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LOST IN MIGRATION, PART THREE

# Watchdog needs teeth














JIM RANKIN / TORONTO STAR

Toronto lawyer Ben Trister helped found the Canadian Society of Immigration Consultants in 2004 but in two years was declaring it an abject failure.

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## The Canadian Society of Immigration Consultants was created to clean up and professionalize a troubled industry. But the model has critical flaws

Jun 18, 2007 04:30 AM

**NICHOLAS KEUNG  
JIM RANKIN**  
STAFF REPORTERS

People who hope to call Canada home often seek advice from immigration consultants to fulfil their dreams. But consultants who are incompetent, negligent or unscrupulous can destroy dreams, tarnish Canada's image, and burden taxpayers by clogging the system with applicants who don't stand a chance. Three years after Ottawa set up a self-regulating body meant to clean up the lucrative industry and protect vulnerable newcomers, a Star

### Bumpy ride to respectability

ON A WEEKEND in May, 700 or so registered immigration consultants – in suits, toting BlackBerry and briefcases – settled into seats in a Fairmont Royal York ballroom.

investigation finds that little has changed. The regulatory body says the future looks bright, but it lacks a big stick.

### Today: Lessons and solutions

Offering immigration advice in Britain without proper credentials will land you in court, facing a fine and up to two years in prison.

The Office of the Immigration Services Commissioner – a public body created in 2001 to police the industry – has the power to knock down doors. There have been 55 successful prosecutions. Nearly one in five went to jail.

Its investigators, 10 former police officers, go after "ghost" advisers – people who charge for their services but are undetected because they don't sign documents – and charge them with a criminal offence.

But along with wielding a big stick, the office also proffers a carrot.

Some illegal operators are simply persuaded to go legit and join.

Last year, the commission identified 690 suspect operations. In two-thirds, they either got the people on-board, heard satisfactory explanations, or closed the shop.

"We say, 'Are you going to join us? We'll love you and support you and make you feel good because you'll be part of the legitimate. Or, we'll prosecute you. Make a choice.'"

That's how Commissioner Suzanne McCarthy explained the program last month in Toronto at the first annual conference of the Canadian Society of Immigration Consultants (CSIC) – to much applause.

Compare that to Canada's oversight body, which has only a limp carrot – membership in the fledgling society – and no stick to prevent "ghost" consultants from doing as they please. While registered members of CSIC (currently 1,068) pay annual dues of \$2,067 and are ostensibly subject to standards and codes of conduct, the ghosts pay nothing – and follow no rules.

CSIC was formed three years ago to clean up an industry with a bad reputation. Its architects considered the British model but ultimately chose one more like Australia's, a government-endorsed body set up as a corporation.

They did not insist on a law making it illegal to charge fees for providing immigration advice without being a member.

That thwarts any hope of bringing down unethical or incompetent consultants – or protecting the rights of Canadians and newcomers alike.

The harshest penalty a rogue consultant faces from Citizenship and Immigration Canada is a refusal to deal with him, or his files.

And that mostly penalizes clients, who can get letters from immigration threatening them with becoming inadmissible for using an unauthorized representative.

And there are lots of ghosts – as many as 5,000, according to one estimate – operating beyond its reach in Canada. Plus an unknown number abroad.

"I'm not going to gloss over it," says CSIC's chair and one of its founders, John Ryan.

"There's a considerable number of people who are trying to circumvent the regulations; as in any system, people are trying to get around it. It's just the way things are."

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## consultant tips

The Star has created these brief guides to what you need to know about using immigration consultants. The tip sheets are available in 10 languages - choose your desired language for an easy-to-print PDF document.

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(Requires the free Adobe Acrobat PDF reader)

Translations by Morteza Abdolalian, Amna Ali, Bock Ki Kim, Helder Ramos, Vandana Rizvi, Gurmeet Singh, Sing Tao Daily, C. Srikanthan and Miguel Vadillo.

## Undercover video

### The Consultants

To determine how widely the immigration advice given might vary, Star reporters posed as would-be immigrants, starting with phone calls to 33 consultants and lawyers. Four suggested the callers file a refugee claim, without having heard of any basis for such a claim. Reporters wearing a hidden video recorder visited these four in person. Read summaries of the visits and view excerpts from the videos:



**Karan Arora** of CWC Immigration Solutions Inc., Mississauga. **'I will sit with you and make it up'**



**Susan Liang**, owner of New-Asia Immigration Law Centre,



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### SPECIAL



### Monarch's map to Mexico

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Without the power to lay penalties, CSIC is reduced to such measures as pleading with ethnic newspapers to run ads only from CSIC members.

"The whole issue of discipline and enforcement is a multi-jurisdictional one," Ryan said in an interview.

He says it's up to Ottawa – the RCMP, Immigration, the Immigration and Refugee Board, and Canada Border Services – to do their part. "We certainly govern the activities of our members."

In interviews with the *Star*, everyone – from CSIC and a consulting lobby group, to advocacy groups and the RCMP – agreed there are better ways of protecting the people they all agree are most vulnerable: the clients.

Here are some possible solutions:

#### Criminalize ghosting:

Francisco Rico-Martinez, former CSIC board member and founder of Faithful Companions of Jesus Refugee Centre, says his not-for-profit group spends about 30 per cent of its time dealing with the fallout from bad advice and poor work performed by consultants, many but not all of them unregistered.

"This is a serious pain in the ass," Rico-Martinez says in an interview at the west Toronto centre that is also his home. "And neither CSIC nor the Mounties are able to do much about it," he says. "You don't have a way to catch them."

Anyone who complains to Immigration Canada about a consultant will be referred to the Mounties, who are supposed to enforce the Immigration and Refugee Protection Act, but the focus is on human trafficking and smuggling.

The RCMP do not bust consultants simply for operating outside regulations. Investigations of unregistered advisers are rare and difficult, and must involve fraud, such as misrepresenting the facts on an immigration application, or counselling someone to enter a "marriage of convenience." Usually, it takes a lot of money or multiple victims to be worth the effort.

"If you steal \$100,000, the RCMP might not be interested," says Phil Mooney, president of the Canadian Association of Professional Immigration Consultants.

"If you steal \$1 million, they might come."

The architects of CSIC did ponder making unregistered consulting a criminal offence, but felt a vaguely worded provision in existing immigration law – which would charge clients for failing to disclose that they had used a representative – would work.

It has not.

CSIC designers also figured that because so many consultants work in other countries, a Criminal Code provision wouldn't have much effect.

"We're in a bad situation," says Rico-Martinez, who was a lawyer back in his native El Salvador. "The only way is to be very strong with these guys."

#### Find the will:

Changing law requires political will. CSIC's founders chose the self-regulatory model in part because it was the path of least resistance: It required no major changes in law, posed no legal liability to Ottawa. And at a cost of \$1.2 million in federal seed money – or about a dollar for every immigrant who arrived in Canada over the past five years – it was cheap.

In a post-9/11 environment, Ottawa also saw it as a way to fight the perception that our borders are porous.

"Incidences of fraud and other questionable practices should be greatly reduced, while at the same time increasing the Canada Border Services Agency's ability to meet its immigration enforcement mandate," Anne McLellan, then minister of public safety, said in a news release just before CSIC was launched in April 2004.

"With these new regulations, everyone will have access to accredited, qualified and ethical representation," immigration minister Judy Sgro said in the same release.

Now in Opposition, Sgro did not respond to the *Star's* requests to talk about CSIC. Nor did her successor, Joe Volpe, whose assistant said he had "no interest" in doing so. Current minister Diane Finley never responded. The Immigration and Refugee Board also had nothing to say about CSIC's progress.

The lack of interest may suggest where immigration ranks in the priorities on Parliament Hill.

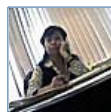
"They change immigration ministers as often as some people change underwear," complains Ben Trister, past CSIC chair and one of its architects.

"It's hard to get (them) to fully apprise themselves of the pros and cons and the history of an organization."

In the early days, the immigration department had a representative at CSIC board meetings. But the department representative was pulled out in March 2006, just months after turmoil on the board

Toronto. Neither a lawyer nor a CSIC member.

'... I'll teach you how to respond'



Laura Li, president of Immica Consultation Inc., Toronto, CSIC member.

'Everyone can file a refugee claim'



Jackie Wang, a consultant with Winners Immigration Consulting Inc., Toronto,

which advertises its association with a CSIC member.

'You can get \$550 a month...'

Read more on how we conducted the investigation.

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over financial management and governance concerns became public fodder.

According to a spokesperson, the department felt its "presence at board meetings was not necessary any more."

Now, CSIC has only a reporting relationship to the government. Because federal seed money was involved, it must provide updates on finances, administration and other developments.

The immigration department wouldn't say how it felt about the society's performance. Evaluating CSIC is a job for its members, a spokesperson said.

CSIC executives told the *Star* they consider the department a "partner" and have a good relationship.

Trister says the department could and should monitor CSIC more closely and more actively protect immigration applicants – but doesn't, in part, because many consultants are former immigration officers (one in four, by one estimate).

Trister says the other part is simply that "They don't care enough about this file.

"That's regrettable."

#### **Educate the customer:**

Googling *Canada, immigration* and *information* produces 12.5 million hits. Only a minute fraction lead to a government website. The vast majority take you to consultants, recruiters and agents who make their pitch in a Babel of languages.

Do the same search in Spanish, and neither the government site nor CSIC shows up in the first 100 hits.

You will, however, find many Latin American websites touting life in Canada.

Getting out the "official" message is a challenge, yet the only real hope for protecting prospective migrants from bad advisers lies in educating a global audience.

CSIC provides limited information on its website, in eight languages. Immigration Canada's site is solely English and French.

Both agree more could be done.

Ryan says CSIC is committed to "empowering the consumers by educating them," and has placed ads in ethnic papers.

The RCMP has begun sending officers to community meetings to share advice they hope will spread to would-be migrants.

"People are victimized because they don't know the system," says RCMP Cpl. Kevin Gibson. "They go on the Internet, they find somebody, they send the money, they get ripped off ...

"Education is a way to help disrupt these criminals from doing their jobs."

There are reasons to be optimistic. CSIC's newest members are graduates of approved college programs and must pass language proficiency and knowledge tests. Members must fulfill yearly professional development requirements. Its disciplinary system is finally up and running.

"We've really matured," says CSIC's Ryan, a former immigration officer.

"We've ramped up an entire regulatory body in three years."

Phil Mooney, president of the industry group CAPIC and a consultant, says: "Give us a little time. In a year, consumers will see a difference."

Ben Trister takes a more doubtful view. A lawyer who co-founded the society and later quit the CSIC board amid internal disputes, he believes Canada is no further ahead than it was three years ago.

But he sees some reason for hope that migrants will be better served.

"The best solution is to ensure competency of the profession, with initial passing of exams, continuing education programs, re-testing people," he says.

"If you do that, you're solving a huge part of the problem."

Others don't believe the industry will ever mature to the point where it is deserving of self-regulation.

"We're trying to make an occupation into a profession," says Rico-Martinez, another CSIC founding member who resigned in 2005. "They are representing people in a very specific area of the law. The training is very flexible, the experience and moral implications are very flexible as well."

For now, consulting remains very much a business, not unlike that of a real estate agent. Both sell homes, but in the case of consultants, poor advice can lead to more than a missed opportunity.

"Many of those who seek immigration advice are very vulnerable," the U.K. immigration commissioner, Suzanne McCarthy, reminded Canadian consultants at their recent gathering.

"They may be frightened that if they rock the boat, they're going to be removed. Such people are very easy targets for exploitation.

"That's why there's a need for good immigration advisers who are fit and competent, that's why my office is necessary in the U.K. ...

"Bad immigration advice," she said, "ruins lives."

