

IN THE MATTER OF THE *ENGINEERS AND GEOSCIENTISTS ACT*,
R.S.B.C. 1996, c. 116

and

IN THE MATTER OF AHMED RAZA SYED, P.Eng.

Date of Hearing: December 20, 2018

Discipline Committee Panel: Neil Cumming, F.A.C.I., F.E.C., P.Eng., Chair
Thomas Leung, P.Eng., Struct. Eng., F.E.C.
Dave Ricketts, M.Sc., P.Eng., F.E.C.

Counsel for the Association: David G. Volk

SECTION 31(7) DETERMINATION

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 (the "Association") was convened pursuant to s. 31(7) of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the "Act") to consider an *ex parte* application for an interim order under s. 31(7) of the Act in the matter of Ahmed Raza Syed, P.Eng.

[2] The Association seeks an interim order to suspend Mr. Syed from practicing engineering or, in the alternative, an interim practice restriction to restrict him from practicing professional engineering for glass guard railing systems, and from serving as the registered professional of record for any project where he is responsible for the design and field review of glass guard railing systems, pending the completion of an inquiry and the issuance of a decision under s. 32 of the Act.

[3] Section 31(7) of the Act provides as follows:

31(7) If the discipline committee considers that a delay in holding an inquiry under section 32 concerning a member, licensee or certificate holder would be prejudicial to the public interest, the discipline committee, without giving the member, licensee or certificate holder an opportunity to be heard, may suspend the membership, licence or certificate of authorization, or restrict the scope of practice, of the member, licensee or certificate holder, until an inquiry and decision under section 32.

B. History of Proceedings

[4] On June 27, 2016, Cam Edwards, a building inspector with the City of Langford (the "City"), filed a complaint concerning Mr. Syed who had been retained by a glass installer to certify the design and installation of seamless glass guards at two residential properties. When the City requested guard certification for one of the properties, Mr. Syed provided a basic letter stating compliance and a Schedule C but failed to provide a Schedule B or design drawings. Mr. Edwards alleged that Mr. Syed failed to provide sufficient information to demonstrate compliance with the Association's Professional Practice Guidelines – Designing Guards for Buildings ("Guard Rail Guidelines").¹ Mr. Edwards alleged that Mr. Syed's documentation in relation to the second property was also insufficient and that he changed the design to provide additional support after repeated requests from the City for information.

[5] After filing the complaint, Mr. Edwards identified concerns regarding two additional projects in which Mr. Syed was involved (a duplex and two townhouse units). Mr. Edwards alleged that: (a) Mr. Syed's submission for the duplex was not only deficient but included an ambiguous reference to designing the guard to resist the load exerted by a "ladder"; and (b) Mr. Syed failed to submit a Schedule C for the guard rails for the townhouse units and failed to respond to the City's request to review his design.

[6] The Association notified Mr. Syed of the complaint and requested a response by July 25, 2016. As Mr. Syed did not respond, the Association sent further letters on August 18, 2016 and September 8, 2016 requesting a response. On December 1, 2016, prior to receiving a response, a designated reviewer recommended further investigation of the complaint. On December 8, 2016, the Investigation Committee resolved to investigate the matter and appointed a Subcommittee. By letter dated January 27, 2017, Mr. Syed was directed to provide his complete files for the four projects. Mr. Syed failed to provide his files. The matter was referred back to the Investigation Committee which directed the issuance of a Notice of Inquiry alleging a breach of s. 30(4) of the Act. That matter proceeded to an inquiry and has concluded.

[7] On April 25, 2017, Mr. Syed provided a written response to the complaint allegations.

[8] On July 31, 2018, the Association retained Rudolf Kevesdi, P.Eng. as an expert to assist with the investigation of the complaint and to provide his opinion regarding the glass guard rails on the four properties. On September 6, 2018, Mr. Kevesdi provided his report indicating that Mr. Syed had designed glass guards that did not meet the design load requirements of the British Columbia Building Code, 2012 (the "Code") for three of the projects.

[9] By email dated September 24, 2018, the Association's Investigation Manager advised Mr. Syed that the Subcommittee wished to conduct an in-person interview in early to mid-October. The interview did not proceed until November 1, 2018 due to Mr. Syed's unavailability. On November 13, 2018, the Subcommittee issued its Investigation Report. On November 22, 2018, the Investigation Committee passed a motion directing staff to forward the file for legal review and to draft a Notice of Inquiry which was issued on December 18, 2018. The inquiry is scheduled to proceed on February 20 and 21, 2019.

¹ The Guide Rail Guidelines were issued in May 2013.

C. Evidence

[10] The Notice of Inquiry contains allegations that Mr. Syed engaged in unprofessional conduct or demonstrated incompetence in relation to four projects in Langford in which he was responsible for the design and field review of glass guard railing systems: (a) █████ Navigators Rise ("Navigators Rise"); (b) █████ Timber View ("Timber View"); (c) █████ and █████ Champion Way ("Champion Way"); and (d) █████ and █████ Copper Rock Court ("Copper Rock"). These properties are collectively referred to as the "Projects". The particulars of allegation are as follows:

- (a) Mr. Syed did not perform adequate engineering work or analysis prior to the installation of glass guards at the Projects;
- (b) the glass guards installed at Navigators Rise, Timber View and Copper Rock do not meet Code requirements because they are inadequate to resist all applicable loads;
- (c) the design drawings which Mr. Syed sealed for Navigators Rise and Timber View are missing material design information;
- (d) Mr. Syed signed and sealed Schedule B Letters of Assurance indicating that he had designed the glass guards at Navigators Rise, Timber View and Copper Rock prior to their installation and that their design substantially complied with the Code in circumstances where he did not perform adequate engineering work or analysis prior to the installation of those glass guards;
- (e) Mr. Syed signed and sealed Schedule C-B Letters of Assurance for Navigators Rise and Timber View indicating that he had fulfilled his obligations for field review and that the design of the installed glass guards substantially complied with the Code in circumstances where he had not conducted any field reviews or performed adequate engineering work or analysis prior to the installation of those glass guards;
- (f) Mr. Syed breached Bylaw 14(b) by failing to retain adequate records of his assessments, designs, load calculations and field reviews in relation to the Projects; and
- (g) Mr. Syed undertook and accepted responsibility for the Projects in circumstances where he lacked sufficient training or experience in the practice area of engineering of glass guard systems.

[11] For the purposes of this application, the Association places primary reliance on Mr. Kevesdi's expert report and Mr. Syed's responses to questions during the in-person interview.

[12] Mr. Kevesdi reviewed Mr. Syed's documentation and conducted his own calculations to determine whether the glass rail guards at the Projects met Code requirements; he also conducted site visits with respect to Navigators Rise, Timber View, and Copper Rock. Mr. Kevesdi provided the following observations in his report:

- (a) Navigators Rise – The documentation was deficient. The factored stress of 12mm tempered glass around the holes, depending on the load combination, exceeded the factored resistance by 8% to 116%. While the Code requires free-standing glass guards to have a continuous rail cap, this particular guard rail did not initially have a cap. Mr. Syed's documents and design failed to comply with the Guard Rail Guidelines because the glass, cap rail and stand-off anchorage design failed

to meet design loads and there was no fail-safe load path in the event of glass breakage. The continuous cap rail which was subsequently installed also exceeded bending resistance for uniformly distributed vertical loads.

- (b) Timber View – The design and field review documentation was deficient. The preliminary design drawing: (i) failed to show the complete layout of the glass guard panels; (ii) failed to specify the material and anchorage detail of the stand-off to the stair stringer; (iii) failed to specify the glass type and thickness; (iv) failed to provide a stair handrail; and (v) contained general notes that referenced applicable standards and specified strength of materials that were not used. The design drawings for the glass guard on the exterior deck reflected the same installation details as the design drawings for Navigators Rise. The glass guard installed on the exterior deck was capless at the time of the site visit. Proper field review reports were not provided.
- (c) Champion Way – Mr. Syed submitted a letter to the City confirming that he had conducted a field review of installation confirming compliance with Code requirements and confirming that the glass type and thickness was “structurally good” to carry the load of a ladder pushing against the glass. The letter was not sufficient as the Guide Rail Guidelines require shop drawings. There was no field review report or letter of assurance (Schedule B or C-B).
- (d) Copper Rock - Design shop drawings were not provided. The glass strength design failed to meet design loads and did not provide a fail-safe load path in the event of glass breakage (as a continual cap rail was not installed).

[13] Based on his review, Mr. Kevesdi opined that Mr. Syed lacked a proper understanding of the principles governing design and implementation of glass guards and safety requirements and was not qualified to carry out design and approval of glass guards.

[14] The Association also relies on the transcript and an audio recording of the interview. The Subcommittee summarized the evidence which Mr. Syed provided during the interview in the Investigation Report. That summary states in part:

1. He is not documenting his actions taken on-site during field reviews. Mr. Syed does not have field review notes or field review reports for the Projects. After his field reviews, he sent a letter advising the guardrails comply, but no further field review documents exist.
2. Field inspectors are conducting field reviews for Mr. Syed and he was not able to explain how he provided direct supervision of the field inspectors.
3. ...
4. ...
5. ...
6. Typically, he became involved in the Projects after the guardrails were built. His role was to provide sign-off documentation confirming the guardrails complied with the required standards. While Mr. Syed created drawings for some of the Projects, the drawings were only

for his own records and were done once the Authority Having Jurisdiction approved the guardrails.

7. When providing the engineering services for the Projects, he did not request design drawings from others for the substructure reinforcement of the guardrails. He stated that the substructure has been designed by others and believes this is sufficient comments about the substructure. He did not believe it was important to review the design drawings for that component and assessed the adequacy of the substructure through visual inspections.
8. When asked if topless glass guards were acceptable, Mr. Syed said that it was acceptable to have topless glass guards structurally, but not acceptable from a safety standpoint. He was unable to clarify this point. Mr. Syed gave conflicting responses about whether topless glass guards were acceptable under the Guardrail Guidelines.
9. He was unable to explain the difference between Limit States Design and Allowable Stress design.
10. When asked to calculate the tension force for the load of 1 in a diagram provided by the subcommittee..., he was unable to do so.
11. He was unable to explain the standard referenced by the BC Building Code for the design of glass or the functional statements and safety objectives specified in the BC Building Code.
12. He could not summarize what the Guardrail Guidelines specify about guardrail design. Mr. Syed stated he reads relevant guidelines ahead of conducting work in a given area, but does not know the information found in the Guardrail Guideline offhand.
13. He was unable to explain how the occupancy category for a building would influence the guardrail design.
14. He was unable to name different glass types used for guardrail design, except tempered glass and was unable to explain the advantages and disadvantages of tempered glass. Mr. Syed stated he only uses tempered glass in his guardrail designs.
15. When asked about other glass guard configurations that exist, Mr. Syed drew a diagram... demonstrating one configuration but was unable to provide further configurations that could be used in glass guard designs.
16. ...
17. He could not recall specifically how many field reviews he conducted for some of the Projects or when field reviews were carried out.
18. ...
19. ...
20. ...

21. Mr. Syed was unable to answer how he calculated the loads on the connection between the guardrail and the substructure at the base of the guardrail for the drawing for Project II. Mr. Syed stated he only conducted visual inspections to determine that the details on the drawings were accurate.
22. He admitted that the thickness, width and height of glass were not noted on his drawings for all the Projects.
23. He was unable to clearly explain the load paths on the drawings for Project I.

[15] Based on a review of the transcript and excerpts of the audio-recording played during the hearing, the Panel accepts that these statements accurately summarize Mr. Syed's responses.

D. Ex Parte Application

[16] At the outset of the hearing, the Panel questioned why notice had not been provided to Mr. Syed as it was concerned about proceeding on an *ex parte* basis.

[17] The Association explained that, although the complaint was filed in 2016, it was not until Mr. Kevesdi submitted his expert report in September 2018 that it became apparent how serious the alleged misconduct was. The Association submits that the Subcommittee then moved expeditiously to schedule an in-person interview which revealed further troubling evidence which shortly thereafter led to a decision to move to an inquiry. The Association also referenced Mr. Syed's lack of cooperation with the investigation in failing to produce his files and the discipline committee decision finding that he had contravened s. 30(4) of the Act. According to the Association, Mr. Syed has demonstrated a pattern of not being able to meet deadlines.

[18] The Panel permitted the Association to proceed and indicated that it would elaborate on its reasons for doing so in this decision. In determining whether to proceed without notice to Mr. Syed, the Panel recognized that the duty of fairness applies to applications of this nature although urgency may justify a departure from those requirements: *Derry v. College of Physicians and Surgeons*, 2002 BCSC 916; *Hannos v. Registered Nurses Association*, [1996] B.C.J. No. 138 (S.C.). Fairness generally requires notice of an application and an opportunity to respond. Section 31(7) expressly confers discretion to take interim action without first affording a member the opportunity to be heard; however, that discretion must still be exercised reasonably.

[19] The Panel accepted that the circumstances in this case were sufficiently urgent to warrant exercising its discretion to proceed on an *ex parte* basis. Although 2 ½ years have elapsed since the complaint was filed, the gravity and extent of the alleged misconduct was not apparent until Mr. Kevesdi submitted his report dated September 6, 2018 and the in-person interview was conducted in November. Mr. Kevesdi explained that the glass guard rails for three of the Projects did not meet the design load requirements of the Code. The interview led to further concerns that Mr. Syed had submitted signed and sealed field review letters to the City which were not correct and that he did so without undertaking proper engineering work in advance of the installation of the guard rails. Mr. Syed's responses during the interview also led to concerns that he may have been acting as a "seal for hire".

[20] The Panel accepted that this was an urgent application because the evidence gathered in the latter stages of the investigation revealed profound public safety concerns. There is a significant risk that guard rails that are not properly designed and installed in accordance with Code requirements may fail, which, in turn, can lead to serious injury or death. Given Mr. Syed's extensive involvement in guard rail projects and his own evidence which supports deficiencies in his process, the Panel concluded that it was appropriate to proceed on an *ex parte* basis.

E. Test under s. 37(1)

[21] In common with other regulatory statutes that govern professions, s. 31(7) of the Act authorizes the Panel to order an interim suspension or practice restrictions where it determines that a delay in holding an inquiry would be prejudicial to the public interest. The Panel recognizes that ordering an interim suspension or practice restriction pending the outcome of the inquiry is an extraordinary remedy that should be used sparingly: *Scott v. College of Massage Therapists of British Columbia*, [2016] B.C.J. No. 814 (C.A.) at para. 41; *Hannos*. The following factors must be established in order to justify such action:

- (a) a *prima facie* case;
- (b) risk to the public interest; and
- (c) urgency.

[22] A *prima facie* case is one "which covers the allegations made and which, if they are believed, is complete and sufficient to justify a verdict in the complainant's favour in the absence of an answer": *Scott*, paras. 75 and 80. The Panel is not making findings as to whether the allegations in the Notice of Inquiry are substantiated; rather, the focus must be on whether interim action is necessary to protect the public pending the outcome of the inquiry: *Scott*, paras. 44 – 45.

[23] In terms of risk or prejudice to the public interest, *Scott* provides the following guidance:

- the Panel must be satisfied that there is a real risk to members of the public if an order is not made. It is not enough for the Panel to consider that an order is merely desirable;
- the Panel should consider the seriousness of the risk to members of the public if the member is allowed to continue practicing without restriction. This includes consideration of the seriousness of the allegation, the nature of the evidence and the likelihood of the alleged conduct being repeated if an interim order were not imposed;
- the Panel should consider the impact which an order may have on the member. An order will impact upon the member's right to practice his profession and may also impact financially and on the member's reputation. The Panel must balance the need for an interim order against the consequences for the member and satisfy itself that the consequences of the order are not disproportionate to the risk from which the Panel is seeking to protect the public;
- if the Panel determines that an interim order is necessary, it should first consider whether interim restrictions on practice would be sufficient and proportionate before considering a suspension.

F. Analysis and Findings

(i) *Is there a prima facie case?*

[24] The Panel first considered the source and potential seriousness of the allegations in the complaint. The allegations, which are clear and cogent, came from a reliable source. The building inspector's concerns are documented in a written complaint and email communications. There is no indication that the allegations were motivated by improper considerations, exaggerated, or manifestly unfounded; on the contrary, they are consistent with the available documentation and some of the responses provided by Mr. Syed during the interview.

[25] The expert report provides support for the concerns identified in the complaint. Mr. Kevesdi confirmed that the documentation submitted to the City was deficient as it lacked important details and, in some cases, was incorrect. For example, in relation to Timber View, Mr. Kevesdi observed:

Letter dated June 15 to the City of Langford is a confirmation of conducted field review of installation and confirmation of compliance with the design documents and with the 2012 BC Building Code design and safety requirements. **It has been confirmed by engineering calculations that the glass guard designed by Mr. Syed does not meet the design load requirements of the Code**, site visit confirmed that the installation is without a cap, therefore all compliance statements provided in the letter are incorrect and the installed. [Emphasis added]

[26] Mr. Kevesdi determined that the glass guards installed at Navigators Rise and Copper Rock also failed to meet Code requirements because they were inadequate to resist all applicable loads.

[27] The Panel recognizes that Mr. Syed did not have an opportunity to provide evidence at this hearing. However, Mr. Syed's explanation of his field review process during the interview raised additional concerns. Mr. Syed acknowledged that he did not prepare designs in advance of the glass guard rail installations for the Projects, despite giving letters of assurance to the City confirming that the guard rails were prepared in accordance with a design that he had prepared. Mr. Syed only provided schedules or drawings if a contractor indicated that they were required and, in those circumstances, that would happen after the fact. For example, Mr. Syed explained at p. 42 of the transcript:

A: ... when builder come to us, most of time they have already finish everything. And the city says, "Okay, right now you should go and get – (inaudible) – get site inspection and shop drawing," and then give the letter. The city will – this way, everything is done at site, and then they ask us. Because I was frequently going, and have a relation with that guy, they show me everything.

[28] And at pp. 43 – 45:

Q: ... it sounds like what you're telling me here is, they go build it ...

A: Yeah.

Q: ... then they come...

A: Yeah.

Q: ...to you and say...

A: Yeah.

Q: ..."Can you tell me it's okay?"

A: Yeah.

Q: And there's not really proper drawings done or who's doing...
A: No, 90 percent (Inaudible) here....

...

Q: So – basically they produce the drawings.
A: No.
Q: The contractor?
A: No, they don't produce anything.
Q: No, no. Oh.
A: Only the supplier, the manufacturer.
Q: Well... someone's produced drawings. How do you build it if there's no drawings?
Someone had to do a drawing, right...

...

A: No, I – I explain to you. In – in a rail guard, most of the job, 90 percent they don't get any shop drawing before they finish it. Sometime I explain you that. Sometime even they don't need it, city approve it without any professional engineer, design augmentation. This is the way...
Q: (Inaudible)
A: ... the practice going on.

[29] Mr. Syed's responses during the interview also raised serious questions regarding his competence to design safe glass guards. For example, in relation to the design drawings for Timber View, Mr. Syed was unable to explain the anchorage detail and how it works, and why the 14 x 2 ½ screw connection was or was not sufficient to carry the design loads. In relation to Navigators Rise, Mr. Syed was unable to explain the design process for the free-standing glass guard or how he calculated the stress in the glass around the holes. Mr. Syed was unable to explain how the connection at the base of the glass guard to the main structure worked. Mr. Syed specified a 2 ½" screw for a required 3" embedment; he acknowledged that something was wrong but could not provide an explanation.

[30] In relation to Champion Way, Mr. Syed advised the City that he had conducted the field review for the installation of the glass railing, that the assembly had been installed at the site and complied with Code design and safety requirements and that the 12 mm tempered glass is "structurally good to take the load if the ladder is placed against the glass to go to upper floor". In an email dated November 15, 2016 to the Association, Mr. Edwards observed:

The guards in question are 4' wide panels with vertical supports between each panel. The glass extends about 6" above the top of the vertical supports and has no top rail. We requested confirmation that the glass meets the requirements for guards. It's our opinion that the field review does not provide what is required. No other clarifying material was forwarded. **I also spoke with the contractor and he informed me that Mr. Syed only attended the site during a framing inspection and not when the glass was actually installed for inspection.**

I have no idea what the comment about a "ladder" has to do with. It's my opinion that the comment in the field review regarding the "ladder" has to do with the contractor misunderstanding my reference to "lateral load" in our conversation. He kept saying "ladder" and I tried to clarify. [Emphasis added]

[31] When asked about the "ladder" reference during the interview, Mr. Syed said at p. 132 of the transcript:

- A: Oh, ladder, yeah, I understand. I thought letter not ladder. So it means, if supposes they – I talked with my – the builder came to me, he said that they – what do you say, the inspector is saying that if it can take the – someone goes from outside to enter the house in case of fire like that way, so can someone go on that side? So then I said that it is okay because even one person is going on that side, so the load of that (Inaudible) on the – on the – what do you say...
- Q: So someone asked you to make a statement on the ...
- A: Yeah.
- Q: ... on this?
- A: Yeah.

[32] The Panel accepts that there is a *prima facie* case as there is reliable evidence to support the allegations which raises serious concerns regarding Mr. Syed's practices.

(ii) Risk to the Public

[33] The Association alleges that Mr. Syed failed to perform adequate engineering work or analysis prior to the installation of glass guards at the Projects and demonstrated unprofessional conduct or incompetence as the glass guards installed at Navigators Rise, Timber View and Copper Rock do not meet Code requirements because the glass guards are inadequate to resist all applicable loads.

[34] As its name implies, the sole purpose of a guard rail is to provide a safe barrier to prevent falls from decks. Designing proper guard rails that meet Code requirements is a life-safety issue. It is self-evident that the failure of a guard rail can lead to serious injury or death.

[35] It is alleged that Mr. Syed signed and sealed Schedule C-B Letters of assurance indicating that he had fulfilled his obligations for field review and that the design of the installed glass guards at Navigators Rise and Timber View substantially complied with the Code in circumstances where he had not conducted any field reviews or performed adequate engineering work or analysis prior to the installation of the glass guards at those projects. Mr. Syed acknowledged during the interview that he did not prepare designs for the glass guards in advance of installation. The Subcommittee observed that Mr. Syed did not provide any of the calculations that he claimed to have done after the fact. Mr. Syed's evidence concerning his on-site fields reviews was vague. Mr. Syed's statements during the interview provided support for the concern that his "involvement in the Projects appears to be that of a seal for hire, as he did not become involved until after the guardrails were completed". It is again evident that members of the profession who engage in such practices pose a significant risk to the public as a municipality may approve a structure that has not been the subject of a proper field review and that does not comply with the design and safety requirements set out in the Code. The risk of harm is real and not speculative.

[36] It is further alleged that Mr. Syed undertook and accepted responsibility for the Projects in circumstances where he lacked sufficient training or experience in the practice area of engineering of glass guard systems. Mr. Syed indicated during the interview that he has been involved in approximately 25 to 50 guard rail projects. He previously worked with an engineer who was knowledgeable about guard rail design but that individual had passed away. Mr. Syed did not seek assistance from other sources as he felt qualified in this area; however, his responses during the interview raised serious concerns about his

knowledge about the design of guard rails and basic engineering principles. In particular, it was concerning that Mr. Syed:

- did not believe it was important to review design drawings for substructure reinforcement of guard rails and assessed the adequacy of the substructure through visual inspections;
- maintained that glass guard rails without a rail cap were structurally acceptable but not acceptable from a safety perspective;
- could not explain the difference between Limit States Design and Allowable Stress Design;
- was unable to calculate the tension force in an anchor for the load of 1 in a diagram provided by the Subcommittee;
- was unable to explain how the occupancy category for a building would influence the guardrail design;
- was unable to name different glass types used for guard rail design apart from tempered glass or to demonstrate more than one other glass guard configuration;
- could not recall how many field reviews he conducted for the Projects or when they were carried out;
- was unable to explain how he calculated the loads on the connection between the guard rail and the substructure at the base of the guard rail for the drawing for Timber View; and
- was unable to explain load paths.

[37] The Panel is satisfied that the evidence raises serious concerns regarding Mr. Syed's fundamental structural engineering knowledge to perform the design of simple structures such as guards. The evidence also raises concerns that Mr. Syed may have provided inadequate guard designs that do not meet the standards necessary under the Code to protect public safety. The evidence concerning Mr. Syed's practice is sufficient to establish that there is a real risk of danger to the public if an interim order is not made pending the outcome of the inquiry.

(iii) Is there urgency?

[38] As set out above, the Panel accepts that there is an issue of urgency that warrants an interim order under s. 31(7). The evidence indicates that Mr. Syed has extensive involvement in guard rail projects and practices structural engineering in relation to single family dwelling wood frame construction.

[39] In view of the evidence suggesting that Mr. Syed may be operating as a seal for hire and his inability to answer basic engineering questions and perform a basic calculation during the interview, the Panel finds that immediate interim action is necessary to protect the public.

(iv) What is the appropriate order having regard to the impact on the member?

[40] The Panel must balance the need for an interim order against the consequences for Mr. Syed and satisfy itself that the consequences of the order are proportionate to the risk of harm from which it is seeking to protect the public: *Scott*, para. 55. Before considering an interim suspension, the Panel must consider whether interim practice restrictions would be sufficient and proportionate.

[41] Mr. Syed practiced in his native country for 15 years prior to moving to Canada. He was granted registration as an engineer in Manitoba in 2012 and granted registration with the Association in September 2012. In addition to glass guard railing work, Mr. Syed practices as a structural engineer with respect to single family wood frame construction. Although Mr. Syed practices predominantly in this province, he also practices in Manitoba.

[42] The Panel recognizes that an interim order will have a significant adverse impact on Mr. Syed's ability to practice, and possibly his financial circumstances in terms of earning a livelihood, and his professional reputation. The practice restriction sought by the Association would prohibit Mr. Syed from practicing professional engineering in British Columbia for glass guard railing systems and from serving as the registered professional of record for any project where he is responsible for the design and field review of glass guard railing systems, which would lead to loss of that type of work. The issuance of an interim suspension would prevent Mr. Syed from practicing as a professional engineer in British Columbia pending the outcome of the inquiry, although he would still be able to practice in Manitoba.

[43] The Panel asked the Association whether a supervision order would be feasible. The Association maintains that this is not an appropriate case to issue a supervision order as Mr. Syed is not practicing in a firm with other engineers and his knowledge in relation to guard rail systems is so deficient that he should not be engaging in that area of practice even under supervision. The Association submits that supervision is also not appropriate given the concerns that Mr. Syed is working as a "seal for hire". On balance, the Panel agrees that a supervision order would not be sufficient to protect the public given the dual concerns that Mr. Syed may be acting as a seal for hire and was unable to demonstrate basic engineering knowledge during the interview.

[44] The Panel must make the least restrictive order that is proportionate to the risk of harm. Based on the totality of the evidence, the Panel finds that a practice restriction is not adequate to protect the public interest. Although the evidence relates to Mr. Syed's work in relation to glass guard rails, the Panel was deeply concerned that he was unable to perform a basic engineering calculation to determine a tension force in a very simple statics problem, and was unable to explain the relevant fundamental engineering principles. He was also unable to explain how the connection details for the base of a glass guard were intended to perform when presented with one of the drawings that he sealed. Mr. Syed also appears not to understand the purpose and gravity of the field review process and the issuance of Schedules B and C-B required by the City. The evidence suggesting Mr. Syed's lack of structural engineering knowledge raises serious questions about his ability to safely perform structural engineering work on wood frame single family dwellings as well as guard rails. In addition, there is the concern that Mr. Syed may have been working as a seal for hire, submitting documentation to the City which has not been prepared under his direct supervision.

[44] For these reasons, the Panel finds that an interim suspension is the least restrictive action that is proportionate to the risk that Mr. Syed's practice poses to the public interest.

G. Order

[45] The Panel makes the following order under s. 31(7) of the Act:

Effective three days from the date that this order is mailed to Ahmed Raza Syed, P.Eng. and until a decision is issued in this matter under s. 32 of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116, his membership in the Association of Professional Engineers and Geoscientists of the Province of British Columbia is suspended.

H. Right of Appeal

[46] Under s. 37(11), a member whose membership is suspended, or whose scope of practice is restricted under subsection (7), may apply to the Supreme Court to have the suspension or restriction removed, and the Court may make any order respecting the suspension or restriction that it considers appropriate.

Dated this 23rd day of December, 2018 and signed in counterpart.



Neil Cumming, F.A.C.I., F.E.C., P.Eng., Panel Chair

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

Dave Ricketts, M.Sc., P.Eng., F.E.C.

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H. Right of Appeal

[46] Under s. 37(11), a member whose membership is suspended, or whose scope of practice is restricted under subsection (7), may apply to the Supreme Court to have the suspension or restriction removed, and the Court may make any order respecting the suspension or restriction that it considers appropriate.

Dated this 23rd day of December, 2018 and signed in counterpart.

Neil Cumming, F.A.C.I., F.E.C., P.Eng., Panel Chair



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

Dave Ricketts, M.Sc., P.Eng., F.E.C.

G. Order

[45] The Panel makes the following order under s. 31(7) of the Act:

Effective three days from the date that this order is mailed to Ahmed Raza Syed, P.Eng. and until a decision is issued in this matter under s. 32 of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116, his membership in the Association of Professional Engineers and Geoscientists of the Province of British Columbia is suspended.

H. Right of Appeal

[46] Under s. 37(11), a member whose membership is suspended, or whose scope of practice is restricted under subsection (7), may apply to the Supreme Court to have the suspension or restriction removed, and the Court may make any order respecting the suspension or restriction that it considers appropriate.

Dated this 23rd day of December, 2018 and signed in counterpart.

Neil Cumming, F.A.C.I., F.E.C., P.Eng., Panel Chair

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



Dave Ricketts, M.Sc., P.Eng., F.E.C.