

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

and

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

**DECISION OF THE DISCIPLINE COMMITTEE**  
**ON APPLICATION**

Hearing date:	By Written Submissions
Discipline Committee Panel:	Paul Adams, P.Eng., Chair, Ed Bird, P.Eng., Ron Yaworsky, Ph.D., P.Eng.
Counsel for the Association:	David Volk
Counsel for the Member	Mr. Syed is self represented

**A. Introduction**

1. This panel of the Discipline Committee (the "Panel") of the Association of Professional Engineers and Geoscientists of the Province of British Columbia doing business as Engineers and Geoscientists BC (the "Association") was appointed to conduct an inquiry to determine, whether Mr. Syed acted contrary to the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c. 116 (the "Act"), or breached the Bylaws of the Association.
2. Mr. Syed has requested an adjournment of the Discipline Committee inquiry hearing dates from June 19 and 20, 2019 to November 2019.
3. The Association takes no position on Mr. Syed's request.
4. The Discipline Committee grants the adjournment for the reasons set out below. The Panel directs the new dates in November 2019 or thereafter, to be rescheduled by June 30, 2019.

**B. Background**

5. The Notice of Inquiry was originally issued in this matter on December 18, 2018 with hearing dates of February 20 to 21, 2019. Service was unsuccessfully attempted on December 28, 2018 and January 8, 2019.

6. On January 21, 2019, Mr. Syed was provided by email with a revised Notice of Inquiry changing the hearing dates to March 5 and 6, 2019, and a subpoena requiring his attendance.
7. On January 24, 2019, Mr. Syed contacted counsel for the Association, requesting an adjournment of the hearing until April 15, 2019 on the basis that he would be out of the country until March 20, 2019.
8. On January 24, 2019, counsel for the Association responded indicating that he was unavailable on April 15, 2019 and proposed rescheduled hearing dates in mid May 2019. He also advised Mr. Syed that because he is currently subject to an interim suspension until the final discipline hearing occurs, any delay in having the final hearing in this matter heard will necessarily lengthen the period during which Mr. Syed is suspended.
9. On January 31, 2019, Mr. Syed indicated he was available for the mid May 2019 hearing dates.
10. On February 11, 2019, counsel for the Association advised Mr. Syed that one of his key witnesses was unavailable for the mid May 2019 hearing dates and proposed a number of new dates from the end of May through to the end of June 2019.
11. On February 18, 2019, Mr. Syed indicated he was available for hearing dates from either June 17 to 21, 2019 or June 24 to 28, 2019.
12. On February 25, 2019, the Panel granted Mr. Syed's request for an adjournment and rescheduled the inquiry hearing to "to June 17 to 21, 2019 or 24 to 29, 2019, or, if a Discipline Committee Panel is not available during those dates, then to the earliest dates thereafter during which the parties and a Panel of the Discipline Committee are available".
13. On March 12, 2019, the Panel confirmed the new hearing dates of June 20 and 21, 2019.
14. On March 27, 2019, counsel for the Association requested the dates be changed to June 19 and 20, 2019 in order to accommodate a personal commitment.
15. On March 29, 2019, the Panel granted the request from counsel for the Association to change the dates to June 19 and 20, 2019. A revised Notice of Inquiry with the new dates was delivered to Mr. Syed and the Panel on the same day.

16. On May 9, 2019, counsel for the Association forwarded for the Panel correspondence from Mr. Syed requesting an adjournment of the hearing until November 2019 on the following basis:

**From:** Ahmed Raza Syed [REDACTED]  
**Sent:** Thursday, May 9, 2019 7:11 AM  
**To:** David Volk [REDACTED]  
**Subject:** Re: EGBC - Discipline matter concerning A.R. Syed, P.Eng.

Hi David,

I am writing this email to request you to reschedule discipline hearing in November, 2019 or after. I am right going through big stress because this interim suspension has ruined my business and social family relations. The way interim suspension was and being highlighted. This has damaged a lot not only my business and family relations but my physical health. I need lawyer help to prepare proper reply. I can not right now afford lawyer fees. I want first to get out of this financial business and social family crisis before I prepare myself mentally to attend this discipline hearing. I am in Manitoba and going to see doctor for check up. I am right now not feeling well mentally , physically and psychology. I need time to recoup from this huge cycle of ditch. Thanks

Ahmed Raza Syed

17. Mr. Syed sent a follow up email later the same day with further details of his request:

**From:** Ahmed Raza Syed [REDACTED]  
**Sent:** Thursday, May 9, 2019 1:23 PM  
**To:** David Volk [REDACTED]  
**Subject:** Re: EGBC - Discipline matter concerning A.R. Syed, P.Eng.

Hi David,

This is in continuation of my today email. I am planning to go my native country soon after my medical check up. I have to go there back and forth to resolve family issues and find reconciliation with family. I need peace of mind to handle the ditched financial and social situation. Thanks

Ahmed Raza Syed

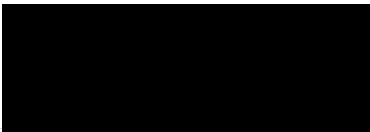
18. The Association advised on May 9, 2019 that based upon the reasons provided by Mr. Syed for the adjournment request, it takes no position on whether the adjournment should or should not be granted.

## **C. Analysis**

19. The factors to consider in determining whether to grant an adjournment depend on the facts and context of each case. The decision is a discretionary one.
20. *Casey, Regulation of Professions in Canada* at p.8-3, sets out the following non-exhaustive factors that are relevant to justify the denial of an adjournment:
  1. Lack of previous compliance with directions of the tribunal.
  2. Previous adjournments have been granted to the applicant.
  3. Previous peremptory hearing dates had been set and did not proceed due to the applicant.
  4. Urgency to having the matter decided.
  5. A finding that the applicant is attempting to deliberately delay or manipulate the system.
21. *Casey* likewise sets out some of the factors that may cause a tribunal to favour the granting of an adjournment:
  1. The consequences of the hearing are serious.
  2. The applicant has acted promptly in bringing the application for adjournment once the need for an adjournment became clear.
  3. It is the first application for an adjournment but note that depending on the circumstances it may still be a breach of procedural fairness to deny an adjournment where the applicant has received previous adjournments.
  4. The applicant would suffer prejudice if the adjournment is not granted.
  5. Where the adjournment is based on a lack of legal counsel, the applicant is genuinely seeking to exercise his or her right to retain legal counsel and has made diligent efforts to retain legal counsel.
  6. The length of the adjournment sought is not lengthy.
  7. The public interest would not be compromised by an adjournment.
22. The Panel finds this is not the first adjournment which has been granted to Mr. Syed and the length of adjournment Mr. Syed is requesting is substantial (five months). The Panel also finds the consequences of the hearing are potential serious, Mr. Syed has brought this request forward relatively promptly, one of the reasons Mr. Syed provides is the intention to retain legal counsel, and the public interest would not be compromised given that Mr. Syed's interim suspension continues to be in place.
23. The Panel also notes that the Association takes no position on the adjournment request.

24. For the all of the reasons mentioned above, the Panel finds that the appropriate balance to strike between an expeditious hearing and fairness to both of the parties is to grant Mr. Syed's application to adjourn the hearing presently scheduled for June 19 and 20, 2019.
25. While the Panel notes that Mr. Syed has requested the hearing be rescheduled to November 2019 or thereafter, this Panel is not available in November 2019. It may be possible to constitute a new Panel. Accordingly, the Panel orders that the hearing be rescheduled to the earliest dates in November 2019 or thereafter during which the parties and a Panel of the Discipline Committee are available. The Panel would like the new dates to be rescheduled as early as possible given Mr. Syed's request that he intends to seek legal counsel. Accordingly, the Panel directs the new dates in November 2019 or thereafter, to be rescheduled by June 30, 2019.

Dated this 21<sup>st</sup> day of May, 2019 and signed in counterpart.



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Paul Adams, P.Eng., Chair,

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Ed Bird, P.Eng.,

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Ron Yaworsky, Ph.D., P.Eng.

24. For the all of the reasons mentioned above, the Panel finds that the appropriate balance to strike between an expeditious hearing and fairness to both of the parties is to grant Mr. Syed's application to adjourn the hearing presently scheduled for June 19 and 20, 2019.
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