

**FEDERAL COURT**

BETWEEN:

PHILIP MOONEY, RHONDA WILLIAMS, and  
GERD DAMITZ

Applicants

- and -

CANADIAN SOCIETY OF IMMIGRATION CONSULTANTS,  
and MINISTER OF CITIZENSHIP, IMMIGRATION AND MULTICULTURALISM

Respondents

**AFFIDAVIT OF GERD DAMITZ**  
(sworn May 12, 2010)

I, Gerd Damitz, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am an Applicant herein and as such have knowledge of the matters hereinafter set forth.
2. I am a member of the Canadian Society of Immigration Consultants ("CSIC") and a former director of the Canadian Association of Professional Immigration Consultants ("CAPIC").
3. I started to practice as an Immigration Consultant in late 1995, and became in 1996 a member of the professional immigration practitioner association AICC (Association of Immigration Counsels of Canada). After holding several positions including VP Ontario Chapter I was elected in early 2003 as the AICC National President. Together with Warren Lloyd, President of OPIC (Organization of Professional Immigration Consultants) I spearheaded in 2004 the amalgamation of AICC and OPIC into CAPIC and became with Warren Lloyd the CAPIC founding presidents.
4. In an inauguration ceremony taking place December 2004, CAPIC was officially established as Canada's largest non-profit organization of immigration consultants with over

500 members and the first elections were held. After being two years on the CAPIC board as Past President-AICC, I continued to serve for further 3 years as National Treasurer until April 2010.

5. From the beginning of my membership at AICC I participated in initiatives to lobby for the establishment of a self-regulatory model for our profession. This included for example participation at meetings with each residing Minister of Immigration from 1997 until today, participating in providing input to the Standing Committee of Immigration & Citizenship, participating in an AICC delegation attending the Mangat case hearing at the Supreme Court, where AICC had intervener status.

6. During all my professional career I tried to do my part, as small as it might be, for helping our industry to become self-regulated. Self-regulation means for me, a strong regulatory body established by membership, transparent, adhering high governance standards, respecting and accepting members input for direction and fine tuning of the organization towards the ultimate mandate of consumer regulation. 'Strong' in the sense of having the ability and will to go after Ghost Consultants, which have been a severe problem in our industry, and the implementation of a fair, independent complaints mechanism focusing only on the protection of the consumer.

7. In my opinion, it is unacceptable in Canada to use a complaint mechanism for punishing members for voicing criticism of the Regulator, and is actually counter effective to consumer protection as the Regulator's valuable resources are occupied in its efforts to mute its critics.

8. In supporting the management of CSIC initially, I realized that there are in my opinion severe problems with how the mandate of consumer protection was exercised and inherent problems caused by the initial set-up of the regulatory body, which became also apparent in the reports of the Standing Committee of Immigration. As such CAPIC tried to address these problems in its June 24, 2008 posting. In the posting, it requested that the regulator accept the recommendations of the Standing Committee Immigration and Citizenship.

9. As a result of the posting, I received a Complaint from CSIC. The Complaint is attached to Philip Mooney's affidavit, which I have reviewed.
10. During my interview with Pierre Briand held October 24, 2008, the following exchange took place concerning the composition of CAPIC's Board on June 24, 2008:

**Pierre Briand**

Okay. I have here a list of the member of the Board of CAPIC. This is dated 24<sup>th</sup> of July. The text we were talking about was published 24<sup>th</sup> of June. So on the 24<sup>th</sup> of June, were all these members on the Board or with –

**Gerd Damitz**

No, no, no. This unfortunately wasn't updated. Bruce Perreault wasn't on the Board and- let me see – Sol, I'm not sure, because he just recently became for Mr. Alli Amlani, the new chapter president, though I am not really sure if he was on the 24<sup>th</sup> of June a director already or not. And the other ones have been director.

**Pierre Briand**

Were there others that are not there? – to your knowledge?

**Gerd Damitz**

No, no. Just, there was a transition period with one or two directors, so but, so my memory I really can't say.

**Pierre Briand**

When was that transition period from when to when?

**Gerd Damitz**

This was approximately at that time, actually at the time then, after the elections from CSIC, Mr. Alli Amlani, he was the former Ontario chapter president, he was – he didn't resign, but we have a new, we had to elect a new chapter president and also we had another vacant Board position and we were in search of filling it.

11. Other than the exchange that took place above, I was never asked anything about the composition of the CAPIC Board on June 24, 2008. I was not asked to check records and

report back to Mr. Briand. I answered truthfully, to the best of my ability, and it seemed to me that Mr. Briand was satisfied with my answers since he moved onto other matters.

12. Frankly, I did not understand what Mr. Briand was getting at with his questions. I was prepared to answer questions about the posting and the reasons that I agreed with its content. I was also prepared to explain that the posting was not intended to undermine CSIC and that its intention was to strengthen the regulation of immigration consultants. I had not anticipated questions about the composition of CAPIC's board.

13. In any event, the answers that I provided to Mr. Briand were honest. At the time of my interview, I did not remember when Sol Gombinsky, Katerina Onuschak and Ed Dennis became board members.


14. I have reviewed Mr. Stephens' letters to Mr. Briand dated September 15, October 15 and October 26, 2009 wherein he explains that Sol Gombinsky became a board member on June 13, 2008, and that Katerina Onuschak and Ed Dennis became board members when they signed their consent forms in August. I agree with his explanation.

15. I received a Letter of Warning dated April 1, 2010. It alleges that the answers I provided to Mr. Briand were misleading, and amounted to the concealment of information. This allegation is ridiculous. At no time did I conceal information from CSIC. There is no possible reason for me to mislead CSIC as to who was on the CAPIC Board as of a certain date.

16. The Letter of Warning adversely affects me. It prevents me from running to become a Board member of CSIC. I had intended to run for a board position this June, and still intend to because I believe the Letter of Warning was made against me for improper political reasons, including an apparent desire to punish those people who criticize CSIC and to prevent such people from running for positions on its Board of Directors.

17. Further, based on new Regulations coming into force in the province of Quebec, the Letter of Warning might prevent me from practicing in Quebec, which will interfere with my ability to earn a livelihood.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on May 12, 2010.

  
Commissioner for Taking Affidavits

*Adam Stephens*

  
Gerd Damitz