



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

April 16, 2010

Ms. Yolande James
Minister of Immigration and Cultural Communities
360, rue McGill, 4^e étage
Montreal, QC H2Y 2E9

Dear Ms. James,

Re: Regulations Respecting Immigration Consultants

I am writing on behalf of the Citizenship and Immigration Section of the Canadian Bar Association (CBA Section), with respect to the proposed *Regulation respecting immigration consultants*, pursuant to an *Act respecting immigration to Quebec* (R.S.Q. c I-0-2) (the Regulation). We commend the Quebec government for its efforts to regulate who may represent applicants to Quebec immigration programs. However, we are concerned that the Regulation, as currently worded, may have unintended effect of denying applicants their choice of legal counsel.

The CBA Section fully endorses the intentions of the Quebec Government as you articulated them on February 18th, 2010:

La protection du public, le respect des règles d'immigration et l'intégrité des services publics destinés à la population québécoise sont au coeur des préoccupations de notre gouvernement. C'est pourquoi j'ai déposé cette première réglementation qui encadrera de façon rigoureuse la pratique des consultants en immigration au Québec.

We also applaud the Quebec government for taking steps to counter the practice of “ghost consulting” in Quebec or abroad by also proposing the *Regulation to amend the Regulation respecting the selection of foreign nationals*, which would require immigration applicants to declare the identity of the consultant who assisted or represented them in connection with the application.

Law societies across Canada protect the public by regulating legal practitioners, including practitioners of immigration law. Lawyers are properly and effectively regulated throughout Canada and the public is, therefore, not at risk from licensed lawyers in good standing with any law societies of Canadian provinces or territories. As the Regulation currently reads, lawyers from

outside Quebec who are authorized to practice law within Quebec but are not, strictly speaking, members of the Barreau du Québec, are caught by the regulation.¹

We therefore suggest that section 3 of the Regulation be amended as follows:

This Regulation does not apply to a member in good standing of the Barreau du Québec or the Chambre des notaires du Québec **or a member in good standing of the Law Society of a Canadian province or territory who is authorized to provide legal services in the province of Quebec.**

Le présent règlement ne s'applique pas à un membre en règle du Barreau du Québec ou de la Chambre des notaires du Québec **ou à un membre en règle du Barreau d'une province ou d'un territoire canadien qui est autorisé à fournir des services juridiques dans la province de Québec.**

Our proposed modification respects the authority of the Barreau and the Chambre to supervise jurists providing legal services in Quebec for the public's protection, and at the same time, respects the applicant's choice of legal counsel from Canadian lawyers in good standing. It also is consistent with important values, such as promoting competition and trade nationally, and specifically respects the Agreement on Internal Trade among provinces. It is our understanding that there are no such restrictions applying to Quebec lawyers who wish to file applications to Provincial Nominee Programs in other jurisdictions on behalf of their clients.

In 2002, Quebec signed the National Mobility Agreement concerning the mobility of Canadian lawyers. Recently, Canada's law societies have taken the further step of signing the Quebec Mobility Agreement to ensure further mobility of lawyers in Quebec and the common law jurisdictions. The proposed Regulation would conflict with these steps towards the elimination of competition and trade barriers among all legal professionals across Canada.

We believe that the current process for lawyers outside Quebec to obtain special authorization to provide legal services for a specific case is cumbersome and could lead to unfairness with respect to immigration practitioners in particular. We intend to explore this issue with the Barreau and the other provincial and territorial law societies. In the meantime, however, we urge you to consider our suggested modification to ensure that the proposed Regulation is fully in the best interest of the public.

Yours truly,

(original signed by Kerri Froc for Stephen Green)

Stephen Green
Chair, National Citizenship and Immigration Law Section

cc. Maître Pierre Chagnon, Le bâtonnier du Québec

¹ The Barreau may provide out-of-province lawyers, on a temporary basis, special authorization to practice law in Quebec for a specific case if certain conditions are met. These conditions include payment of a fee, providing a certificate of good standing from the bar of which the lawyer is a member, and providing proof of professional liability insurance showing that the lawyer is insured for services provided in Quebec. These temporary arrangements do not result in a lawyer becoming a member of the Barreau.