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IMMIGRATION LAWYERS

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Law Society of Ontario – Rules of Professional Conduct

Dishonesty, Fraud, etc. by Client or Others

3.2-7 A lawyer shall not

- (a) knowingly assist in or encourage any dishonesty, fraud, crime, or illegal conduct;
- (b) do or omit to do anything that the lawyer ought to know assists in, encourages or facilitates any dishonesty, fraud, crime, or illegal conduct by a client or any other person;
or
- (c) advise a client or any other person on how to violate the law and avoid punishment.

Immigration and Refugee Protection Act

Misrepresentation

- **40** (1) A permanent resident or a foreign national is inadmissible for misrepresentation
 - (a) **for directly or indirectly** misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;
 - (b) for being or having been sponsored by a person who is determined to be inadmissible for misrepresentation;
 - (c) on a final determination to vacate a decision to allow their claim for refugee protection or application for protection; or
 - (d) on ceasing to be a citizen under
 - (i) paragraph 10(1)(a) of the [Citizenship Act](#), as it read immediately before the coming into force of section 8 of the *Strengthening Canadian Citizenship Act*, in the circumstances set out in subsection 10(2) of the [Citizenship Act](#), as it read immediately before that coming into force,
 - (ii) subsection 10(1) of the [Citizenship Act](#), in the circumstances set out in section 10.2 of that Act, or
 - (iii) subsection 10.1(3) of the [Citizenship Act](#), in the circumstances

set out in section 10.2 of that Act.

Application

(2) The following provisions govern subsection (1):

- (a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced; and
- (b) paragraph (1)(b) does not apply unless the Minister is satisfied that the facts of the case justify the inadmissibility.

Inadmissible

(3) A foreign national who is inadmissible under this section may not apply for permanent resident status during the period referred to in paragraph (2)(a).

Contravention of Act

- **124 (1) Every person commits an offence who**
 - (a) contravenes a provision of this Act for which a penalty is not specifically provided or fails to comply with a condition or obligation imposed under this Act;
 - (b) escapes or attempts to escape from lawful custody or detention under this Act; or
 - (c) **employs a foreign national in a capacity in which the foreign national is not authorized under this Act to be employed.**

Deemed knowledge

(2) For the purposes of paragraph (1)(c), a person who fails to exercise due diligence to determine whether employment is authorized under this Act is deemed to know that it is not authorized.

Due diligence defence

(3) A person referred to in subsection 148(1) shall not be found guilty of an offence under paragraph (1)(a) if it is established that they exercised all due diligence to prevent the commission of the offence.

Penalties

- **125 A person who commits an offence under subsection 124(1) is liable**
 - (a) on conviction on indictment, to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both; or
 - (b) on summary conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

Counselling misrepresentation

- **126 Every person who knowingly counsels, induces, aids or abets or attempts to counsel, induce, aid or abet any person to directly or indirectly misrepresent or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act is guilty of an offence.**

Misrepresentation

- **127 No person shall knowingly**
 - (a) **directly or indirectly misrepresent** or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;
 - (b) **communicate, directly or indirectly, by any means**, false or misleading information or declarations with intent to induce or deter immigration to Canada; or
 - (c) refuse to be sworn or to affirm or declare, as the case may be, or to answer a question put to the person at an examination or at a proceeding held under this Act.

Penalties

128 A person who contravenes a provision of section 126 or 127 is guilty of an offence and liable

- (a) on conviction on indictment, to a fine of not more than \$100,000 or to

imprisonment for a term of not more than five years, or to both; or

- (b) on summary conviction, to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both.