

MigAssist

IMMIGRATION CONSULTANTS
ABN: 21 646 415 397

117 Woodcroft Drive Woodcroft NSW 2767
PO Box 353 Deonjide NSW 2767

Tel: (+61 2) 9676 1053
Tel/Fax: (+61 2) 9676 4840
Mobile: 0416 031 999
E-Mail: porferrada@elpacific.com.au

11 November 2003

Mr. Allstair Sands
The Secretary
Senate Select Committee on Ministerial Discretion in Migration Matters
Parliament House
CANBERRA ACT 2600

Dear Mr. Sands,

RE: Inquiry Into Ministerial Discretion in Migration Matters

I wish to provide a submission in respect of the following matters that were raised during the hearing on 22 October 2003. Committee Hansard of 22 October 2003 referred.

Matter before the MARA

On 14 July 2003, Mr. Sam Issa of Firmstone and Associates has written a letter to the MARA re: Complaint by [redacted]. The MARA asked me to respond to the complaint. I provided my response on 05 August 2003. Copy of my response and the complaint attached.

This matter is still pending with the MARA

Dealings with Mr. Karim Klsrwani

Mr. Karim Klsrwani referred clients to me. As a community leader, people come to him for advice and assistance. To my understanding, when the assistance sought is related to migration, he refers them to a registered migration agent, such as myself. In most of his referrals to me, he acted as interpreter since the clients could only speak Arabic.

Mr. Klsrwani is a travel agent with an office in 56 Marion St. Harris Park. When he referred clients to me, he requested if I could see them in his office as he cannot accompany them to my office at Woodcroft due to his work commitments. I then had an arrangement with him that if he had

referrals, I can see them at his office on Wednesday afternoons from around 3:45 to 4:00PM for about an hour or two. There was no formal agreement between us. No fee or other reward was requested by Mr. Kistrwani and none was paid. I ceased this arrangement in late 2002 for health reasons.

When I went to Mr. Kistrwani's office on Wednesdays there were usually people waiting. I provided assistance as a migration agent. I charged a fee for consultation, however, in some cases, at Mr. Kistrwani's request, I provided free consultation (especially to people with financial difficulty). Some consultations were brief, in other cases I arranged to see the people again in my regular business office.

Request to be heard in camera

With respect to your invitation for me to appear before the Committee, I would like to request for a hearing in camera. In the interest of my career and business, I do not wish to appear at a public hearing with the presence of the press. In July 2003, when my name was mentioned in the media, my office was unduly subjected to incessant calls from panicking clients, relatives and friends of clients. I do not wish this to happen again and I hope for your kind understanding.

Yours sincerely,


Gilda Ponferrada

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Tel: (+61 2) 9676 1053
Tel/Fax: (+61 2) 9676 4840
Mobile: 0416 031 999
E-Mail: ponferrade@taipacific.com.au

05 August 2003

Professional Standards
Migration Agents Registration Authority
PO Box Q1551
QVB NSW 1230

SENDER TO KEEP
BN5773255

Dear Sir/Madam:

RE: COMPLAINT BY

The following is my response to the above complaint/ Statutory Declaration of [REDACTED] forwarded by his solicitor Mr. Sam Issa:

"I have never seen Gilda and have never received any legal or immigration advice from her."

This is an incorrect statement. On 13 February 2003, I personally met Mr. [REDACTED] and his brother, [REDACTED] in the office of Mr. Karim Kirswani. Mr. Kirswani, Mr. [REDACTED] friend who also acted as his interpreter, referred him to me as he was seeking assistance in preparing and lodging a protection visa application. During this meeting, Mr. [REDACTED] through his interpreters, Mr. Kirswani and his brother, [REDACTED] explained his circumstances and the reason why he wanted to apply for a Protection Visa. We discussed in detail the processes and the costs involved. Mr. [REDACTED] verbally agreed, and the forms were subsequently completed. Mr. [REDACTED] filled in the forms with the assistance of Mr. Kirswani, his brother, [REDACTED] who also acted as his interpreter, and myself. Mr. [REDACTED] signed the form dating it to 15 February 2003, the date when it will most likely be lodged.

From this meeting, and throughout the processing of his protection visa application, I provided immigration advice to Mr. [REDACTED]. On the morning of 15 February 2003, I rang him on his home phone and mobile phone to clarify on some points regarding his refugee claims. (Please refer to attached telephone records). He handed the phone to his brother who then acted as interpreter. A few minutes afterwards, Ms. [REDACTED] his sister-in-law, who also acted as his interpreter, rang me regarding his claims and provided further information which I included in his application. On that morning, before the application was lodged, there were telephone calls made between myself and Mr. [REDACTED] through his interpreters.

During the processing of his protection visa application, Mr. [REDACTED] has definitely received advice from me through his interpreters, Mr. Kirswani, Ms. [REDACTED] and his brother, [REDACTED] all of whom called me for advice and assistance regarding his Protection Visa application and/or to follow up the status of the application.

1

* "I have never received a receipt for this amount from either Gilda or from Mr. Kirsyani".

On 13 February 2003, after I left Mr. Kirsyani's office, Mr. Kirsyani advised me by phone that Mr. [REDACTED] decided to pay the full cost of \$1,500 (representing my professional fee, DIMIA fee, and miscellaneous expenses) and that the money was with him. I then issued a receipt for \$1,500 on that same day and together with the contract/cost agreement, couriered it to Mr. Kirsyani the following day. The money was then couriered back to me.

All throughout my dealings with him and his interpreters, in particular Ms. [REDACTED] and his brother, Mr. [REDACTED] there was no mention of him not receiving a receipt from me.

* "I subsequently learnt that neither Karim nor Gilda lodged the appeal"

As he was fully aware, through his interpreter, Mr. Kirsyani, I explained that I received the RRT form two days late of the deadline. The following working day, he, through Mr. Kirsyani, sought my assistance in writing a letter to the RRT stating his compelling reason on why the appeal should be accepted despite it being lodged outside the time-limit. He signed the letter himself and gave further instructions to me to prepare and lodge his RRT application. The Immigration assistance I gave him at this stage was already pro bono.

Other Information:

1. On 13 February 2002, when Mr. [REDACTED] through his friend and interpreter, Mr. Karim Kirsyani approached me for my services to assist in his application for a protection visa, I have been forthright with him on my experience with the Department with respect to protection visa applications. I advised him and his brother, [REDACTED] that the Department has been refusing protection visa applications because of country reports on Lebanon obtained from DFAT, Amnesty International, etc stating that citizens now live freely and safely in Lebanon. However, he insisted that his circumstance is unique and insisted on lodging a protection visa application.
2. In March 2003, calls were made between myself and Mr. [REDACTED] through his interpreter, Ms. [REDACTED] with respect to the correspondence from Mr. Albert Akayan of DIMIA for which I gave advice and assistance. Consequently, Ms. [REDACTED] faxed me a copy of the final letter signed by Mr. [REDACTED] that was sent directly to Mr. Akayan. Copy of the letter faxed from [REDACTED] office, [REDACTED] is attached. This copy was provided to me to ensure that as his Migration Agent, I have a complete record on his protection visa application that was then pending with DIMIA. This act of Mr. [REDACTED] through his interpreter, Ms. [REDACTED] clearly indicated that there was no doubt on his mind that I was his Migration Agent with respect to his Protection Visa application.
3. When the refusal decision on the Protection Visa application was received, I sent a copy of the refusal letter with a note on the deadline for lodging an appeal with RRT if they so wished. With the letter, I also enclosed a RRT application form
4. The deadline passed and I have not heard anything from Mr. [REDACTED] or from his interpreters for further instructions regarding lodging a review application with RRT.
5. On 30 August 2003, I received the RRT application form from Mr. [REDACTED] friend and interpreter, Mr. Karim Kirsyani. Through Mr. Kirsyani, I advised him that this will be an inelligible application since the time limit for lodging the appeal has passed. On 2 September 2002, Mr. [REDACTED] through Mr. Kirsyani, gave me further instructions to lodge the RRT application since he had compelling reasons why he wasn't able to

lodge it on time. He asked for further assistance from me by helping him write a letter to the RRT explaining his reasons. At this stage, my services (preparation and lodgement of the RRT review application) for Mr. [REDACTED] was pro bono.

6. On 14 January 2003, after receiving a letter from the RRT that his application was not accepted, Mr. [REDACTED] again sought my assistance, through his friend and interpreter Mr. Ksirwani in writing a personal letter to the Minister for Immigration. This service is again pro bono.
7. On 3 to 5 July 2003, I received numerous calls from [REDACTED] and [REDACTED] requesting for a copy of Mr. [REDACTED] protection visa application because they need it to be given to a Solicitor for another "visa application".

Conclusion

I ask the Authority to evaluate the honesty and conduct of the complainant. I believe I have been most honest, fair and compassionate in dealing with Mr. [REDACTED]. All throughout my dealings with Mr. [REDACTED] and his interpreters, there was clear understanding that I was Mr. [REDACTED] Migration Agent and I was acting for him concerning his Protection Visa application. The numerous telephone communications I had with his interpreters, particularly Ms [REDACTED] about his protection visa application confirm this. Unfortunately, I can only provide MARA the list of outgoing calls as the telephone companies do not provide a list of incoming calls. There are a lot more incoming calls I received from Mr. [REDACTED] through his interpreters than the calls I made to him.

Yours faithfully,


Gilda Ponferrada
RMA#9902663

Encl: Statutory Declaration of Mr. Karim Ksirwani
Original file of Mr. [REDACTED] (Folio 1-55)
Copy of Duplicate Receipt of \$1,500
Copy of Phone Bills