

# AIPG Disciplinary Procedure Actions 1989 through current

An allegation that a violation of professional ethics has occurred is a serious matter. While AIPG is willing to pursue allegations, it must first receive a written statement of the allegation accompanied by sufficiently detailed information to pursue a formal inquiry. Failure to provide such information results in no action being taken. The following brief summaries of AIPG Disciplinary Procedure actions are provided to document the number and variety of activities resulting in allegations of ethical violations being brought to AIPG's attention and the results of those allegations. The summaries are arranged from most recent to oldest by the year in which the matter was concluded.

The summaries are brief. Many of the relevant ethical issues have been the topics addressed in the *Professional Ethics & Practices* column in *The Professional Geologist*, AIPG's monthly magazine. Discussion of the ethical issues arising prior to 1998 are contained in *Geological Ethics and Professional Practices, 1987-1997*, AIPG Reprint Series #1 (now included within *Geologic Ethics & Professional Practices*, AIPG Reprint Series #2, which is a continuously updated CD). The summaries are generic and do not contain the name of the member charged with violating AIPG's Code of Ethics.

The number of cases is not large. This reflects several factors. First and foremost, most geoscientists practice ethically. Second, alleging that someone has behaved unethically is an unpleasant task. It also requires detailed knowledge of the situation in order that the required burden of proof can be met. While the individual making the allegation, who may or may not be an AIPG member, does not have to file a completed investigation, sufficient evidence of unethical conduct is required to warrant pursuit of the matter. Allegations must be substantiated. Several of the matters listed below were dismissed due to lack of sufficient evidence, and, in one case, the investigation established that the individual bringing the allegation was committing the same ethical breaches as the individual against whom the initial allegation was brought. The unpleasantness and effort required to bring charges no doubt reduces the number of matters brought to AIPG's attention. Third, there are situations in which an allegation would be filed except that convincing evidence cannot be obtained for one of a variety of reasons. Neither the world nor AIPG is perfect. However, AIPG does its best to promote ethical and competent practice in the geosciences. Perhaps AIPG is most successful when efforts to educate geoscientists about ethical issues help prevent the occurrence of unethical practice in the first place. And finally, as indicated by the cases of expulsion summarized below, when someone seriously violates the Code of Ethics, the violations are often multiple, egregious, and may result in additional civil or criminal actions.

## 2019

An AIPG Section President sent a letter to Section members that contained a statement viewed by some recipients as sexist and expressing gender bias. The matter was resolved by published descriptions of

the offensive statement and AIPG's statement that "A respectful and fruitful working environment is fundamental for maintaining a high level of professionalism." (AIPG Code of Ethics Standard 4.4) in the "Navigating 'Me, too' in the geosciences" topic in "Professional Ethics & Practices" Column 171 and the article, "Addressing bias and ethical issues in AIPG communications," both in the *Professional Geologist*, Jul.Aug.Sep 2019.

In 2019, AIPG National was informed that a former member was continuing to represent himself as a Certified Professional Geologist on LinkedIn. This former member was notified of the requirements for membership in order to represent himself as a CPG per the requirements of Bylaws 2.7.4. titled *Loss of Rights Granted Members or Adjuncts*, state, "Any Member or Adjunct who resigns, whose membership in the Institute is suspended or who has been terminated shall lose all rights of Institute Membership, including the right to claim AIPG certification and use the AIPG seal if and as applicable." The issue was resolved with the member renewing his membership to continue representing himself as a CPG.

## **2018**

An allegation was received that a CPG had requested another economic geologist for a copy of his resume and indicated that the CPG intended to include the economic geologist's name and resume as part of a Canadian National Instrument 43-101 report with also obtaining a letter from the economic geologist consenting to the use of his name and resume. The CPG is a Turkish national and the economic geologist is a native Spanish speaker. AIPG's inquiry determined that:

- Language translation difficulties from Turkish to Spanish and/or English and back. These translation difficulties lead to confusion.
- It appeared that preliminary inquiries regarding possible participation in a project by the economic geologist were made. The messages regarding this possible project are somewhat confused due to the language problem and never went very far; no formal agreement was reached.

The inquiry concluded that no ethics violation occurred. The CPG was advised about taking care that mistranslation and other problems did not occur in future projects.

## **2017**

A former CPG sent a letter to the Institute alleging that the Ethics Committee Chairman had made misstatements of fact during a presentation at the GSA Annual Meeting in the fall of 1996. While the letter did not request that any specific action be taken, an inquiry was opened. Because the Ethics Committee Chairman was the subject of the investigation, the matter was referred to the President as required by Section 5.5.2 of the AIPG's Disciplinary Procedures. The Ethics Committee Chairman submitted a rebuttal of the allegations made against him to the President, who concluded that no ethical violation had occurred and terminated the Disciplinary Proceeding.

AIPG's Editor received a proposed article for the *Professional Geologist*. However, before the article could be included in the *TPG*, it was published by the *AAPG Explorer*. Although the AIPG Code of Ethics does not address publication issues, dual submission of articles is unethical. The Committee on Publication Ethics (COPE) contains the most explicit prohibition in their flowchart, "What to do if you suspect redundant (duplicate) publication. COPE's Code of Conduct states under "Best practice for editors would include:... encouraging reviewers to comment on the originality of submissions and to be alert to redundant publication and plagiarism" and "taking steps to reduce covert redundant publication." The AGU's "Guideline B. Ethical Obligations of Authors/Contributors:...7. Avoid unnecessary fragmentation or redundant publication of research reports to artificially increase the number of publications." This case was discussed in "Submitting a paper to two or more publishers at the same time" in "Professional Ethics & Practices" Column 164, *The Professional Geologist*, Oct.Nov.Dec 2017, which noted that AIPG can look at the ethics codes of related professional societies that do address the relevant situation and use them for guidance, as was done in this case. A subsequent topic, "What constitutes publication?" in PE&P column 167, *The Professional Geologist*, Jul.Aug.Sep 2018, provided further guidance on this issue.

## **2016**

An AIPG CPG Member, whose AIPG membership and certification were terminated with prejudice in 2014, was charged with securities fraud by the SEC in September. Member provided geologic reports that purportedly complied with NI 43-101 but did not. "member claimed in his reports that Arco Hills could mine 20 billion tons of high quality silica from its mining claims that could be sold for \$20 to \$30 per ton. Member also represents in his reports the silica in Arco Hills' mining claims contains approximately 460 million ounces of gold within a value of \$805 billion." "Member knew this statement was false and misleading as no assay samples had been submitted by him to any laboratory on behalf of Arco Hills." "Members's false statements regarding the gold and valuation amounts are fraudulent. His calculations indicated that Arco Hills' mining claims would qualify as the largest gold deposit ever discovered in North America and the second largest in the world. Member knew or was reckless in not knowing such representations in his 2011 report were patently false and misleading." On 9/13/16, Member consented to the entry of a permanent injunction in this case without admitting or denying the charges against him. This consent flips the burden of proof—Member cannot deny the allegations contained in the SEC's complaint. The 2014 AIPG action against Member formed much of the technical basis for the SEC case.

In January 2016, Member consented to the Arizona's Board of Technical Registration's Letter of Reprimand and agreed to pay penalties for reports Member had written on properties in Maricopa and Yuma Counties. The reports "failed to apply appropriate knowledge and skill in the practice of geology" and had no PG seal. Member's Arizona PG license had expired in 2004.

## **2015**

An inquiry about a Virginia geoscientist who was using the CPG abbreviation but who is not a member of AIPG was resolved by recognizing that Virginia's Professional Geologist's license allows holders to use the CPG abbreviation.

AIPG learned that a CPG's Certification number was being improperly used by another individual. The CPG was provided with as much information about the matter as AIPG had received so that the member was aware of the situation and could take appropriate action.

The President of a public company copied parts of another geologist's report on a Peruvian property while omitted a variety of material information. This individual claimed to be a "Professional Geologist and Qualified Person" but provided no information about professional affiliations, etc. to back up the claim. The matter became the subject of a private lawsuit.

## **2014**

A CPG who had contracted a firm to do work subsequently failed to pay the firm's invoices despite verbal and written promises to pay the invoices. During this time the CPG was paid by the client for whom the work had been done and the CPG paid another subcontractor who worked on the project. An inquiry was instituted whether AIPG Ethics Codes Standards 3.4, 4.1, and 4.2 had been violated. In response to the initial inquiries into the matter, the CPG again promised to make to pay the outstanding invoices along with accrued interest. Although some payments were made, the CPG subsequently became delinquent again. The matter continued into 2015.

An individual's AIPG membership and certification was terminated with prejudice as a result of a resignation during the pendency of a Disciplinary Proceeding in which formal allegations of violating Standard 2.2: Members should be accurate, truthful, and candid in all communications with the public; Rule 2.2.2 A Member shall not issue a false statement or false information which the Member knows to be false or misleading, even though directed to do so by an employer or client; Rule 2.2.3 A Member shall avoid making sensational, exaggerated, and or unwarranted statements that may mislead or deceive members of the public or any public body; and Standard 3.3: Members should serve their employers and clients competently. The case was based on the individual's preparation of a report on a mineral property purportedly prepared using the standards of Canadian National Instrument 43-101 that was found to be deficient in a variety of ways including the estimation of mineral resources that did not comply with the standards of NI 43-101 or accepted mining industry practices. Because the individual holds geologic licenses from several states, a notice was sent to these states notifying them of the termination with prejudice.

During 2104 AIPG received separate information that three former members were still claiming AIPG certification in professional reports. Notification was sent informing these individuals that they could no longer claim AIPG certification.

A potential investor contacted AIPG to verify the credentials of an individual promoting an African mining venture. The AIPG Certification and other credentials claimed by the promoter in fact belonged to a CPG with a different name and address. The CPG whose credentials were being misused was provided with copies of all the information AIPG received so that he would be aware of the situation and could take appropriate action. The individual who contacted AIPG was informed that the credentials were being misappropriated.

AIPG received a notice from the Ordre des géologues du Québec regarding a CPG who had claimed Qualified Person status in NI 43-101 reports on properties located in Québec without having obtained full or temporary Québec licenses. This situation was addressed in *Professional Ethics & Practices* columns 146 and 147.

### **2013**

In mid-November a report written by a CPG asserting that billions of ounces of gold and silver occurred on six essentially unexplored association placer claims in Nevada generated quite a stir in the junior company mining press. Many mining professionals wondered why AIPG had not already taken action against the CPG author in emails that flew around and at the Northwest Mining Association annual meeting in early December. Those expressing this opinion apparently believe that disciplinary procedures, whether AIPG's or those of any other organization, are run by the Queen of Hearts from *Alice's Adventures in Wonderland* whose "Off with his head" seemed to be her favorite utterance. That's not the way the process works, nor should it.

When a potential ethical violation occurs, the first thing that needs to happen is that you, the person who becomes aware of the problem, needs to inform the appropriate authorities, such as AIPG, that there might be a problem. This initial allegation needs to be supported by documents and thoughtfully written out facts that allow a decision to be made regarding whether or not a potential ethical violation has occurred. Section 1.3 of the AIPG Disciplinary Procedures states: "Allegations shall be made in writing; shall be based on the personal knowledge of and be signed by the person making the allegations, shall identify the member or applicant against whom the allegations are made (the respondent), and shall describe the conduct giving rise to the alleged violation(s). Allegations shall be accompanied by copies of any letters, reports, documents, or statements upon which the allegations are based, and a list of persons (potential witnesses) who have personal knowledge of the matter, including a brief statement of what the knowledge of each such witness is alleged to be."

Once an allegation is received by AIPG (either through the Executive Director or directly to the Chair of the Ethics Committee), it is reviewed to determine what further action is needed. In some cases, the allegation can be dismissed at this stage, but frequently further inquiry into the facts and circumstances is needed as set out in Section 1.4 of AIPG's Disciplinary Procedures. After sufficient inquiry has been made to reach conclusions, which frequently takes time, the case is either dismissed or formal charges

can be brought. Bringing formal charges requires that a document be prepared that describes in detail what occurred or how a report violates specific sections of the Code of Ethics. Writing such a document takes time. Once the formal charges are written, they, along with supporting documentation, are sent to the respondent, who then has an opportunity to challenge the specific charges and to request that an adjudicatory hearing be held. If a hearing is requested, the members of the Adjudicatory Board are agreed to, a time, place, and procedures for the hearing are set, and the hearing occurs followed by the preparation of the Adjudicatory Board's findings, conclusions, and sanctions to be imposed. An appeal of the Adjudicatory Board's decisions can be made to the Executive Committee. The point being that this process takes time, frequently months. The respondent has the right to resign from AIPG at any time thereby terminating the process.

In the November case, a couple of CPGs familiar with subject matter provided written opinions based on their examination of the problematic report. These opinions helped in the preparation of formal charges. The formal charges in this case, together with a cover letter and supporting documentation, were 224 pages long. The respondent elected to resign and his membership and certification were terminated with prejudice (Disciplinary Procedures Section 6.2).

AIPG received inquiries from the Ordre des géologues du Québec regarding the certification status of 4 CPGs who had claimed Qualified Person status in NI 43-101 reports on properties located in Québec without having obtained full or temporary Québec licenses. This situation was addressed in *Professional Ethics & Practices* column 146.

AIPG received an inquiry from the Ontario Securities Commission (OSC) regarding the certification status of a former CPG who was listed as a Qualified Person in an NI 43-101 report. AIPG informed the OSC that the individual's certification had lapsed due to non-payment of dues. This situation was addressed in *Professional Ethics & Practices* column 147.

## **2012**

AIPG received queries regarding two former CPGs whose membership and certification lapsed due to non-payment of dues who were still claiming certification. The standard "cease and desist" letters were sent.

## **2011**

AIPG received information suggesting that a former CPG was still claiming his certification. The former member stated that he had not been claiming certification since his membership lapsed and he didn't know who had inappropriately claimed his was certified by AIPG and such claims were done without his knowledge.

Information was received that a CPG was selling mining properties using unsupported mineral resource and mineral reserve estimates. When an ethics inquiry was initiated, the CPG resigned.

## **2010**

A member alleged that another member had violated AIPG's Code of Ethics. In making these allegations, the member used pejorative references to the member accused of misconduct. Inquiry demonstrated that the member making the allegations was aware that the allegations made were untrue. The member making the allegations received a private reprimand.

A review of the documents submitted in support of a member applying for upgrade to Certification uncovered the fact that the applicant for certification was a "young Earth" believer, that is one who believes in the literal truth of the first chapter of Genesis and that the Earth is about 6,000 years old. Further inquiry revealed that the applicant for certification had published a number of articles supporting his beliefs and condemning the geologic community's accepted age of the Earth of around 4.5 billion years. Further, some of these publications highlighted the individual's geologic degrees and possession of a state Professional Geologist license. By publishing these views that conflict with accepted geologic knowledge and in this manner, the member was found to have violated Rules 2.2.1 and 2.2.3 of the AIPG Code of Ethics, namely: Rule 2.2.1 A member shall not knowingly engage in false or deceptive advertising, or make false, misleading, or deceptive representations or claims in regard to the profession of geology or which concern his or her own professional qualifications or abilities or those of other geologists.

Rule 2.2.3 A member shall avoid making sensational, exaggerated, and or unwarranted statements that may mislead or deceive members of the public or any public body.

The individual resigned his AIPG membership and his application for Certification was thereby withdrawn.

## **2009**

An applicant from a foreign country was found to have prepared a draft of a Canadian National Instrument 43-101 report that contained a number of deficiencies indicating that the applicant failed to understand the requirements for preparing such reports. The application was rejected.

A member discovered that an individual incarcerated in Arizona had been a CPG. However, the incarcerated individual resigned his membership in 2005 so no further action was necessary.

## **2008**

The listed qualifications of the principals on an environmental consulting firm's website included "CPG" in their qualifications. None of these individuals were members of or were certified by

AIPG. Inquiry indicated that these individuals did have state “Professional Geologist” licenses.

A letter was sent to the firm requesting that the biographies use “PG” rather than “CPG.”

A Certified Professional Geologist (CPG) specializing in mining geology prepared a report stating that \$billions in gold, silver, platinum, palladium, rhodium, magnetite, ilmenite, and sand and gravel underlay square miles of valley fill in southern Arizona to depths of 100, 500, or 1,000 feet. The report assumed uniform distribution of assay values throughout the extremely large volumes involved. This report ignored a number of critical factors including the fact that uniform distribution of values through such a large volume is not possible due to the known heterogeneity of valley fill, the fact that the underlying assays were of dubious quality and were collected by unknown parties from unknown locations, the fact that multiplying tons times grade times metal price equals value is a fraudulent calculation because the costs of extraction are not included. The CPG was aware of but apparently unconcerned by the fact that his report was being used to raise money in mining claims purportedly covering the square miles of purportedly valuable ground. Following an investigation and the outlining of the potential formal charges of violations of AIPG’s Ethics Code, the respondent CPG resigned, thus terminating the case.

## **2007**

The carryover case from 2006 continued throughout the year for a variety of reasons and was continued into 2008.

A CPG was required to take a professional ethics course as part of complying with an order from a state licensing board. Ethics Committee Chairman provided the required course, which included a test.

## **2006**

A Certified Professional Geologist (CPG) prepared an appraisal and valuation of a property purportedly containing one or more beds of a valuable industrial mineral that had a substantial total thickness. The CPG’s appraisal and valuation were used by the respondent in a condemnation proceeding in arguing the value of the land to be condemned. The CPG’s appraisal and valuation included no samples collected from the tract in question, contained no detailed information on the physical and chemical properties of the allegedly valuable industrial mineral so that its market potential could be assessed, and generally failed to provide the information called for by the Society of Mining, Metallurgy, and Exploration’s A Guide for Reporting Exploration Information, Mineral Resources, and Mineral Reserves, which was determined to be the most relevant standard guideline for estimates of the type made. Further, the party making the allegations provided documentation, including drilling and sampling done on the condemned tract, demonstrating that there were no beds of the allegedly valuable industrial mineral within 100 feet of the surface of the condemned tract. The resulting disciplinary procedures continued into 2007 and 2008.

A letter was received alleging that a geologist had violated the conflict of interest provisions of Standards 3.1 and 3.2 in connection with the activities of his personal firms and those of his employer. Because the

individual against who the allegations were made was not and never has been a member AIPG, no action could be taken. However, the individual's name was recorded along with the letter containing the allegations in case the individual should apply for AIPG membership.

The Institute learned that a prominent geologist who is known for advocacy of professional ethics and for debunking the poor science and practice of others has been publishing papers identifying himself as a CPG when in fact he has never been a member of AIPG at any level. Nor is the individual a member of the AAPG's Division of Professional Affairs, whose 'Certified Petroleum Geologist' title is also abbreviated CPG. Normally, when the Institute learns that someone falsely claims CPG status, usually in a report or correspondence, the individual is sent a letter requesting that the individual cease and desist from using the CPG title and noting that 'Certified Professional Geologist' is an AIPG trademark. However, this case is significantly more blatant. Indeed asked about the use of the CPG title, the individual attempted to bluff the issue aside. A more detailed discussion of this matter was included in the "Professional Ethics & Practices" column 106, published in the November/December issue of The Professional Geologist, p. 20-22.

#### **2005**

A member (not a CPG) was disciplined by the California Board for Geologists and Geophysicists (CBGG) for failing "to provide fundamental geologic data, proper site-specific geologic mapping and sufficient documentation to establish an appropriate setback for the geologic conditions for a proposed single family residence site (site). [The member] also failed to provide sufficient geologic documentation or analyses concerning the current Factor of Safety (FS) of landslides that are present adjacent to the slopes on the site and to describe the extent the proposed sub-drains and minimal grading would increase the FS to an acceptable level. In addition, [the member] failed to provide geologic documentation regarding the nature of possible movement within the bedrock, impacts on slope FS and to utilize the findings from earlier geologists' report for the site that documents a prominent site bedrock shear zone. [Member's] undefined proposed building site, inaccurate descriptions and misrepresentations of the geologic conditions at the site are significant deviations from professional standards of practice and are critical to accurately evaluating the geologic/construction safety conditions at the site." The CBGG placed the member's geologist and geophysicist licenses on a 3-year probationary period, assessed a fine, and imposed other conditions on the member's practice. When informed of the foregoing a Disciplinary Proceeding case was initiated but it was terminated when the member resigned.

#### **2004**

More than one member specializing in mineral property valuations sent the Ethics Committee Chairman copies of a report prepared by a CPG that claimed to be a valuation for a quarry from which marble tile could be produced. The report contained the following statements about the potential value of the tiles that might be produced.

- ◆ The property contains 13 million cubic feet of in-situ marble measured vertically from the property boundary.
- ◆ Approximately 50% of the in-situ marble can be used for producing tiles.
- ◆ Thus there are approximately 6.5 million cubic feet of recoverable marble that can be cut into tiles.
- ◆ If the tiles are 12" × 12" × ½" in dimensions, there are  $12" \div \frac{1}{2}" = 24$  tiles per cubic foot; thus there are approximately 156 million saleable tiles.
- ◆ If the 156 million tiles can be sold at retail for \$13 per tile, the gross value of the tiles that can be produced from the property is over \$2 billion.

The owner of the property who requested the report containing the foregoing statements attempted to use the report to obtain loans using the \$2 billion value of the tiles as collateral. However, the foregoing statements contain several material omissions to state material facts; among them are:

- ◆ the calculated 24 tiles per cubic foot allow no space for cutting and polishing each tile. A yield of 12 or 13 tiles per cubic foot is more realistic;
- ◆ the retail price per tile is more than the value of a tile at the quarry due to shipping costs and retailer's costs and profit margin. Further, the value of a tile at the quarry assumes it is cut, polished, and ready to ship, which is greater than in-situ value of the marble to the property owner; and
- ◆ no operating set-back is allowed for the quarry. This is not a reasonable extraction plan from either technical or regulatory perspectives and would not receive the required operating permits if proposed.

The foregoing suggests that violations Canon 2 of the AIPG Code of Ethics and Standards that prohibit making false or misleading statements that would tend to mislead investors may have occurred. Further unsolicited information provided by the CPG who authored the report suggested that he knew of the misleading character of the report and knew that the client wanted the report to raise money. This unsolicited information suggested possible violation of Canon 3, which states that "Members should serve their employers and clients faithfully and competently within their overall professional and ethical obligations." When informed of the initiation of Disciplinary Proceedings beginning with an inquiry into the potential ethical violations stemming from this report, the CPG who authored the report resigned, thus terminating the matter "with prejudice" pursuant to Section 2.7.6 of the AIPG Bylaws.

### **2003**

An allegation was lodged that a CPG has improperly interfered with the professional work of the party making the allegations by advising CPG's clients not to co-operate with a planned water well testing program and by disputing the adequacy and interpretations made by the alleging party. Investigation into the matter revealed a long-standing dispute between the parties over the amount of data needed and the interpretation of the data available. Disputes of this type do occur but do not necessarily indicate that violations of the Ethics Code occurred. The matter was terminated because the information obtained during the investigation not only did not support the allegations but in part supported the position taken by the CPG.

An allegation was made that a CPG had misrepresented his professional qualifications. The allegation

was apparently based on the belief that in order to obtain AIPG's Certified Professional Geologist title, at least a baccalaureate degree in the geosciences with a minimum number of appropriate hours is required. While this is the general, minimum educational requirement for certification, AIPG has always provided that those who could demonstrate the requisite knowledge without having a degree could be certified if they satisfied the spirit of the education requirement. The matter was therefore dropped.

A CPG who was employed by a consulting firm was found to have billed a client a considerable amount of money for work that was not yet performed. On learning of the over-billing, the consulting firm reimbursed the client and dismissed the CPG for cause. The matter was also criminally investigated but no charges were brought because the client had been promptly reimbursed on discovery of the problem and the CPG who was responsible for the over-billing did not receive any additional compensation as a result of the over-billing. The matter was investigated and the allegations were substantiated. However, the CPG did not renew his membership effectively terminating AIPG's jurisdiction in the matter. Nevertheless, a letter summarizing the allegation and the findings of the investigation were placed in the individual's file should he ever try to renew his membership. A proceeding by a state geologic licensing board into these allegations was pending at the termination of AIPG's proceedings.

## **2002**

A formal complaint against a member of AIPG was filed in December of 2002. The complaint alleges that a Member of AIPG made false statements, under oath, during a deposition. Investigation of the allegations was carried over into 2003 but the matter was eventually terminated with no action. AIPG has received inquiries about two other alleged violations, but no formal allegations have been filed.

## **2001**

No new written allegations were brought to the Institute's attention. A couple of individuals discussed potential allegations with the Ethics Committee Chairman over the phone but no written follow-up was received.

## **2000**

Deception in substituting a blank sample for a sample taken from a property: the complainant alleged that the substitution of a blank sample for a sample actually collected from the complainant's property deceived him. Inquiry demonstrated that the substitution was part of the accepted practice of inserting standard, blank, and duplicate samples into a sample stream as means of obtaining data on the reliability of the sample preparation and analysis. A more detailed discussion of the ethics of the use of standards, blanks, and duplicates is contained in the "Professional Ethics & Practices" column in the December 2000 issue of *The Professional Geologist*. In this case, the substitution of the particular sample, and other similar acts demonstrated that the complainant's preferred laboratories did not produce reliable analyses.

The matter was dismissed.

Lying during a deposition: the complainant accused a member of lying during the taking of a deposition. Investigation and related proceedings were continued into 2001.

Solicitation of jobs for a new position while still employed in a previous position: the complainant alleged that the member had solicited work for new consulting entity while still employed by another consulting firm. Also, the member was alleged to have held an undisclosed financial interest in a drilling company used to for client work. The investigation and resolution were continued into 2001.

Practicing without a required state license: a member was found by a state board to have practiced without a required license and was fined \$4,000. The member was reminded of Standard 1.1's requirement that all applicable laws and regulations should be obeyed. The case settled with the issuance of a private letter of reprimand.

Competence of work done remediating a tank battery site and the honesty of reporting the site's conditions: the complainant asserted that a tank battery site had not been sufficiently remediated and that the reports filed with the state regulatory agency were inaccurate. The investigation uncovered a difference of professional opinion regarding the required remediation, which was the subject of an ongoing dialog with the regulatory agency. No dishonesty was involved in the reporting. The matter was dismissed.

## **1999**

Failure to properly complete and file required regulatory forms: this case involves accusations that a member regularly failed to properly complete government-required forms for his clients. These failures lead, in some cases, to the clients' inability to demonstrate that required remediation work was properly completed. Such failures could result in the accused member's clients being required to duplicate the work already done. A formal investigation was conducted and the matter continued into 2000. There were technical difficulties with the original complaint and the matter was dismissed on the advice of counsel.

Responsibility for bad science used to support a policy-based government decision: this matter involved a federal government agency implementing apparently policy-based decisions that were purportedly backed by scientific studies performed by a private firm under contract. In essence, the complainant asserted that the agency used the private contractor's work to support a foregone conclusion. The accused AIPG member was an employee of the private firm and his only identifiable act was to sign a cover letter for a document transmission to the agency. Documents provided by the complainant suggest that the private firm's scope of work was limited and did not address all possible geologic aspects affecting the agency's ultimate decision. Because the conclusion allegedly ignored published geologic information and because the accused member worked for the private firm, the complainant believes the member should be found liable for the agency's misconduct.

The documents provided in support of the complaint failed to show that the accused member had practiced improperly in some way. His being an employee and signing a cover letter are not enough. The documents did not provide convincing evidence that the private firm had done anything improper in completing the scope of work it accepted. However, documents do support (although do not prove) the contention that geology was misused or ignored in arriving at the policy decision. The question remains, "Who was responsible?" The common practice in government agencies and private firms of not naming those responsible for doing specifically described parts of a project frustrates inquiry into who did what and who should be held responsible. Unfortunately, AIPG cannot cure all the world's problems. The matter was concluded as "not proved" and no formal charges were initiated against the accused member.

### **1998**

Making untrue, exaggerated, and/or unwarranted statements: a member complained that a Section officer abused his position by (1) making untrue, unwarranted, and exaggerated statements in advocating a particular position regarding administration of regulations affecting the practice of geology in the Section's state, (2) using his position as a Section officer to lend credence to his views, and (3) violating AIPG's Policy on Advocacy by presenting the untrue, exaggerated, and/or unwarranted statements. Sufficient documentation of the alleged activities was provided to permit an inquiry to be conducted. The investigator obtained additional information from the complainant, the respondent, and others having knowledge of the facts. The investigation established evidence supporting some of the allegations but not others. Indeed the investigation demonstrated that the complainant had himself made exaggerated and unwarranted statements in making the complaint. Some of the statements made by the respondent which the complainant alleged to be false were verified as being true.

The investigation provided sufficient evidence to bring formal charges against both the original respondent and the original complainant. The facts of the case suggested that private letters of admonition and, in the case of the Section officer, additional sanctions, would be appropriate. Both members accepted the proposed letter of private admonition, and, for the Section officer, additional sanction, rather than going forward with a formal hearing as provided for by the Disciplinary Procedures, thus terminating the case.

Failure to pay trade bills: a member complained that another member had failed to pay subcontractors' bills and that the member in question had reputation for failing to pay trade bills. Contracting for work without intention of paying for it is dishonest and therefore clearly unethical. However, AIPG is not a collection agency. Billing disputes and/or late payments are not uncommon and the circumstances of individual cases vary widely. As a result, establishing the intent to not pay and thus an ethical violation is quite difficult. In this case, the complaining member was unable to provide sufficient support for his allegations that the member complained about routinely failed to pay his trade bills, and, therefore, no formal action was taken.

## **1997**

Disagreement over applicability of a particular scientific procedure leading to allegations that the other side was doing a bad or incompetent work: two members and their colleagues have been involved in a dispute involving the validity and applicability of a particular scientific procedure. In the course of their dispute, statements were made by one side that the member on the other side viewed as maligning his professional competence. This led to the complaint. The ethical issue presented was not concerned with the scientific procedure being debated--science has a well-developed procedure for dealing with such disputes. Rather the ethical issue was whether the respondent had made unwarranted statements regarding the professional competence of the complainant. Both the complainant and respondent agreed that the ethical issue differed from the scientific and to the impartiality of the investigator appointed. The investigator obtained copies of the relevant publications and other documents and interviewed participants at meetings at which one side or the other had made relevant presentations and answered audience questions. Although the respondent's published papers did contain the phrases the complainant viewed as being derogatory, the investigation concluded that those reading the papers and those who attended meetings where the disputants positions were stated did not view the respondent's written or oral statements as being personally derogatory or as challenging the complainant's professional competence. The sensitivity of the disputants to statements made by the other side appears to have been far greater than the sensitivity of those not involved. The investigation also demonstrated that in making their respective arguments, each side in the dispute was not directly addressing the arguments made by the other side. The matter was concluded by a letter stating that the investigation had not sustained the charges made in the complaint and that in pursuing the debate over the validity and applicability of the procedure in question, greater care be made to avoid words and phrases which could be viewed as inflammatory by the other side.

## **1996**

Application: a member challenged the ethical conduct of an applicant following publication of the applicant's name in *The Professional Geologist*. The complaint included the names of additional members who had knowledge of the relevant facts and who were willing to confirm the allegations. An investigation produced three written statements supporting the alleging ethical violations and formal charges were brought against the respondent applicant. The charges alleged violations of Standards 3.3 and 3.4 and alleged that the applicant/respondent had (1) deliberately assigned an unqualified individual to a project to "demonstrate" the individual's lack of qualification, (2) failed to transfer work to a branch of the consulting firm for which the applicant worked that was better qualified to perform the services the client requested, and (3) lied to a manager regarding whether a client had been given performance guarantees that were not met and failure to initiate a project. The applicant chose to withdraw the application rather than contest the charges.

Client "ownership": a complaint alleged that a member had "stolen" clients on leaving a consulting firm. The investigation revealed that at the time of the member's departure from the consulting firm, there was

no contractual agreement covering clients in effect (an earlier contract had expired). Further, informing clients that one is leaving employment and the resulting change in client contact is good business practice (although the exact manner and timing of such announcements require careful attention to avoid problems). The client is then free to choose whether to continue with the current firm or move with the individual with whom it has been working (assuming the individual is still available to do the work in the new situation). The complaint was therefore dismissed.

This case involves the general area of employment contracts, law, and non-compete clauses. Misuse of proprietary information or techniques may present legitimate ethical problems but were not an issue in this case. Those faced with similar situations should consult with an attorney as the particular circumstances and law vary with each situation and jurisdiction.

### **1993-1995**

No written allegations were received during these years.

### **1992**

A complaint was received but the complainant failed to provide sufficient evidence to warrant an investigation.

### **1991**

Falsified time sheets on a job led to criminal conviction and expulsion from AIPG: a member was convicted of overcharging a client by more than \$100,000 through submission of false time sheets.

Expulsion from AIPG was based on Standards 1.1 and 2.2.

Misuse of AIPG Seal: there were two cases in 1991 involving the misuse of AIPG's certification seal by members who had been suspended for non-payment of dues. In one case, it was determined that the use was unintentional and no adverse action was taken. In the other case, the member had joined the Institute in 1973, had been suspended in 1974 for non-payment of dues when payment was made with an NSF check. The 1991 use of AIPG's certification seal prompted a letter to cease and desist from claiming AIPG membership, but as the individual was not a member, no other formal action was taken. If this individual should re-apply for membership, this misuse of AIPG's seal would be taken into consideration in the application review process.

Misrepresentation of professional qualifications: a complaint was received that an AIPG member's Masters degree was in education, not geology. Although the Masters degree was in education, the member had more than sufficient geology credit hours to meet AIPG membership requirements and the complaint was dismissed.

**1990**

No written allegations were received.

**1989**

False statements about gold reserves leading to state civil and criminal actions for violation of the securities laws and expulsion from AIPG: a member was president of two small mining companies that had sold investments in gold to investors from a number of states in violation of state securities laws. Thirteen states issued Cease & Desist Orders against member and the companies. The AIPG complaint alleged that the member's geologic reports contained unwarranted claims, omitted telling investors about the various state securities actions, and omitted to tell investors of the criminal convictions of two of the member's associates. Among other representations, the member told investors that the properties contained gold reserves while at the same time telling the County Assessors in the counties in which the properties were located that there were no reserves to avoid paying ad valorem taxes to the counties. Either reserves existed or they didn't; the member couldn't have it both ways. The charges were presented at a hearing, which concluded that the member had violated Sections 2.1, 2.5, and 2.6 of the Code of Ethics and recommended expulsion from AIPG. Subsequent to AIPG's expulsion, the member was criminally charged and convicted in connection with these activities.

Copying a former employer's report and submitting it as new work: an associate member copied a report prepared by a former employer and submitted it as the associate member's own, new work. The associate member resigned following the filing of formal charges.