

agreeing to the severe penalty, the member is accepting responsibility. The penalty, while severe, is appropriate based on the totality of the evidence.

The panel noted that the \$5,000 cost penalty, in addition to the unsatisfied penalties of the decision of the

previous hearing on October 28, 2003, could require that a significant commitment be made by the member towards his rehabilitation.

Following the hearing, Ivanyi and Conengr signed a waiver of appeal, which was filed.

The written Decision and Reasons were dated July 31, 2007, and were signed by J.E. (Tim) Benson, P.Eng., as the chair on behalf of the other members of the discipline panel: Colin Cantlie, P.Eng., Jeff Mark, P.Eng., David Robinson, P.Eng., and Derek Wilson, P.Eng.

Decision and Reasons by the Registration Committee

Changes to the Professional Engineers Act in 2001 allowed applicants for licensure who were denied a licence due to adverse determinations by the Academic Requirements Committee and/or the Experience Requirements Committee to request a hearing before the Registration Committee.

The summary below chronicles the Decision and Reasons of the Registration Committee in connection with one applicant's request for an adjournment.

It is being published in an attempt to show how these matters are dealt with by the Registration Committee and to reinforce the advice that is given to applicants who request a hearing that they should retain legal counsel in these matters.

In the matter of a hearing under the *Professional Engineers Act*, and in the matter of the proposal of the Registrar of the Association of Professional Engineers of Ontario to refuse to issue a licence to:

An Applicant

This matter came on for hearing before a panel of the Registration Committee on September 12, 2007 at the Association of Professional Engineers of Ontario (PEO) in Toronto, with respect to the matter of a proposal by the Registrar of PEO to refuse to issue a licence to an applicant.

The applicant was not present and was not represented by counsel. The panel waited one-half hour, but the applicant still did not appear. Proof of service of the Notice of Hearing was provided by the Registrar's counsel.

Counsel for the Registrar advised that the applicant had emailed the PEO tribunal office on August 22, 2007, requesting an adjournment of this hearing date. The applicant had started a new job and was relocating

his family within Ontario. He was also having problems obtaining counsel.

The applicant had been invited by the PEO tribunal office to formalize his motion for an adjournment. He was told he could take steps to have it heard in writing or electronically. He did not take those steps.

Counsel for the Registrar advised the panel, as he had previously advised the applicant that the Registrar was prepared to consent to an adjournment as long as it was made peremptory to the applicant that the Registrar be given dates for the new hearing in advance of it being scheduled and allowed the opportunity to canvass those dates with its witnesses, and that the new hearing date be scheduled prior to the end of October 2007.

Independent legal counsel (ILC) to the panel advised that although the applicant had not complied with the forms and technicalities of the Registration Committee's rules regarding motions, the panel could waive those technicalities and consider that the applicant had made a motion for an adjournment of this hearing.

The ILC also advised that adjournment requests are governed by s. 21 of the *Statutory Powers Procedure Act*, as follows:

"A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held."

ILC advised that the panel should balance the parties' right to a fair hearing against the desirability of an expeditious hearing, and that the panel should consider such factors as: 1. whether this was a first adjournment request; 2. the reasons for the proposed adjournment; 3. the length of the proposed adjournment; 4. whether there were concerns about public safety or faith in the profession; and 5. what prejudice would result to the applicant if the request for an adjournment was denied. On the last point, the panel was advised that, since the onus in a Registration Committee hearing is on the applicant and he was not present, refusing his request for an adjournment would mean that the application would be dismissed and this proceeding would be at an end.

Decision

The panel adjourned the hearing to a period not exceeding 90 days hence, on condition that the adjournment be peremptory to the applicant.

Reasons for decision

There was no formal motion before the panel; however, in light of the fact that