

November 20, 2024

RE: College of Citizenship and Immigration Consultants

Dear Minister Miller,

We write with respect to your recent letter to the College of Citizenship and Immigration Consultants (“CICC”) posted on your [X account](#) on November 14, 2024.

In your letter, you congratulate the CICC for their efforts to protect the public, yet express concerns CICC licensees are counseling international students to provide false information when making asylum claims.

The purpose of our letter is to stress that you have significant legal authority to strengthen oversight of the CICC and public protection. As you know, the CICC is the third iteration of Immigration, Refugees and Citizenship Canada’s (“IRCC”) efforts to govern the practice of immigration consultants. IRCC correctly determined the first two governing bodies insufficiently protected the public. It is CILA’s position that the CICC continues to fall short in protecting the public from unscrupulous immigration consultants. Our position is underscored by your recent letter to the CICC.

Although section 12 of the *Code of Professional Conduct for College and Immigration and Citizenship Consultants Licensees* states licensees should not knowingly assist improper behaviour, the reality is the CICC does not have the means to enforce this provision. CICC’s latest [Annual Report](#) shows it has 12,264 licensees in good standing as of June 30, 2024. An unwise decision was made to allow the grandfathering of 7,985 existing licensed immigration consultants into the CICC. This means potentially many licensees have not been adequately trained on substantive law and rules of professional conduct. In addition, permitting grandfathering means it is simply unrealistic to expect the CICC to be able to effectively regulate the conduct of every one of its licensees given the sheer volume of practicing immigration consultants.

In addition, the Annual Report shows 265 licensees reside internationally. It is practically impossible for the CICC to conduct onsite visits and inspections to ensure these overseas licensees are compliant with ethical and professional requirements. Moreover, this very small figure of licensees residing internationally underpins a significant shortcoming of the CICC: it does not govern unlicensed consultants. These “ghost consultants” are a significant source of



Canada's misrepresented immigration applications, yet there is scant evidence the CICC can be relied upon to tackle this issue. We make reference to a [May 2023](#) letter submitted to your predecessor by the C.D. Howe Institute, which observes "unlicensed consultant regulation remains weak" and increased reporting of unauthorized consultants "...certainly fails to reflect the extent of the problem."

We acknowledge resolving the problem of ghost consultants is not easy. As such, we suggest you commission an expert task force with a mandate to provide you with recommendations by 2025 on how this issue can be better addressed. In the meantime, a quick measure you can introduce is requiring IRCC clients who do not file a "Use of a Representative Form" to sign a Letter of Attestation instead. The Letter of Attestation would confirm the applicant did not receive assistance from a third party in exchange for a fee or commission. Misrepresentation here could result in automatic refusal of the visa application and a five-year bar from entering Canada. We recognize this idea is not a panacea but it can be part of a multipronged approach to reduce the prevalence of ghost consultants.

We also recommend consultants not be licensed while residing or doing business outside of Canada since there are few enforcement mechanisms to keep them accountable under Canadian law. You have the authority to introduce a reform that consultants operating outside Canada are no longer authorized to represent clients.

Earlier this year, the Montréal Bar launched a [campaign](#) to help inform the public on the increasing practice of individuals posing as immigration lawyers to defraud victims. The ongoing failure of the CICC to protect the public from such egregious behaviour has devastating consequences. Victims incur monetary harm and lose out on the prospects of achieving their Canadian immigration objectives, as well as face five-year bars from entering Canada. This also has devastating consequences for Canada, as it undermines public confidence in our immigration system.

To better uphold the integrity of the immigration system, the CICC should audit all of its members in areas susceptible to rampant abuse, such as Labour Market Impact Assessments ("LMIA's"). If the CICC is incapable of such audits due to the volume of its members, they should be forthright on their limitations so that there is a regulatory change to limit their mandate and the number of consultants. Immigration lawyers are routinely audited by provincial law societies. These audits are exhaustive and conducted vigorously by the law societies to ensure high quality of law firm record-keeping as well as lawyers' compliance with the professional standards in the interest of protecting the public.



Moreover, immigration lawyers are officers of the court with legal and ethical obligations both inside and outside the courtroom. Immigration lawyers are mandated by their law societies to assist in maintaining the honour and integrity of the legal profession, and to expose dishonest conduct by any other lawyer or any other parties, and being forthcoming with clients and adjudicators about such conduct. While we acknowledge that in every profession there can be a few bad apples, in the case of the legal profession the law societies have a strong track record of successfully regulating the profession and protecting the public. We strongly believe the CICC should hold its licensees and unauthorized practitioners to the same standard if it is serious about carrying out its mandate of protecting the public in a meaningful way.

The immigration bar has long advocated that lawyers are in the best position to give legal advice on immigration matters because they are often complex and involve multiple areas of the law, including family, criminal, medical, and Charter rights. Lawyers are governed by strong regulatory bodies that have over 100 years of ensuring our members abide by rules of professional conduct that include not making false applications and filing viable applications so as not to bring the administration of justice into disrepute.

We continue to advocate for immigration consultants to only be able to work under the supervision of lawyers and in law firms for this reason. Changing the law to facilitate this recommendation is well within your purview. We believe the ethical and knowledgeable consultants are either already working in law firms or would be able to easily find partnerships or employment in law firms or in organizations that practice immigration law under the supervision of lawyers. This will have the added benefit of eliminating public confusion over regulated consultants and ghost consultants, as the public will understand they must only deal with a law firm or a lawyer. The United States, for example, does not authorize consultants to practice immigration law.

Lawyers are well-equipped to work with non-lawyers in many provinces, as you can see from examples of lawyers working with Ontario paralegals and regulated consultants in many law firms whilst ensuring that the work is supervised at all times and all client relations are governed by rules of professional conduct that the law societies require and enforce.

We also encourage you to consider introducing a whistleblower reporting system similar to what exists in criminal law wherein victims of immigration consultants can become cooperative witnesses. It is common for unscrupulous immigration consultants to rely on the silence of their victims knowing the victim cannot come forward without facing likely consequences, such as misrepresentation. If unscrupulous immigration consultants are aware their victims will not be



punished from reporting them, they might become less emboldened to pursue unethical and criminal activities.

Your department is currently drafting regulations to [introduce](#) Administrative Monetary Penalties (“AMPs”) to help ensure stronger compliance with *IRPA* and the *Citizenship Act*. We welcome this development with two caveats. First, the success of this AMPs regime will depend on IRCC’s ability to enforce them. Lack of capacity by IRCC to apply the AMPs widely on those who are noncompliant will effectively make these new regulations toothless. Second, the AMPs should only apply to immigration consultants, since the federal government has legislative authority over consultants. CILA is concerned that any proposed measures that aim to regulate lawyers to protect the public would exceed federal jurisdiction. In addition, vesting authority with IRCC over these matters would violate the unwritten constitutional principle of the independence of the bar. Finally, the proposed measures are unnecessary and duplicate the well-established regulatory authority of provincial law societies over the legal profession, including lawyers who practice in the areas of immigration and citizenship. We invite you to read our [September 2024 letter](#) to IRCC outlining our position on this matter.

Minister Miller, weak oversight of immigration consultants cannot continue. We fear that IRCC’s reductions in permanent and temporary resident levels will result in a significant rise in unscrupulous behaviour by consultants as individuals become even more desperate to achieve their Canadian immigration objectives. LMIA fraud, for example, has become increasingly rampant, and Canadians have lost faith in the immigration system due to the preponderance of unscrupulous consultants and the CICC’s failure to effectively regulate them.

We would welcome an opportunity to revisit our recommendations to enact regulatory reform so that immigration consultants can only work under the supervision of lawyers so that all client relationships are regulated law societies, and the supervising lawyer will be held accountable. In the meantime, for your convenience, here is a summary of our suggestions on how you can take action to make a positive difference:

1. Launch an “Expert Task Force to Combat Ghost Consultants” with a mandate to provide you with recommendations for improvement by 2025.
2. Require applicants who do not file a Use of a Representative Form to complete a Letter of Attestation confirming they did not receive assistance for their application from a third party in exchange for compensation.



3. Introduce a reform that consultants operating outside Canada are no longer authorized to represent clients.
4. Ensure the CICC has the means to thoroughly audit each one of its members. If they do not, enforce regulatory change to limit their mandate and the number of consultants.
5. Ensure that the CICC mandate its licensees to assist in maintaining the honour and integrity of the immigration system, and to expose dishonest conduct by any other licensee, unlicensed consultant, or any other parties, and being forthcoming with clients and adjudicators about such conduct.
6. Consider introducing a whistleblower reporting system similar to what exists in criminal law wherein victims of immigration consultants can become cooperative witnesses.
7. Ensure IRCC has enough capacity to apply the new AMPs and that they only apply to immigration consultants to avoid jurisdictional conflict with law societies, preserve the independence of the bar, and avoid duplication of regulation of lawyers.

Thank you Minister Miller for considering our recommendations. We would be pleased to meet with you at your earliest availability to continue to explore solutions on how we can better protect the public.

Sincerely,

Barbara Jo Caruso
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Co-Presidents
Canadian Immigration Lawyers Association

