

THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

KASHIF A. AHMED

(a member of the Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT

1. On March 9, 2023, the Chair of the Discipline Committee approved a proposal submitted by Kashif A. Ahmed (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (“Rules”).
2. Under the proposal, the Lawyer admitted that he committed the following misconduct:
 - i. Between 2012 and 2017, in relation to 30 immigration law clients (the “Clients”), the Lawyer failed to provide his Clients with the quality of service required of a competent lawyer, contrary to rules 3.1-2 and 3.2-1 of the *Code of Professional Conduct for British Columbia*, by failing to do the following:
 - (a) ensure his Clients were not receiving or had not received immigration assistance or advice from an agent not authorized to give assistance or advice under the *Immigration and Refugee Protection Act*;
 - (b) provide his Clients with complete and relevant advice and information about their matters;
 - (c) confirm retainer agreements directly with the Clients;
 - (d) confirm who was paying for his services directly with the Clients;
 - (e) identify a potential conflict of interest prior to 2016;
 - (f) review the Clients’ applications for permanent residency directly with the Clients and without third party representatives present, by initiating contact with the Clients himself with the assistance of independent interpreters where appropriate; and

- (g) ensure, where appropriate, that all instructions were in writing or confirmed in writing.
- 3. The Lawyer further admitted that this conduct amounts to professional misconduct.
- 4. Under the proposal, the Lawyer has consented to a fine of \$12,000, a condition that he meet with a Benchler within six (6) months to discuss his misconduct, and a condition that he complete six (6) additional approved Continuing Professional Development credits by December 31, 2023.
- 5. In making its decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated March 7, 2023, and a letter to the Chair of the Discipline Committee. The Chair also considered that the Lawyer did not have a prior Professional Conduct Record.
- 6. This consent agreement will now form part of the Lawyer's Professional Conduct Record.
- 7. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society of British Columbia (the "Law Society") is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
- 8. The admitted facts, set out in the Agreed Statement of Facts, have been anonymized and summarized below.

I. Summary of Facts

Personal Background

- 9. The Lawyer was called to the bar and became a member of the Law Society of British Columbia on September 19, 2011. Since then, he has worked at two small firms in Vancouver, British Columbia.
- 10. The Lawyer currently practises primarily in the areas of corporate and commercial law, commercial real estate, and administrative law. At the material time, he also practised immigration law.

Background Facts

11. The federal government has entered into agreements with each of the provinces and territories to allow for immigration programs. In the Yukon Territory, the program is called the Yukon Business Nominee Program (“YBNP”). The YBNP is designed to attract and retain skilled international entrepreneurs to the Yukon, and allows the Yukon government to nominate individuals for immigration to Canada if those individuals have proven business skills and have agreed to reside in the Yukon while actively managing and investing in their own Yukon business. If an applicant to the YBNP is approved by the program, they become a nominee and receive support for a work permit for Canada (“Nominee”). At the end of the permit period, Nominees who meet the eligibility requirements are supported by the YBNP in their application for permanent residency (“PR”).
12. The *Immigration and Refugee Protection Act* (“IRPA”) makes it an offence for anyone other than an authorized representative to represent or advise people, for consideration. This applies not only to all stages of a proceeding or application under *IRPA*, but also to all stages occurring before an application is made or proceeding instituted. To be a paid, authorized representative under *IRPA*, one must either be a consultant in good standing with the Immigration Consultants of Canada Regulatory Council, a lawyer licensed by a provincial or territorial law society, or a notary in good standing with the *Chambre des notaires du Quebec*. The Lawyer, as a member of the Law Society, was authorized to act as a representative under *IRPA*.

Apparent YBNP Nominees

13. Between January 2012 and May 2015, Company X referred 30 immigration law clients to the Lawyer for assistance with their applications to the federal government for permanent residency as apparent YBNP Nominees (collectively, the “Clients”, individually a “Client”).
14. Company X was an established corporate client of the Lawyer’s firm before he joined the firm, and was a business consulting company. The Clients were foreign nationals seeking to immigrate to Canada under the YBNP program. The Lawyer acted as an authorized representative for the Clients, and opened files for PR applications for the Clients at his firm.

15. Company X or family members of the Clients provided the Lawyer with completed retainer agreements. The Lawyer did not the review retainer agreements with the Clients in person or by telephone, and did not maintain records of the referrals or initial instructions provided to him by Company X.
16. Almost all retainer fees were paid by Company X. The Lawyer did not ask why Company X paid the retainer fees, or who the retainer funds belonged to. In the majority of cases, the remaining balances of the Lawyer's bills were paid by Company X.
17. After the Lawyer was retained, Company X or family members of the Clients provided PR applications to the Lawyer. Except in one case, the PR applications were filled out and signed and contained all required supporting documentation including purported YBNP certificates. Except in one case, neither the Lawyer nor the firm filled out the PR application forms, but the Lawyer reviewed the documents before submission.
18. The Lawyer believes that after he reviewed the PR applications, he arranged for telephone meetings with the Clients to review the applications. During the telephone meetings, he confirmed the Clients' instructions to submit their PR applications to the federal government. During the telephone meetings, either a Company X representative or a Client's family member was involved, to assist with translation. The Lawyer did not use an independent certified interpreter to speak with the Clients.
19. Between October 2013 and July 2015, the Lawyer submitted PR applications to the federal government for his Clients, as an authorized representative under s. 91(2) of *IRPA*. Subsequently, he learned that 29 of the 30 applications included fraudulent YBNP nomination certificates and was surprised. At the time the Lawyer submitted the YBNP nomination certificates to the federal government, he did not know they were fraudulent. The YBNP nomination certificates were fraudulent because the Clients were not duly approved nominees under the YBNP.

Alleged Fraudulent Scheme

20. Several parties have been criminally charged in an alleged immigration scheme whereby fraudulent nomination certificates were purported to have been issued to the Clients by the

YBNP. It is not alleged that the Lawyer was a party to the alleged immigration scheme or any criminal offence. The criminal proceedings are ongoing. The Lawyer is not the subject of criminal charges. It appears the Crown's theory is that a former director of the YBNP program took bribes to issue fraudulent YBNP nomination certificates to people who were not actually supported by the Yukon.

21. By November 18, 2014, the federal government identified 23 of the Clients as having submitted fraudulent YBNP nomination certificates. In June 2015, the federal government notified the Lawyer by email that 23 Clients were required to attend interviews in July 2015 (the "Interviews"). The emails warned that if the Clients failed to attend the Interviews, their applications would be assessed based on documentary evidence, and that such assessments would likely result in their applications being refused for having failed to permit a visa officer to examine them in person.
22. The Lawyer forwarded the email notifications to a Company X representative, asking that the 23 Clients be notified immediately. The Lawyer did not email the Clients directly to inform them of the Interviews. On two occasions, the Lawyer spoke with small groups of Clients about the Interviews but did not keep notes of the discussions.
23. At the Interviews, the Clients were told about the fraudulent YBNP nomination certificates and were shocked. It appears they were likely victims of a fraudulent scheme.
24. Some of the Clients stated that an unauthorized representative had filled out their application forms with information provided by them, and that they had little or no contact with the Lawyer.
25. The Lawyer did not know the extent to which the Clients had participated in the completion of their PR application packages. The Lawyer ought to have known that the Clients were receiving unauthorized assistance or advice from representatives of Company X, or others, about their YBNP and/or PR applications, contrary to *IRPA*.
26. In August 2015, the Lawyer started receiving Procedural Fairness Letters from the federal government. In total, the Lawyer received seven Procedural Fairness Letters in relation to seven Clients who had not attended their Interviews (the "PFL Clients").

27. The Procedural Fairness Letters all advised that the federal government was preparing to refuse the PFL Clients' applications because their YBNP certificates had been determined to be fraudulent and that this finding would render them inadmissible to Canada for five years.
28. Approximately 11 other Clients who did attend the July 15, 2015 interviews were denied PR, but did not receive a five-year ban on reapplying.
29. In 2016, some of the Clients advised the Lawyer that they were unsure of the role Company X and/or its translators had played in their PR application packages. The Lawyer did not document the conversations. Following the discussions, the Lawyer identified apparent conflicts of interest between the Clients and Company X, and in 2016, his firm terminated its relationship with Company X as a business client.

One Different File

30. In November 2014, the Lawyer unexpectedly received a PR application package in the mail from a person he did not know. The application package contained a YBNP nomination certificate that did not appear to be genuine. The Lawyer made inquiries to the YBNP about the nomination certificate and discovered that it was not genuine. As a result, he refused to act on the file and returned the application package to the sender.
31. In November 2014, the Lawyer received a telephone call from a federal government anti-fraud officer about the fraudulent YBNP nomination certificate. However, despite the fraudulent YBNP nomination certificate and his call with the anti-fraud officer, the Lawyer did not scrutinize any of the seven YBNP nomination certificates he received from Clients in 2015, which he then submitted to the federal government in PR applications.

Mitigating Factors

32. At the time of the misconduct, the Lawyer was a junior lawyer with approximately one to six years of experience. He has acknowledged his misconduct and is remorseful.
33. Since 2013, the Lawyer has been significantly involved as a presenter or volunteer with several legal and community organizations. He does not have a professional conduct record.