

REGISTERED IMMIGRATION CONSULTANTS ASSOCIATION OF CANADA

Rules of Professional Conduct

DEFINITIONS

Association

The Registered Immigration Consultants Association of Canada.

Board

The board of directors of the Registered Immigration Consultants Association of Canada.

CIC

Citizenship and Immigration Canada

Client

The person or entity engaging a member as an independent contractor for the performance of professional immigration services.

IRB

The Immigration and Refugee Board.

IRPA

The Immigration and Refugee Protection Act

Member

A member of the Registered Immigration Consultants Association of Canada and is in good standing.

Profession

The profession of immigration consulting.

PART I. RESPONSIBILITIES TO SOCIETY

101. A member shall not permit the member's firm name or the member's name to be used with, participate in, or knowingly provide services, to any practice, pronouncement or act that would be of a nature to discredit the profession.

102. A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonably prudent person would believe, to be unlawful.

103. A member shall not engage in a discriminatory practice on a prohibited ground of discrimination, as those terms are defined in the *Canadian Human Rights Act*.

104. Members shall act in the interest of their clients, employers, and interested third parties, and shall be prepared to sacrifice their self-interest to do so. Members shall honour the trust bestowed on them by others, and shall not use their privileged position without their principal's knowledge and consent. Members shall strive to be independent of mind and in appearance.

105. Members shall strive to continually upgrade and develop their technical knowledge and skills in the areas in which they practise. This technical expertise shall be employed with due professional care and judgment.

106. Members shall not be associated with any information that the member knows, or ought to know, to be false or misleading, in any case presentation.

PART II. RESPONSIBILITIES TO THE PROFESSION

201. Members shall always act in accordance with the duties and responsibilities associated with being members of the immigration consulting profession, and shall carry on work in a manner that will enhance the image of the profession and the Association. A member shall not participate in any action that is detrimental to the Association or the profession.

202. A member shall comply with the By-Law and the *Rules of Professional Conduct* of the Association as amended from time to time, and with any order or resolution of the Board or its committees under the By-Law.

203. A member shall report to the Association any situation of which the member has sufficient personal knowledge, and which the member thinks may be detrimental to the profession.

204a. A member shall not criticize another professional colleague without first submitting this criticism to that colleague for explanation. Where the criticism may result in a complaint against the colleague being lodged with the relevant ethics committee, the member must, where required, first submit that criticism in writing to the colleague for explanation and thereafter, shall inform that colleague as to the action the member has taken concerning the criticisms. The lodging of an ethics complaint against a professional colleague is considered a criticism under this rule.

204b. Notwithstanding Rule 204, a member may first submit a criticism of another professional colleague to the Association, should the matter be considered of such a nature that prior written notice to that colleague is not appropriate.

205. A member shall not obtain admission to membership by means of fraud or other irregularity and shall notify the Association immediately regarding a person who has obtained membership by means of fraud or other irregularity.

206. A member may engage in any profession, trade, industry, office or duty, except where these undertakings are detrimental to the public good or to the standards of the profession.

207a. A member shall be subject to disciplinary action for any offence which constitutes a breach of professional conduct and is subject to the disciplinary authority of the Association regardless of where the person's conduct occurs or where the person resides.

207b. The Association may discipline a Member for Professional Misconduct only after the Member has sufficient time to prepare his/her defense. A Member subject to discipline, may also be required to pay all or a portion of the costs associated with the investigation and hearing of the discipline proceeding.

208. A member shall immediately notify the Association if the member becomes bankrupt.

209. A member who has been found guilty or granted an absolute or conditional discharge of any criminal or similar offence, which may cast doubt as to that member's honesty, integrity or professional competency, shall promptly inform the Association of the conviction, finding of guilt or discharge, as the case may be, when the right of appeal has been exhausted or expired.

210. A member shall not make public statements or comments that may be interpreted as representing the Association or its views, except when authorized to act as an 'official spokesperson' for the Association.

211. A member shall, before entering into a legal action against another member that might discredit the profession, give the Association as much notice as is possible of such an intention, outlining the basis of the proposed action.

PART III. TRUST AND DUTIES

301. Members shall act in the interest of their clients, employers, and interested third parties, and shall be prepared to sacrifice their self-interest to do so. Members shall honour the trust bestowed upon them by others, and shall not use their privileged position without their principal's knowledge and consent.

302a. A member shall not disclose any confidential information acquired as a result of professional or business relationships unless disclosure is expressly or impliedly authorized by the Client, is required by law, or is otherwise permitted by the Rules.

302b. A Member shall take all reasonable steps to ensure the privacy and safekeeping of a Client's confidential information.

302c. A Member shall not disclose the fact of having been consulted or retained by a person unless the nature of the matter requires such disclosure and permission is given.

302d. Subject to being compelled by law or legal process, a Member shall preserve the Client's confidential information even after the termination of the retainer, whether or not differences have arisen between the Member and the Client.

303. A Member who engages in another profession, business, or occupation concurrently while acting as an immigration consultant shall not allow such outside interest to jeopardize his or her professional integrity, independence and competence when dealing with his/her immigration client.

304. A member shall not, without an employer's or client's consent, use confidential information relating to the business of the member's employer or client to directly or indirectly obtain a personal advantage.

305. Members shall provide the client with a written retainer agreement or engagement letter that clearly states the matter and scope of services for which the Member is retained, fully discloses the fees and disbursements being charged, such fees being fair and reasonable in the circumstances, any other remuneration being received as a consequence of the matter, and payment terms and conditions. The retainer agreement must disclose that the Member is a member of the Association and must provide electronic, telephonic and address details as to how the Client may contact the Association.

306. Members who handle money or other property in trust shall do so in accordance with the terms of the trust and the general law relating to trusts; the member shall maintain such records as are necessary to account properly for the money or other property.

307. A Member may not hold Client money, for the benefit of a third party except for money to pay the Member's fees, including Agent's fees, CIC's fees and disbursements related thereto.

PART IV. PROFESSIONAL PRACTICE

401. A Member shall be both honest and candid when advising Clients.

402. A Member must exercise due care in performing services to a client.

403. A Member should serve the Client in a conscientious, diligent and efficient manner, and should provide a quality of service at least equal to that which Members generally would expect of a competent Member in a like situation.

404a. A Member shall maintain errors and omissions insurance in an amount as to be prescribed, and provide evidence as required, by the Association.

404b. A Member should inform the Client promptly and fully regarding any error or omission that has occurred in the matter for which a Member was retained, that is or may be damaging to the Client and cannot be readily corrected. The duty includes recommending that the Client seek independent advice regarding any rights that may arise out of the error or omission. A Member shall further advise his or her insurer promptly regarding any potential claim arising out of the matter.

405. A Member shall not knowingly assist in or encourage any dishonesty, provision of misleading information, omission of any required relevant information, fraud, crime or illegal conduct, or instruct the Client on how to violate the law and avoid punishment.

406. A Member owes the Client a duty to be competent to perform any services undertaken on the Client's behalf and shall sustain professional competence by keeping informed of, and complying with, developments in the professional requirements, standards, techniques, and practices of the profession.

407. A member shall undertake continuing education and professional development activities in accordance with the standards and policies established by the Association.

408. A Member should assume complete professional responsibility for all work entrusted to him or her and should directly supervise Employees to whom particular tasks and functions are delegated.

409. A Member should not engage in any conduct, for example, committing a criminal act, that tends to bring discredit upon the profession and reflects adversely on the Member's honesty, trustworthiness, or fitness as a Member.

410. A Member should not get involved in any acts that violate or attempt to violate one of the rules in the Rules or a requirement of the IRPA or its regulations or the by-laws of the Association.

411. When representing the Client before the IRB, the Member should resolutely, and honourably, within the limits of the law, represent the Client's interest while treating the IRB members, the CIC and Officers with courtesy and respect.

412. A Member shall not represent parties with potentially conflicting interests in an immigration matter, save after adequate disclosure to and with the consent of the parties, and shall not act or continue to act in a matter when there is or is likely to be a conflict of interest.

PART V. ADVERTISING, MARKETING AND SOLICITATION

501. A Member shall not engage in false or misleading advertising or representations. In particular, a Member shall not misrepresent or mislead a Client as to his or her qualifications, services, fees, available programs or benefits.

502. A Member shall not provide false or unrealistic expectations as to either results or processing times.

503. A Member shall not purport to have special access or influence with respect to the CIC, an Officer, or the IRB.

PART VI. WITHDRAWAL FROM REPRESENTATION

601. A Member shall withdraw as representative if the member is instructed by the Client to do something illegal or in contravention to any rules in the Rules of Professional Conduct, or his or her continued involvement will place the Member in a conflict of interest; or he or she is not competent to handle the matter.

602. Where the Client fails to provide funds on account of disbursements or fees after reasonable notice, a Member may withdraw unless serious prejudice to the Client would result.

603. When a Member withdraws, the Member should try to minimize expense and avoid prejudice to the Client and should do all that can reasonably be done to facilitate the orderly transfer of the matter to the successor consultant.

604. Upon withdrawal or being discharged by the client, a Member should (a) deliver to or to the order of the Client all papers and property to which the Client is entitled; (b) give the Client all information that may be required in connection with the case or matter; (c) account for all funds of the Client then held or previously dealt with, including the refunding of any remuneration not earned during the representation; (d) promptly render an account for outstanding fees and disbursements; (e) co-operate with the successor consultant so as to minimize expense and avoid prejudice to the Client; and (f) notify in writing the CIC or the IRB where the Member's name appears as representative for the Client that the Member has withdrawn.

605. Before agreeing to represent the Client, a successor Member should be satisfied that the former Member has withdrawn, or has been discharged by the Client.