.

## 6 ORDERS

---

The first part of this section reiterates the orders sought by the Investigation Committee and the orders proposed by the Member. This is followed by a summary and discussion of the orders determined by the Hearing Panel.

The orders sought by the Investigation Committee included:

- An order reprimanding the Member.
- An order that the Member be expelled from the Association.
- An order that the Member pay a fine of \$15,000.
- Publication of the circumstances in the *Professional Edge*, with names.
- An order that the Member pay costs of the investigation and hearing to a maximum of \$88,000.

The orders proposed by the Member included:

- A further six-month suspension (totaling approximately 18 months from the date of the Interim Order).
- Total of costs and any fine in the amount of \$10,000 to \$20,000 payable over an 18-month period.
- Imposition of a condition that his practice be supervised for a three-year period.
- Imposition of a condition that he refrain from providing engineering design for bridges.

Having considered all of the above, the Hearing Panel makes the following orders:

1. That Scott O. Gullacher is hereby reprimanded for professional misconduct.
2. That the Order shall be published on the APEGS website, in the Edge Monthly and in *The Professional Edge*, with names.
3. That Scott O. Gullacher be suspended from the Association for a 558-day period commencing June 8, 2022.
4. That Scott O. Gullacher not practise professional engineering with respect to bridges and bridge projects for a period of no less than five years starting from the date upon which the

suspension is lifted. Once the five-year period has elapsed, removal of this restriction may be sought through an application and evaluation at the discretion of the Registrar.

5. That any and all engineering work and the management of engineering work performed by Scott O. Gullacher be supervised by a professional engineer that has a minimum of ten years of relevant engineering experience (“Supervisor”), for a period of no less than three years from the date upon which the suspension is lifted. The Supervisor shall be acceptable to the Registrar.
6. That Scott O. Gullacher be mentored by a professional engineer that has a minimum of ten years of experience as an Authorized Representative under a Certificate of Authorization, or that has a minimum of ten years of experience as a principal of a partnership, association of persons or corporation that engages in the practice of professional engineering (“Mentor”), for a period of no less than three years from the date upon which the suspension is lifted. The Mentor shall be acceptable to the Registrar.
7. That any and all engineering work and the management of engineering work respecting or involving foundation elements or systems performed by Scott O. Gullacher be undertaken under the documented guidance of a licensed geotechnical engineer, for a period of no less than three years from the date upon which the suspension is lifted. Once the three-year period has elapsed, removal of this restriction may be sought through and upon recommendation by Scott O. Gullacher’s Supervisor and by Scott O. Gullacher’s Mentor.
8. That Scott O. Gullacher not be entitled to be an Official Representative under a Certificate of Authorization, for a period of no less than three years from the date upon which the suspension is lifted.
9. That Scott O. Gullacher not be entitled to be in charge of the practice of professional engineering under a Certificate of Authorization for a period of no less than three years from the date upon which the suspension is lifted.
10. That Scott O. Gullacher not be entitled to supervise a sole proprietorship, partnership, association of persons or corporation that engages in the practise of professional engineering, for a period of no less than three years from the date upon which the suspension is lifted.
11. That Scott O. Gullacher is not eligible to supervise an engineer-in-training for a period of no less than three years from the date upon which the suspension is lifted.
12. That Scott O. Gullacher, as a condition of annual membership and licensure as a professional engineer, undertake and report no less than five hours of verifiable ethics training each year, for a period of no less than three years from the date upon which the suspension is lifted.
13. That Scott O. Gullacher pay a fine of \$15,000, payable in three installments of \$5,000. These payments are to be submitted in conjunction with the Professional Engineer Membership Fee and the Professional Engineer License Fee, starting with the 2024 Annual Fees. Receipt of each installment by APEGS is due by the annual fees due date.
14. That Scott O. Gullacher pay costs of the investigation and hearing in the amount of \$32,000, to be received by APEGS on or before December 29, 2028. Receipt of full payment by APEGS by the due date is a condition of ongoing membership and licensure as a professional engineer.
15. That failure to comply with any of the foregoing orders of the Hearing Panel shall result in Scott O. Gullacher being suspended from the Association and remaining suspended until there has been compliance with the orders.

### Notes to the Orders:

1. The orders of the Hearing Panel presented above supersede the Interim Order issued January 24, 2023. Collectively, these orders constitute the Order of the Hearing Panel.
2. A reprimand is generally defined as a formal or official rebuke or reproof. In the context of APEGS, a public reprimand denouncing the Member's conduct was determined by the Hearing Panel to be appropriate in the circumstances.
3. Publication of the Order on the APEGS website, in the *Edge Monthly* and in *The Professional Edge* is intended to support the principle of transparency and to serve as a specific and general deterrent.
4. The Hearing Panel gave consideration to a scenario where the Member is expelled and then reapplies for membership. In this scenario the Member would be subject to the requirements, in effect at that time, administered by an admissions committee.

Under an expulsion scenario, the Hearing Panel effectively passes to an admissions committee the onus to determine and apply any conditions or restrictions on membership or practice available to them should the Member wish to reapply for membership and licensure. However, in doing so, the Hearing Panel effectively relinquishes its ability to order a broader range and depth of control measures which best respond to the professional misconduct which has been proven.

The Hearing Panel agrees with the Investigation Committee's desire to protect the public interest but determined that the threshold for expulsion was not met. The Hearing Panel has determined that the orders made herein are suitable and adequate to protect the public interest.

5. The specified suspension was determined to be proportional to the seriousness of the misconduct. The duration of the suspension was considered necessary to protect the public interest; to enable the Member to reflect on the Hearing Panel's decisions; and to provide sufficient time to prepare for returning to the practice of professional engineering should he choose to do so.
6. Restrictions on the Member's area of practice were considered necessary to protect the public interest and to maintain public confidence in the integrity of the profession.
7. Conditions related to supervision and mentoring were imposed to protect the public interest and to enable the Member to develop and provide evidence of technical and management competency within a defined area or scope of practice.
8. The orders related to not serving as an Official Representative, not being in charge of the practice of professional engineering under a Certificate of Authorization and not being entitled to supervise an entity that engages in the practice of professional engineering, and by extension the ability to deliver consulting engineering services to the public, are intended to limit the role or function of the Member for a period of time to protect the public interest and to maintain the integrity of the profession.
9. The maximum fine permitted under the Act is \$15,000. Due to the nature, extent, seriousness and impacts of the Member's conduct, the Hearing Panel determined that the maximum allowable fine was necessary as a specific and general deterrent.

10. The amount of the costs ordered to be paid by the Member is approximately the sum of the reported costs of the two expert opinion reports commissioned by the Investigation Committee and relied upon by the Hearing Panel. The 'no contest' plea entered by the Member — a choice to neither agree with or defend against the charges brought against the Member — required that the Hearing Panel extensively rely on this information to make informed decisions and to formulate orders that serve and protect the public interest.
11. In accordance with section 30 of the Act, failure by the Member to comply with an order of the discipline committee is an act of professional misconduct.

Respectfully submitted and ordered on behalf of the Discipline Committee at Saskatoon,  
Saskatchewan, this 12 day of July 2023.

*\*Original signed by Panel*

---

Daniel Kishchuk, P.Eng., Chair, Hearing Panel

---

Daryl Andrew, P.Eng., Member, Hearing Panel

---

Chanelle Joubert, P.Geo., Member, Hearing Panel