



April 27, 2004

Mr. Rénald Dussault
Director General
CIC Selection Branch
300 Slater Street, Jean Edmonds North Tower, 7th floor
Ottawa Ontario
K1A 1L1

Dear Sirs and Mesdames,

RE: Implementation of Regulations, Guidelines and Form 5476 respecting Authorized Representatives

I write on behalf of the Canadian Bar Association's National Citizenship and Immigration Law Section (CBA Section). I have received Ms. Purie's email of April 19 advising that:

1. Contrary to prior advice, there is to be no phasing in of the implementation of regulations (and manual and form use) respecting authorized representatives. The regulations, new guidelines and forms are effective and implemented as of April 13, 2004. The phase in period referred to by Mr. Davidson in his email of April 7 is abandoned.
2. We are further advised that the CBA Section's submissions on the regulations, the draft guidelines and the new form IMM 5476B, sent to Mr. Davidson and to Mr. Laird on April 16, were received "too late to incorporate them".

This is unacceptable. The CBA Section has significant concerns with the guidelines, the regulations and the form IMM 5476B now required by CIC. The CBA Section was not provided with the overseas manual provisions and form until April 5, 2004, and even then with the condition that those materials not be distributed broadly to the Section's membership until the Minister's announcement on April 8. On April 8, the CBA Section distributed the materials to its membership by email with a request for review and comments. On the basis of feedback then received, the CBA Section drafted a formal response that was reviewed and revised by its executive and approved through National CBA office.

The Section sent its response to Mr. Davidson and to Mr. Laird on April 16, just eight days after the time we were authorized to distribute the materials to our membership.

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Eight days are insufficient for a reasoned and full reply on any substantive guidelines and documentation, particularly in the controversial area of regulation of consultants and the designation of lawyers as "authorized representatives". To be advised now that these representations were received "too late" for consideration and that the manual, form and regulations will be immediately implemented is entirely dismissive of any meaningful consultation.

The CBA Section requests immediate reversal of the decision to abandon a phased in approach. We also request continued consideration of submissions and continued dialogue on the manual provisions, forms and implementation of the regulations.

The CBA Section has serious concerns with the guidelines, Form Imm 5476B and regulations. It is not simply a matter of disagreeing with the materials; we believe that the guidelines make incorrect statements unsupported by the regulations respecting what constitutes a complete application, that Form 5476 is improperly worded and confusingly constructed, that the regulations do not prevent unregulated consultants from engaging in advice and consultation on immigration matters, and that the guidelines lead officers into unnecessary and undue examination of law office staff conduct instead of focusing upon the conduct of consultants.

These are significant concerns that deserve serious consideration before implementation of the guidelines and form as drafted.

You will also find attached a copy of correspondence forwarded to me by CBA Section member, Ms. Patricia Gamliel of Montreal. Ms. Gamliel is also a member of the Bar in Quebec. Ms. Gamliel received the attached correspondence from the Embassy in Tel Aviv, advising her client that she "is not a member in good standing in these societies" (CSIC, Law Society, or Chambre des Notaires du Quebec). Not only is this incorrect, it is obviously bad practice to issue such a statement simply in the face of an IMM 5476 not being filed. Mission staff has means of confirming Law Society membership, and this was not done in this case. (The application was filed April 14).

The posts should not be using this letter as a first response. Instead, they should make reasonable efforts to confirm law society membership and should utilize the language suggested by Ms. Gamliel in appropriate cases. The letter sent by the Mission is heavy handed, wrong and reflects the insensitive and rushed manner of implementing the Authorized Representative regulations.

Yours truly,

(original copy signed by Joan Bercovitch for Gordon Maynard)

Gordon Maynard
Chair, National Citizenship and Immigration Law Section

c.c. Mark Davidson, Director
Mandira Purie, Policy Officer
Ian Laird, Chief of Staff