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College of Immigration and Citizenship Consultants v. Bajwa, 2024 CICC 33

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DISCIPLINE COMMITTEE OF THE COLLEGE OF IMMIGRATION AND CITIZENSHIP CONSULTANTS

2024 CICC 33 (CanLII)

Citation: *CICC v Bajwa, 2024 CICC 33*

Date: 10-03-2024
CICC File No.: CD.2023.531

Between:	**Immigration Consultants of Canada Regulatory Council, now the College of Immigration and Citizenship Consultants**
	(Applicant)
-And-	
	Jaswinder Kaur Bajwa, R515600
	(Respondent)

Written Submissions by:

Gregory Ko and Olivia Evans, Counsel for the Applicant
Rebecca Young, Counsel for the Respondent

Before:	Marcel Mongeon, Public Representative, Chairperson
Date of Reasons for Decision:	October 3, 2024

Cases Referred to: *R v. Anthony-Cook* 2016 SCC 43 and *CICC v Won* 2024 CICC 4

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DECISION, REASONS FOR DECISION AND ORDER

Introduction

1. I have been appointed as a panel of the Discipline Committee to review an Agreed Statement of Facts (ASF) and a Joint Submission on Penalty (JSP) as submitted by the parties in this matter and to make such order as I see fit.

Facts

2. The ASF that the parties have filed is attached as Appendix 1.

3. In the ASF, Jaswinder Kaur Bajwa (the "Respondent") has admitted to facts that are in violation of the 2019 Code and the 2022 Code.

4. The parties have also submitted a JSP which contains terms that I have incorporated into the Order below.

5. The only submission made to me is that I should consider the principle enunciated in *R v. Anthony-Cook* 2016 SCC 43 (and followed in *CICC v Won* 2024 CICC 4) which provides that when a JSP is submitted by the parties, it ought to be approved unless it "would being the administration of justice into disrepute" or is otherwise "contrary to the public interest".

6. I agree that this is the principle that panels should follow when asked to consider a JSP.

7. I have not received any other submissions which would help me compare the conduct in this case with the conduct in other cases before either this college or in other professional conduct settings which would assist in my determining if the JSP is reasonable in the range of other determinations.

Analysis

8. In this case, I note that the Respondent's actions in her Refugee Appeal Division practice have affected many applicants. In addition, the submission of fraudulent documents in the three-cited cases is deeply troubling. Clearly a suspension is warranted.

9. In mitigation, I note that the actual submissions of fraudulent documents were the direct responsibility of an employee of the Respondent whose employment has been terminated. Although this does not excuse the Respondent, it does point to the need for the Respondent to take improved steps to manage her practice. I also note that this is the first disciplinary action against the Respondent since becoming a licensee with the College or its predecessors.

10. On a review of the JSP, I am satisfied that the penalty that is proposed considers the need for a suspension and, on the Respondent's return to practice, a number of

provisions that will ensure that the Respondent takes improved steps in the management of her practice.

11. In all the circumstances, the JSP is approved based on the ASF and submissions that have been made to me.

Order

12. This panel of the Discipline Committee makes the following order:

    a. The Respondent is suspended from practicing as a Registered Canadian Immigration Consultant ("RCIC") for a period of 6 months, effective to the date of the Order

    b. The Respondent shall, within 28 days (October 31, 2024) from the date of this Order, forward a sworn declaration to the College at compliance-conformite@college-ic.ca confirming she has notified all existing clients, in writing, of the suspension and advise them of the name and contact information of her designate.

    c. Within 6 months (April 3, 2025) of this Order, the Respondent shall pay a fine of $7,500 to the College, with proof submitted to the College at compliance-conformite@college-ic.ca within 14 days of payment.

    d. Within 6 months (April 3, 2025) of the Discipline Committee's Order, the Respondent shall pay $4,500 in costs to the College, with proof submitted to the College at compliance-conformite@college-ic.ca within 14 days of payment.

    e. At the earliest opportunity, and no later than 6 months (April 3, 2025) from the date of the Discipline Committee's Order, the Respondent shall complete the following practice management education ("PME") courses:

        i. Client Accounts;

        ii. Client File Management;

        iii. Developing the RCIC and client relationship;

        iv. Ethical Practice; and

        v. Managing an Immigration and Consulting Practice.

    f. The Respondent shall provide the College with written confirmation of completion of the PME courses within 14 days after completing this undertaking at compliance-conformite@college-ic.ca.

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g. At the earliest opportunity, and no later than 12 months (October 3, 2025) from the date of the Discipline Committee's Order, the Respondent shall complete one hour of additional CPD beyond the requirement for licensees. The Respondent shall provide the College with written confirmation of completion of the additional hour of CPD within 14 days after completing this undertaking at compliance-conformite@college-ic.ca.

h. For a period of 12 months following the Respondent's return to practice, the Respondent shall abide by the following practice conditions:

    i. The Respondent shall provide the College quarterly reports, setting out the number of active and non-active clients, and her monthly client account reconciliation statements (if applicable). The reports shall be sent to the College at compliance-conformite@college-ic.ca.

    ii. All client files, at all times, shall be assigned to and under the direct supervision of an RCIC who is at all relevant times licensed in good standing by the College and qualified to provide the advice or service provided, or another person authorized to represent or advise a person for consideration under s. 21.1 of the *Citizenship Act* (R.S.C., 1985, c. C-29) or s. 91 of the *Immigration and Refugee Protection Act* (S.C. 2001, c. 27), or other applicable or successful legislation (the "Authorized Person").

    iii. Only Authorized Persons shall provide immigration consulting services including, but not limited to, the initial consultation and the assessment of the client's eligibility to immigrate to Canada.

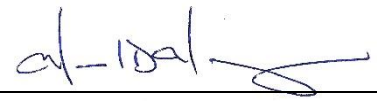
i. Breach of any of the terms of this order shall result in an additional suspension of the Respondent's practice and license with the College for no less than 30 days and shall continue until the Respondent has fully complied with the breached term(s) to the satisfaction of the College acting reasonably ("Additional Suspension"). Prior to any Additional Suspension, the College shall provide the Respondent with written notice of the subject breach and the Respondent shall be afforded one week to provide a written response and an opportunity to cure any breach.

j. This Order shall be published, along with any reasons for the decision, in accordance with section 69(5) of the Act.

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This panel of the Discipline Committee directs the Tribunal Manager to insert the panel's electronic signatures at the end of the Discipline Committee Decision and Reasons.

Discipline Committee Panel Members:



Marcel Mongeon, Public Representative,
Chairperson

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APPENDIX 1
AGREED STATEMENT OF FACTS

1. Jaswinder Kaur Bajwa ("Ms. Bajwa" or the "licensee") has been a licensee of the College (and its predecessors) since February 4, 2016. Ms. Bajwa is the owner of Canworldvisa Immigration Services ("CIS"), where she practices as a Regulated Canadian Immigration Consultant ("RCIC").

2. The licensee has no previous disciplinary history with the College or its predecessors.

3. The licensee is the subject of a complaint bearing the file number CD.2023.531 (the "Complaint").

The Complaint

4. In or around January 2022, the licensee began representing appellants before the Refugee Appeal Division (the "RAD") of the Immigration and Refugee Board (the "IRB").

Concerns with the licensee's RAD Practice

5. By October 2022, the licensee had demonstrated a number of concerns with her practice before the RAD, including:

    a. The licensee had requested extensions of time in approximately half of her appeals before the RAD between January 2022 and October 2022 and had requested multiple extensions of time for the same files.

    b. The licensee had previously been reminded by the RAD that delaying the perfection of an appeal while awaiting new evidence is an insufficient reason for delay, but yet continued this practice. Pursuant to Rule 29 of the RAD Rules, additional evidence received following perfection of the Appellant's Record can be addressed in the form of a Rule 29 Application. The licensee had previously been reminded of this requirement verbally by the RAD registry, and had received written reasons on August 24, 2022, cautioning against continuing this practice.

    c. The licensee failed to perfect three appeals resulting in those appeals being dismissed (as set out more specifically below). While the licensee was permitted to re-open two of the three appeals, she failed to meet the amended deadlines in both appeals.

    d. The licensee had not adequately supported her applications for re-opening dismissed appeals. Specifically, the licensee alleged that there was a "technical glitch" in uploading appellant records, without providing any evidence of a

"technical glitch". This failure led to the dismissal of two requests to reopen an appeal.

6. Concerns regarding the licensee's practice were set out in a letter from a Coordinating Member of the RAD to the licensee dated October 21, 2022.

7. The Coordinating Member requested a meeting with the licensee to discuss her capacity to meet eight upcoming deadlines with the RAD. The licensee was also advised that continued failure to comply with the RAD rules, practice notices and direction would result in the RAD contacting the CICC.

8. On November 2, 2022, the licensee attended a meeting with the Coordinating Member over MS Teams. The Coordinating Member repeated the caution about perfecting appellant records in a timely manner, and the licensee committed to meeting the due dates and complying with the legislative requirements and the RAD rules.

Fraudulent Documents Submitted in Three RAD Matters

9. In addition to the foregoing concerns about the licensee's RAD practice, the licensee demonstrated concerning conduct in respect of three specific matters before the RAD: VC2-05257, TC2-13956 and TC2-12626.

10. In each of these three matters:

    a. The licensee failed to perfect the appellants' records by the respective due dates resulting in the appeals being dismissed by the RAD for failure to perfect.

    b. Fraudulent screenshots in support of applications to re- open the files were submitted by a now former employee of the licensee, through the licensee's IRB Portal. The licensee asserts that the fraudulent documents were produced by a now former employee. However, the licensee, acknowledges that as an RCIC she was ultimately responsible for supervising this employee and his conduct, and ensuring that documents submitted by her or her office were not fraudulent.

    c. These applications were dismissed by the RAD due to the licensee's failure to meet the mandatory deadlines and the submission of fraudulent screenshots.

<u>VC2-05257</u>

11. With respect to file VC2-0527, the licensee filed a Notice of Appeal to the RAD on her client's behalf on June 21, 2022. The Appellant's Record was due on July 22, 2022.

12. On July 22, 2022, the RAD received an Application for an Extension of Time to Perfect an Appeal from the licensee. By Notice of Decision dated August 8, 2022, the RAD

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advised the licensee and her client that the application was allowed, and the Appellant's Record was due by August 26, 2022.

13. On August 26, 2022, the RAD received a second Application for an Extension of Time to Perfect an Appeal from the licensee. In a Notice of Decision dated August 31, 2022, the RAD allowed the application and advised the licensee and her client that the Appellant's Record was due by September 19, 2022. The Appellant's Record was not received by September 19, 2022, and the appeal was dismissed for lack of perfection on October 20, 2022.

14. The licensee filed an application to re-open the appeal and the Appellant's Record on October 21, 2022. The licensee claimed that her office had filed the Appellant's Record on September 17, 2022. The licensee's now former employee provided an alleged screenshot of the "Portal Submission History" as supporting evidence through the licensee's IRB Portal.

15. By Notice of Decision dated November 16, 2022, the RAD advised that the application to re-open had been allowed.

16. However, a further review of the alleged screenshot by a Senior Business Systems Analyst with the IRB revealed irregularities with the screenshot, indicating that it may have been altered.

17. On February 27, 2023, the RAD provided a Member's Direction to the licensee, her client, and the Minister of Immigration, Refugees and Citizenship (the "Minister"), advising that the RAD was concerned that the screenshot was not a genuine reflection of the purported portal submission. The licensee and her client were invited to provide submissions to the RAD by March 13, 2023.

18. No submissions were received from the licensee, and the RAD dismissed the application to re-open the appeal. The RAD issued its reasons on April 3, 2023, noting that the screenshot submitted through the licensee's IRB portal had been altered, and that there was no credible evidence to demonstrate that the Appellant's Record had been submitted by September 19, 2022.

19. The licensee asserts that the fraudulent screenshot submitted to the RAD was provided by an employee she has subsequently terminated.

TC2-13956

20. With respect to file TC2-13956, the licensee filed a Notice of Appeal to the RAD on her client's behalf on June 1, 2022. The Appellants' Record was due on July 18, 2022.

21. The Appellants' Record was not filed by the deadline and the RAD dismissed the appeal for lack of perfection on September 14, 2022.

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22. The licensee filed an application to re-open along with the Appellants' Record on September 22, 2022. Within the application, the licensee alleged that she had filed the Appellants' Record on July 16, 2022, and that it was not received by the RAD due to a technical glitch. The licensee provided no evidence in support of this allegation, and the RAD dismissed the application.

23. The licensee filed a second application to re-open on her clients' behalf on October 24, 2022. This application was accompanied by an alleged screenshot which indicated that the licensee had filed the Appellants' Record on July 16, 2022. The RAD accepted the screenshot and allowed the second re-opening application.

24. However, a further review of the screenshot by a Senior Business Systems Analyst with the IRB revealed irregularities with the screenshot, indicating that it may have been altered.

25. On February 28, 2023, the RAD provided a Member's Direction to the licensee, her client, and the Minister, advising that the RAD was concerned that the screenshot was not a genuine reflection of the purported portal submission. The licensee and her clients were invited to provide submissions to the RAD by March 13, 2023.

26. No submissions were received, and the RAD dismissed the application for re-opening. The RAD issued its reasons on April 3, 2023, noting that the screenshot submitted by the licensee had been altered, and that there was no credible evidence to demonstrate that the Appellant's Record had been submitted by July 18, 2022.

27. The licensee asserts that the fraudulent screenshot submitted to the RAD was provided by an employee she has subsequently terminated.

TC2-12626

28. With respect to file TC2-12626, the licensee filed a Notice of Appeal to the RAD on her clients' behalf on May 18, 2022. The Appellants' Record was due on June 24, 2022.

29. On June 25, 2022, the licensee filed an application for an Extension of Time ("EOT") to Perfect an Appeal as the licensee and her client were awaiting documents. The RAD allowed the EOT application, and the Appellants' Record was ordered due by July 18, 2022. The licensee submitted a second EOT application on July 18, 2022, noting again that the licensee and her client were awaiting documents. By Notice of Decision dated July 22, 2022, the RAD allowed the second EOT application and advised that the Appellants' Record was due by August 11, 2022.

30. The licensee failed to provide the Appellants' Record by August 11, 2022, and the RAD dismissed the appeal for lack of perfection on September 13, 2022.

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31. An application to re-open and the Appellants' Record were filed on September 22, 2022. The licensee alleged that she had uploaded the Appellants' Record through the IRB portal on August 10, 2022, and had not realized that it was not uploaded and received until she received the dismissal notice.

32. By Notice of Decision dated October 27, 2022, the RAD advised that the application to re-open had been dismissed as insufficient evidence was provided to show that the application and Appellants' Record had been uploaded by August 11, 2022.

33. On November 9, 2022, the licensee filed a second application to reopen her client's appeal, again arguing that the Appellants' Record had not been received by the RAD due to a technical glitch. No evidence was provided in support of this claim, and the RAD dismissed the application by Notice of Decision dated December 1, 2022. Therein, the RAD noted that while the licensee had submitted an affidavit signed before August 10, 2022 as alleged proof that the documents had been uploaded to the portal, the affidavit was from a completely unrelated file.

34. On December 22, 2022, the licensee filed a third application to re-open the appeal on her clients' behalf and provided an alleged screenshot showing that the Appellants' Record had been uploaded to the portal on August 10, 2022.

35. On February 27, 2023, the RAD provided a Member's Direction to the licensee, her clients, and the Minister, advising that the RAD was concerned that the screenshot was not genuine reflection of the purported portal submission. The licensee and her clients were invited to provide submissions to the RAD by March 13, 2023.

36. No submissions were received, and the RAD dismissed the application for re-opening. The RAD issued its reasons on April 3, 2023, noting that the screenshot submitted had been altered, and that there was no credible evidence to demonstrate that the Appellants' Record had been submitted by August 11, 2022.

37. The licensee asserts that the fraudulent screenshot submitted to the RAD was provided by an employee she has subsequently terminated.

Admissions of Professional Misconduct

38. The licensee admits the facts set out in the paragraphs above and acknowledges that the conduct described in paragraphs 4 to 37 was in violation of the *Code of Professional Ethics*, in force and effect from February 1, 2019 until June 9, 2022 (the "2019 *Code*"), as follows:

    a. Article 3.1 – Duty of Good Faith

    b. Article 5.1 – Duty of Continuing Competence

c. Article 5.2 – Nature of Competence

d. Article 5.3 – Obligations if Not Competent

e. Article 6.1 – Maintenance of Quality Service

f. Article 7.1 – Honesty and Candour Required

g. Article 11.1 – When Withdrawal Required

39. The licensee admits the facts set out in the paragraphs above and acknowledges that the conduct described in paragraphs 4 to 37 was in violation of the *Code of Professional Conduct,* in force and effect from June 9, 2022 until present (the "2022 *Code*"), as follows:

a. Article 4(1) – Standards of Profession

b. Article 4(2) – Conduct Unbecoming

c. Article 5 – Duty of Loyalty

d. Article 6 – Duty of Honesty and Candour

e. Article 8 – Relationship of Trust

f. Article 9 – Compliance with Applicable Legislation

g. Article 19(1) – Competence and Diligence

h. Article 19(2) – Nature of Competence

i. Article 20(1) – Obligation if not Competent

j. Article 21 – Maintaining Competence

k. Article 22(1) – Delivering Quality Services

l. Article 22(2) – Actions Taken when Representing Client

General

40. The licensee understands the nature of the allegations that have been made against her and that by voluntarily admitting to these allegations, she waives the right to require the College to otherwise prove the case against her.

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41. The licensee understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.

42. The licensee understands that any agreement between her and the College does not bind the Discipline Committee.

43. The licensee acknowledges that she has had the opportunity to receive independent legal advice and has either not done so, waived her right to counsel, or obtained legal advice.

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