
**APPEAL BOARD DECISION
OF APPEAL BY GOLDEN PINNACLE CONSULTANTS LTD.
OF THE DECISION OF THE
DIRECTOR OF FAIR TRADING (AS DELEGATED)
TO ISSUE AN ADMINISTRATIVE PENALTY TO
GOLDEN PINNACLE CONSULTANTS LTD.**

**THIS APPEAL BOARD DECISION WAS APPEALED TO THE COURT
OF KING'S BENCH UNDER SECTION 181 OF THE *CONSUMER
PROTECTION ACT*. THE FINAL DECISION CAN BE FOUND AT**

<https://open.alberta.ca/publications/notice-of-administrative-penalty-golden-pinnacle-consultants-ltd>

This appeal board decision was issued under s. 179 of the *Consumer Protection Act* in response to an appeal by the named party. As per s. 16 of the Appeal Board Regulation, this appeal board decision is part of the public record.

This decision document contains both the Majority and Minority decisions rendered by the Appeal Board. They can be found here:

Majority Decision.....Page 2

Minority Decision.....Page 35

For more information on the *Consumer Protection Act*, business licensing in Alberta or to search for a licensed business, please click here:

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In The Matter of the *Consumer Protection Act*, RSA 2000, c. C-26.3

And In the Matter of an Appeal from the Decision
of the Director of Fair Trading (as delegated) made September 14, 2020
Imposing an Administrative Penalty pursuant to s.158.1
of the *Consumer Protection Act*, RSA 2000, c. C-26.3

Between:

Golden Pinnacle Consultants Ltd. and Yan Chi

Appellants

-and-

The Director of Fair Trading (as delegated)

Respondent

Decision

Appeal Board: John Welbourn, chair
Dellia Tardif
Hilda Lupul

Hearing: Via videoconference on May 17, 18, 19, 20, 25 & 26, June 28 & 29,
September 13, 14, 15 & 16, and October 19, 2021.

Counsel: Simon Renouf, QC, for the Appellants
Natalie Tymchuk, Esq., for the Respondent

Interpreters: Kitty Choi
Belinda Chu

Witnesses: Darren Thomas, Julie Matthews (Whiting), Eryu Zhuang, Zhaoru
Cheng, Yanjin Wang, Guanting Li, Xuhui Tan, Sixun Zhang, Yilin
Zhang, Pengyu Wu, Sadhna Gupta, Brad Trefan, Yan Chi

Preliminary Matters:

1. The Appeal Board was appointed by the Deputy Minister, Ms. Cynthia Farmer, on October 22, 2020. The appointment required that a hearing be concluded within 10 months of the appointment and the Appeal Board issue its decision not later than 45 days following conclusion of the hearing. On July 19, 2021, the Deputy Minister, Mr. David James, extended the Appeal Board's appointment to

February 22, 2022.

2. The hearing concluded on October 19, 2021 following delivery of Counsel's written submissions and replies, and final oral arguments.
3. As provided by s.179(8) of the *Consumer Protection Act* ("CPA") the hearing was a new trial of the issues that resulted in the decision and administrative penalty under appeal.
4. At the beginning of the hearing, Counsel agreed that:
 - a. The Appeal Board had jurisdiction in the matter;
 - b. The evidence of all witnesses would be given under oath or affirmation;
 - c. The evidence would not be formally recorded;
 - d. Conduct of the hearing by videoconference on the Microsoft Teams or Zoom platforms was satisfactory;
 - e. The evidence of several witnesses required translation from English to Mandarin and vice versa. All such evidence would be given upon the translator's oath to accurately translate from one language to the other.
5. During the hearing the Appellants applied for further disclosure of records as noted in paragraph 22 following. The Appeal Board granted the application for a defined scope of records.
6. Following the further disclosure, the Appellants applied for a mistrial alleging prejudice arising from the late disclosure. The Appeal Board denied the application but allowed the Appellants to recall any prior witness for further cross-examination.

Background and Agreed Facts:

7. This is an appeal from the Respondent's decision issued September 14, 2020 (the "Director's Decision") imposing an administrative penalty and activity prohibitions on the Appellants. The Director's Decision followed the investigation of complaints to Service Alberta by 14 people and considers the complaints of 10 of those people. Each of the 10 had retained Golden Pinnacle Consultants Inc. ("GPCL") or Yan Chi ("Ms. Chi") to assist in obtaining permanent residency status in Canada. The initial step for each was an application to the Alberta Immigration Nomination Program ("AINP"). Presuming the AINP application was approved, the person's application would then be made to Immigration, Refugees and Citizenship Canada for permanent resident status in Canada.
8. Of the 10 complainants considered in the Director's Decision, 8 were witnesses in this hearing. They were Yanjin Wang, Sixun Zhang, Xuhui Tan, Yilin Zhang, Eryu Zhang, Pengyu Wu, Guanting Li, and Zhaoru Cheng. Jiatong Zou and Yijun

Zou did not attend to give evidence.

9. At all material times Yan Chi was a Registered Canadian Immigration Consultant ("RCIC") licensed under the Immigration Consultants of Canada Regulatory Council ("ICCRC") which regulates Canadian immigration and citizenship consultants. Federal legislation governs immigration into Canada and the activities of ICCRC registered immigration consultants. A corporation cannot be a RCIC.
10. GPCL was a licensed employment agency under the CPA from August 12, 2014 to June 21, 2016 and from April 20, 2018 to May 30, 2020, but was not licensed from June 22, 2016 to April 19, 2018.
11. Ms. Chi was the sole director and a minority shareholder of GPCL at all material times.
12. The Director's Decision found that GPCL had engaged in unlicensed employment agency business activities from August, 2017 to April, 2018 which contravened the *Employment Agency Business Licensing Regulation* ("EABLR"). The contraventions were:
 - a. Acting as an employment agency on behalf of the complainants;
 - b. Failure to enter into employment agency agreements with the complainants;
 - c. Failure to create and maintain required records;
 - d. Failure to provide offers of employment in writing;
 - e. Demanding and collecting fees or other compensation from the complainants for securing employment.
13. The Director's Decision also determined that GPCL had engaged in unfair business practices contrary to the CPA. The practices were:
 - a. Using exaggeration, innuendo, or ambiguity as to a material fact with respect to a consumer transaction;
 - b. Charging a price that grossly exceeded the price at which similar services were readily available;
 - c. Entering into a transaction from which GPCL knew or ought to have known the consumer would be unable to receive any reasonable benefit;
 - d. Deceiving or misleading a consumer;
 - e. Exerting undue pressure on or threatening or harassing a consumer.
14. The Director's Decision assessed an administrative penalty of \$145,000.00 against GPCL and directed GPCL and Ms. Chi to cease particular activities that contravene the CPA and EABLR.

Exhibits:

15. The following materials and documents were entered as exhibits in the hearing:

<u>Exhibit #</u>	<u>Document/Material</u>
1.	Joint Exhibit Book.
2.	Letter dated June 3, 2019 from Investigation Services North to Ms. Chi and GPCL.
3.	Emails dated October 8, 2019 between Pengyu Wu and Julie Matthews.
4.	Email chain from November 29, 2018 to January 2, 2019, between Julie Matthews and Sixun Zhang.
5.	Letter dated May 29, 2020 from AINP to Service Alberta.
6.	14 Law Enforcement Disclosure Requests dated February 7, 2020.
7.	AINP file documents.
8.	Respondent's Exhibit Book excluding all materials pertaining to persons not the subject of the Director's Decision.

16. Exhibit 8 includes documents pertaining to individuals who were not witnesses in the hearing. The Appeal Board majority has not considered any such materials.

Evidence:

17. **Darren Thomas** has held the position of Director of Fair Trading (as delegated) since 2005.
18. Mr. Thomas received an investigator's report dated November 6, 2019 (the "Report") and Recommendation for Administrative Action. The Report identified alleged contraventions of the CPA and EABLR. He reviewed the legislation, the facts as stated by the investigator, and the investigator's Recommendation. Mr. Thomas requested additional information about immigration consultants' fees generally charged for AINP applications and further information from AINP regarding the applications submitted by GPCL to AINP on behalf of the complainants.
19. After receiving the information about fees charged by immigration consultants, Mr. Thomas wrote to GPCL and Ms. Chi on May 25, 2020. The letter gave notice of the investigation into the complainants' allegations, provided significant details of each complaint, specified alleged contraventions of the CPA and EABLR, and possible administrative sanctions. He invited GPCL to respond to each of the complaints and possible sanctions.
20. Counsel for Ms. Chi and GPCL responded by letter dated June 25, 2020. In summary, Ms. Chi acknowledged having acted as an immigration consultant,

regulated by the ICCRC, for each of the complainants. Ms. Chi and GPCL denied having been engaged at any time in any employment agency activity on behalf of any complainant. Further, Ms. Chi alleged that AINP had demonstrated hostility toward GPCL following her complaint about an AINP employee's anti-Chinese discriminatory remark.

21. On September 14, 2020, Mr. Thomas issued the Director's Decision, a formal Director's Order, and Notice of Administrative Penalty.
22. Referring to the Director's request for AINP records noted in paragraph 18 above, pre-hearing disclosure and the evidence initially indicated that the response was a 2 page letter dated May 29, 2020 from AINP. Testimony established that AINP had also provided each complainant's file to the investigator. On the Appellants' application, the Appeal Board then ordered further disclosure of specific files.
23. Following the further disclosure, Mr. Thomas was recalled for further cross-examination. He confirmed that his May 25, 2020 letter was issued before the May 29 AINP letter. Therefore he did not have any of the AINP information or files at that point. When the Director's Decision issued on September 14, 2020, Mr. Thomas was aware of the May 29 AINP letter and files. However in issuing the Director's Decision he did not consider the AINP letter and did not review the AINP files. His focus was on the alleged contraventions of the CPA and EABLR and not on any complainant's interactions with the AINP.
24. **Julie Matthews** is a peace officer and has been a senior investigator with the Service Alberta - Consumer Investigation Unit for 7 years. In September, 2018 she received 8 files involving consumer complaints about GPCL. Through early 2019, she received additional complaints about GPCL on referrals by AINP, one by anonymous email and other "walk in" complaints - a total of 14 complaints.

25. She investigated each complaint and wrote the Report which she gave to her department manager with her Recommendation for Administrative Action.
26. In February, 2020, Mr. Thomas requested additional information, including:
 - a. Would AINP have approved the complainants' AINP applications as submitted by GPCL?
 - b. What fees do other immigration consultants charge for similar work?
27. Ms. Matthews requested additional information on the complainants' applications through FOIP requests to the AINP. The 'similar work' fee information obtained was a 2019 survey conducted by the Canadian Association of Professional Immigration Consultants ("CAPIC"). She provided all additional information to her department manager.

28. In response to the FOIP requests, the AINP provided the May 29, 2020 letter and a copy of each complainant's file - more than 1,000 pages in total. Ms. Matthews did not review the files in detail before forwarding them to her department manager and did not revise the Report..
29. **Eryu Zhuang** came to Canada from China in 2013 on a student visa to study engineering at the University of Regina. When he graduated in 2017 he wanted to stay in Canada but wasn't able to find suitable employment that would qualify under the Saskatchewan Immigration Nominee Program.
30. On a friend's advice he contacted GPCL and in March, 2018 met twice with Jin Chen at the GPCL office in Regina to discuss permanent residency. Ms. Chen advised him that GPCL could assist him in applying under the AINP which did not require him to be employed in his field of study. Ms. Chen also advised that he should go to Alberta as soon as possible because AINP policies were expected to change in May. With this information Mr. Zhuang felt a sense of urgency.
31. Ms. Chen also advised him that GPCL could help him find full time employment in Alberta that would qualify under the AINP. The cost would be \$32,000. Mr. Zhuang understood \$16,000 would be for the employer and \$16,000 would be for GPCL.
32. Mr. Zhuang met with Ms. Chi at the GPCL office in Edmonton on March 18, 2018. At that meeting he signed a contract with GPCL entitled "Agreement for Permanent Residency Application Under AINP Category". Pursuant to the Agreement Mr. Zhuang appointed GPCL as his representative in an application to Immigration Canada in consideration of a fee of \$32,000 to be paid in 2 equal installments. Mr. Zhuang paid the initial \$16,000 on March 29 and the 2nd on April 26, 2018.

33. Mr. Zhuang provided GPCL with all the information and documents required for his AINP application which GPCL prepared and filed with AINP on May 7, 2018.
34. GPCL did not provide Mr. Zhuang with any agreement for employment services or any written offer of employment.
35. On March 29, 2018, Mr. Zhuang started work at 'Mickey n Minies' liquor store in Millet, Alberta as a cashier and salesperson. He was paid \$13.60/hour.
36. Ms. Matthews determined that 'Mickey n Minies' was a trade name under which 2070735 Alberta Ltd. carried on the liquor store business.
37. In May, Mr. Zhuang was transferred to 'Regal Wine & Spirits' liquor store in Nisku, Alberta. His duties and hourly wage remained the same. He remained there until August, 2018 when he was transferred to the 'Liquor, Beer & Wine'

liquor store in Drayton Valley where he worked for a week.

38. The 'Regal Wine & Spirits' liquor store was owned by Regal Wine & Spirits Inc.
39. The 'Liquor, Beer & Wine' store was owned and operated by 2079618 Alberta Ltd.
40. During the week he worked at the Drayton Valley liquor store, Mr. Zhuang was contacted by Mr. Ye who advised that he worked for the Department of Labour. He met Mr. Ye outside GPCL's office building in Edmonton where the AINP office is also located. Mr. Zhuang understood from Mr. Ye that his liquor store job did not qualify for the AINP because of links with GPCL and that he should file a complaint against GPCL and Ms. Chi.
41. As a result, Mr. Zhuang quit the Drayton Valley job. He found new employment starting September 5, 2018 at 'Sushi Shop' in Edmonton. He terminated his contract with GPCL and requested a refund of his fees. GPCL refused.
42. Mr. Zhuang revised his AINP application without assistance which received AINP approval on September 11, 2018. He had filed a complaint with Service Alberta on August 30, 2018.
43. **Zhaoru Cheng** arrived in Windsor, Ontario with his oldest child on July 26, 2016. His wife, Lili Jia, and 2nd child arrived approximately 1 month later.
44. His wife initially contacted GPCL following an online advertisement in 2018 and spoke with Yi Yan. From his wife's discussion with Ms. Yan, Mr. Cheng understood that the family could apply for permanent residency in Canada and GPCL had job opportunities available. The fee would be \$29,000 and GPCL would introduce him to an employer. The family would have to move to Alberta and could apply for permanent residency after receiving AINP approval.
45. At that time Mr. Cheng was working, his wife was attending St. Clair College and they owned their home in Windsor.
46. Mr. Cheng's wife came to Edmonton where she met Ms. Yan. She signed a contract entitled "Agreement for Permanent Residency Application Under AINP Category" dated April 7, 2018. The Agreement specifies that the application would be for Ms. Jia, not the family. She returned to Windsor the next day.
47. The day after he arrived in Edmonton, Mr. Cheng met with Ms. Chi and Ms. Yan at the GPCL office. At that meeting he was given an address and phone number for his new employer, 'Iruka' restaurant. He also made a cash payment of \$800. He did not receive a written employment offer or an employment services agreement.

48. When he arrived at the employer's address Mr. Cheng discovered that the restaurant was under renovation and not yet open for business. The restaurant was operated by 2097918 Alberta Ltd. which paid Mr. Cheng's wages.
49. Mr. Cheng signed his AINP application on April 12, 2018 which GPCL filed with AINP on June 11, 2018.
50. Mr. Cheng left 'Iruka' in February, 2019 after not receiving his wages for several weeks. He was also frustrated with a lack of progress with his AINP application and had lost trust in GPCL. He terminated the contract with GPCL and filed complaints with Alberta Employment Standards and Service Alberta on February 14, 2019. In March, 2019 he began working and still works for Blue Willow restaurant.
51. When Mr. Cheng terminated the GPCL contract he had paid \$10,000 of the \$29,000 fee. He requested a refund of the amount paid which GPCL refused.
52. On March 12, 2019, Mr. Cheng revised his AINP application to reflect his new employer and received AINP approval on March 13, 2019. Mr. Cheng did not retain a new immigration consultant.
53. **Yanjin Wang** came to Canada in 2014 as a visiting scholar at the University of Regina.
54. She later decided to apply for permanent residency. Ms. Wang knew she required full-time employment to qualify. Although Ms. Wang had 20 years experience as a petroleum engineer she couldn't find employment in her field.
55. Through online research and referrals from friends she contacted the GPCL office in Regina where she spoke with Jin Chen several times. They discussed the application procedure, GPCL's role in the process which included finding employment for her, and GPCL's fee which she understood to be \$20,000. The fee later increased to \$25,000. Mr. Chen explained the increase was due to the documentation required.
56. In Regina on September 6, 2017, Ms. Wang signed a contract is entitled "Service Agreement". The contract is with Ms. Chi, not GPCL. It does not stipulate a total fee but provides amounts to be paid in 3 stages. The 1st stage states Ms. Wang "shall pay to Golden Pinnacle an amount of "\$15,000.00 (Fifty (sic) Thousand Canadian Dollars)". Ms. Wang paid the 1st stage amount on September 15, 2017. Stages 2 and 3 required payments of \$7,500.00 each - stage 2 for AINP application and related services and stage 3 when the "PR application is submitted". The abbreviation "PR" is understood to mean "Permanent Resident".
57. Shortly after the contract was signed Ms. Wang started training at a liquor store

in Edmonton. She did not receive a written offer of employment or sign an agreement for employment agency services.

58. Later Ms. Wang was transferred to the "Liquor, Beer & Wine" store in Drayton Valley which provided AINP with a 'proof of employment letter' for her. The October 29, 2017 letter states that Ms. Wang's position was full time (30 - 40 hours per week) and her wage was \$16.00/hour. Ms. Wang's evidence was that from her wages she was required to repay the owner \$2.40/hour thereby reducing her effective wage rate to \$13.60/hour. Approximately 1 month after starting the Drayton Valley job her hours were reduced to part time.
59. Ms. Wang knew that full time employment was required for the AINP application. She repeatedly spoke to the owner and Ms. Chi about increasing her hours, without success. She left the job in September, 2018 and later found full time employment in office administration at a school in Calgary.
60. GPCL filed Ms. Wang's AINP application on January 3, 2018. Ms. Wang stated that GPCL had sent her several AINP forms which she completed and returned to GPCL.
61. Ms. Wang filed a complaint with Service Alberta on September 18, 2018. The same day she notified AINP that GPCL was no longer her representative and received notification from AINP that her application was approved.
62. **Guanting Li** came to Canada in 2014 to study at the University of Regina. When he graduated with a liberal arts diploma in September, 2017 he wanted to find a job and apply for permanent residency in Canada.
63. After seeing an online advertisement, Mr. Li met with Jin Chen at the GPCL Regina office. Ms. Chen told him about the AINP and that GPCL could help find him a job. GPCL's fee would be \$32,000.
64. Mr. Li signed a contract dated March 12, 2018 with GPCL which is entitled "Agreement for Permanent Residency Application Under AINP Category". The agreement provides for a fee of \$32,000.00 to be paid in 2 equal installments - \$16,000.00 at the time of execution and the 2nd when GPCL filed his AINP application. Mr. Li paid both installments.
65. On April 1, 2018, Mr. Li started a job at the 'Mickey n Minies' liquor store in Millet as a sales representative. He did not receive a written offer of employment and did not sign an agreement for employment agency services.
66. Mr. Li was paid \$13.60/hour as confirmed by the liquor store's proof of employment letter dated April 18, 2018. A letter from the store owner dated June 25, 2018 advised that Mr. Li had received a raise to \$14.60/hour. Although he

was paid at the increased rate, with each pay cheque he was required to pay his boss in cash the amount exceeding \$13.60/hour.

67. After a dispute with the store owner Mr. Li was terminated from 'Mickey n Minies' at the end of July, 2018.
68. While he was still employed at the liquor store Mr. Li met Mr. Ye in the store. He understood Mr. Ye was from the labour department. Mr. Ye advised him that his job did not qualify for the AINP. He later met Mr. Ye in the lobby of the building where the AINP and GPCL offices were located. Mr. Ye gave him a complaint form which he completed and returned to Mr. Ye.
69. On August 30, 2018 he filed a complaint with Service Alberta. By September 1, 2018, Mr. Li had found new employment with the 'Sushi Shop' and 'Thai Express' which had a common owner. Mr. Li filed a new AINP application on August 28, 2018 and received AINP approval on September 11, 2018
70. **Xuhui Tan** came to Canada in 2010 to study at MacEwan University. When he graduated in 2017 his goals were to remain in Canada and apply for permanent residency.
71. Mr. Tan contacted GPCL after seeing advertisements on WeChat, a social media platform. He met with William at the GPCL office in Edmonton on October 30, 2017. William told him about the AINP and the permanent residency application process. Mr. Tan was informed that he had to live in Alberta and have a full time job. William also advised that GPCL could help him find suitable employment. Mr. Tan recalled the GPCL fee would be \$3,000 to \$4,000 for the immigration application or \$30,000 to \$40,000 if employment was also included.
72. William advised Mr. Tan to apply as soon as possible because of expected changes to the AINP. This so concerned Mr. Tan that he signed a contract that day with Ms. Chi entitled "Services Agreement". The contract provided for a \$43,000 fee payable to Golden Pinnacle in 2 stages - \$30,000 on signing and \$13,000 upon submission of his application for permanent residency. Mr. Tan's evidence is that he paid \$46,000 - \$3,000 on signing which he charged to his MasterCard, \$30,000 by bank draft dated November 7, 2017, \$10,000.00 by bank draft dated January 23, 2018, and \$3,000 later in cash or by etransfer.
73. Mr. Tan was given a job that started in early November, 2017 as a travel agent/travel guide with Golden Maple Travel Services Ltd. which operated in the same office as GPCL. The 2 businesses shared a receptionist. His starting wage was \$14.50/hour and he received a written offer of employment on his 1st day of work.
74. In 2018 Mr. Tan was instructed to work for GPCL. He was advised to tell AINP if

asked that he still worked for Golden Maple Travel Services Ltd. which continued to pay him. His AINP application was not amended to reflect his new employer. Later in 2018 he received a raise to \$16.00/hour. However with each pay cheque he was required to pay the GPCL accountant in cash the amount exceeding \$14.50/hour.

75. Mr. Tan stopped working for GPCL in July, 2018. He started a new job as an auditor with RGIS Canada in Edmonton on August 7, 2018. During August he received a phone call from and met with Sadhna Gupta at the AINP office. He told her that he had a new job. Ms. Gupta advised that if he terminated GPCL as his immigration consultant his AINP application would be approved. He did so on August 30, 2018 and received approval of his AINP application the same day.
76. Mr. Tan did not file a complaint with Service Alberta.
77. **Sixun Zhang** came to Canada in 2013 to study at the University of Alberta and graduated in 2017 with a Bachelor of Commerce degree. After graduation he received a 3 year work permit but couldn't find a job.
78. Mr. Zhang knew about the AINP and was concerned about proposed changes to the Program. He saw a job posting on WeChat for a position at a liquor store south of Edmonton. The posting stated that the job qualified for AINP before the proposed changes. He phoned the number in the ad and met the next day with Minhao Zhang at Minhao's home.
79. Minhao gave him more information about the job, its duties, location and eligibility under the AINP. He also advised Sixun that the type of job was in demand because of the pending changes to the AINP. To get the job Sixun would have to retain GPCL as his immigration consultant for a fee of \$33,000.

80. Sixun called GPCL the following day and arranged a meeting at the GPCL office on October 23, 2017. That day he signed a contract entitled "Agreement for Permanent Residency Application" and paid an initial installment of \$4,000. He later paid a second installment of \$27,500 by bank draft. The contract stipulates a fee of \$33,000 payable in 2 installments - \$31,500 on signing and \$1,500 on submission of Sixun's AINP application.
81. Sixun did not sign an agreement for employment services and did not receive a written offer of employment. The job was for 35 hours per week. If he worked less he would be paid for 35 hours but would be required to refund the amount for hours not worked.
82. The job was as a sales representative at 'Mickey n Minies' liquor store in Millet. The store opened for business at the end of October, 2017. Prior to that Sixun received 2 days of unpaid training at a liquor store in Nisku, Alberta.

83. Sixun understood that Minhao worked for GPCL and the liquor store was owned by someone that GPCL knew. He initially understood that the job qualified for the AINP notwithstanding any connection between the store and GPCL.
84. GPCL filed Sixun's AINP application in November, 2017. He was told that he would have a phone interview with an AINP officer 2 to 3 months after the application was filed. He was coached on how to respond to the phone interview questions and told not to disclose any relationship between GPCL and the liquor store. He was also instructed to respond that GPCL's fee was \$2,000 to \$3,000.
85. Sixun had a telephone interview with an AINP officer in August, 2018. The officer asked about his job duties and if he knew the store was owned by GPCL or if the job was related to GPCL. When he answered "no" the officer advised him that AINP knew the store was owned by GPCL and that his application would be denied. On August 22, 2018, he received a notice from AINP denying his application on the basis that his duties were that of a cashier not a sales representative as stated in his AINP application. He left the job shortly after.
86. He then met with Ms. Chi to discuss options. She proposed an 'Express Entry' application for permanent residency directly to Immigration, Refugees and Citizenship Canada and to change his job description to 'store manager'. Ms. Chi advised him that AINP did not share information with federal government and his AINP denial would not have any effect. Sixun worried about the risk and declined the advice.
87. Sixun later received several messages from AINP. The messages conveyed that AINP knew his job was related to GPCL and he had paid for it. Sixun followed Ms. Chi's advice not to respond.
88. Sixun was later contacted by a former co-worker from the liquor store who told him of other people who had spoken with AINP and received AINP approval shortly after. He then met with AINP and was told that he may be a victim. If he filed a complaint he would receive his AINP nomination.
89. Sixun filed a complaint with Service Alberta on September 11, 2018 and notified AINP that GPCL was no longer his representative the same day. He received his AINP nomination the following day, September 12.
90. Sixun requested but did not receive any refund from GPCL,
91. **Yilin Zhang** came to Canada in 2011 to study at the University of Alberta. She graduated in 2016, returned to China and came back to Canada in October, 2017.
92. A former classmate, Minhao Zhang, suggested she contact GPCL to help her

immigrate to Canada. Ms. Zhang met with Yi Yan at GPCL who said that GPCL could help her with immigrating and provide her a job. She was also told that the AINP was changing and GPCL didn't have many jobs to offer for immigration.

93. Ms. Zhang signed a contract with GPCL entitled "Agreement for Permanent Residency Application Under AINP Category" nominally dated August 22, 2017. The document states November 1, 2017 to be the date the 3 signatories signed.
 94. The contract required Ms. Zhang to pay GPCL a fee of \$46,000 at the time of execution. The full fee was paid by November 8, 2017. GPCL filed her AINP application on December 6, 2017.
 95. Although she did not sign any agreement for employment services, Ms. Zhang received a written employment offer dated November 1, 2017 to immediately start work as an assistant at Academy of English Language Plus Ltd. However Ms. Chi required her to work for GPCL, Golden Maple Travel Services Inc. and Skydidi Inc. GPCL's offices also housed the businesses of the other 3 corporations.
 96. Ms. Zhang understood Ms. Chi to be the "boss" of the 4 businesses so she followed orders.
 97. Ms. Zhang quit the job(s) on July 31, 2018 and started new employment 2 days later.
 98. On August 26, 2018, she replaced GPCL as her AINP representative. She retained a new representative at a cost of \$3,000 who filed revisions to her AINP application. Ms. Zhang filed a complaint with Service Alberta on August 29 and received her AINP nomination on August 30, 2018.
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99. **Pengyu Wu** came to Canada in 2010 to study at the University of Saskatchewan. He graduated in 2017 with a bachelor's degree in engineering and wanted to apply for permanent residency in Canada. Mr. Wu contacted GPCL after seeing advertisements on WeChat and further research.
 100. He met with Yi Yan at GPCL's Edmonton office who told him about the AINP. She said he required a management position job and that GPCL could help find that type of employment. He was also told that he needed to apply to the AINP as soon as possible because of expected changes to program.
 101. At a 2nd meeting, Ms. Yan advised Mr. Wu that there might be a position available in a liquor store. They discussed GPCL's services and fee. She advised him that if he signed a contract with GPCL he would have the job and GPCL could then start the application process.

102. Mr. Wu signed a contract entitled "Agreement for Permanent Residency Application" dated November 29, 2017. The GPCL fee was \$25,000 - 1/2 to be paid on signing of the contract and the balance when Mr. Wu received his AINP nomination letter. He was given the job location and contact information immediately on signing.
103. Mr. Wu paid GPCL the initial \$12,500 and an additional \$2,000. The liquor store was 'Forest Green Liquor' in Stony Plain, Alberta. His wage was \$15.00/hour. The store was owned by 2067425 Alberta Ltd.
104. Mr. Wu started working at the store about December 5. He was then told that his wage was \$13.60 and he would be required to repay the difference between his wages calculated at \$15.00/hour and the amount calculated at the lesser rate.
105. When Mr. Wu later asked for a proof of employment letter for his new landlord, he received a copy of a letter to AINP dated October 29, 2017 stating that he had been employed at 'Forest Green Liquor' since November, 2017.
106. Mr. Wu was not certain about the additional \$2,000.00 he paid GPCL but a pay stub indicates a cheque dated November 30, 2017 was issued to him by 2067425 Alberta Ltd. for wages and commissions earned of \$2,078.00. He believes the additional \$2,000 was to repay the employer this amount because he did not start work until December.
107. By letter dated June 11, 2018 the liquor store advised AINP that Mr. Wu had been promoted and his wage rate increased to \$19.80/hour. Mr. Wu was still required to repay the difference over the amount calculated at \$13.60/hour.
108. When Mr. Wu asked Ms. Yan and Ms. Chi about the pay cheque reimbursements the approval of his AINP application was raised as a threat.
109. Eventually Mr. Wu lost trust in GPCL and the employer. He began recording his conversations with the store manager, Ms. Chi and others. He contacted AINP and met with an officer, Sadhna Gupta on September 10, 2018. Mr. Wu testified that Ms. Gupta advised him that he was being mistreated and suggested that he terminate GPCL as his representative. He did and received his AINP nomination that day.
110. Mr. Wu also filed a complaint with Service Alberta on September 10. From his evidence, Mr. Wu clearly tried to provide AINP and Service Alberta with as much information as he could about how he and others had been treated by GPCL and people associated with GPCL.
111. Alberta Labour consented to **Sadhna Gupta** appearing as a witness for the Appellants. Ms. Gupta has been a program officer in the AINP office of Alberta

Labour for 7 years and employed by department for 15 years. Her role as a program officer is to assess applications for AINP nomination which is an applicant's initial step toward permanent resident status.

112. Ms. Gupta stated that in 2017/18, typical processing time for an AINP application was approximately 1 year and has since been reduced.
113. Ms. Gupta testified that during the summer of 2018, the department received unsolicited information regarding AINP nomination applications filed by GPCL. GPCL filed applications were then 'red flagged' and she was directed by her supervisor to review and assess those files. During her review, Ms. Gupta contacted many people including the 10 complainants that are the subject of the Director's Decision. She recalled meeting with some of them.
114. Ms. Gupta was not aware of any complaint made by Ms. Chi or GPCL about any AINP program officer.
115. In assessing the GPCL files and the complainants' applications, Ms. Gupta stated that her goal was to determine if an applicant's job was a genuine full time position. She also wanted to confirm the employer was an established business. The AINP required reasonable assurance that the applicant was self-supporting and contributing to the economy. She was not concerned with how an applicant obtained a job or may have paid for the job.
116. Each of the complainant's AINP files were reviewed with Ms. Gupta during her testimony. She stated that she had never heard of 'Samuel Ye' or 'Mr. Ye'. To her knowledge, the AINP department did not hire any investigators.
117. Ms. Gupta acknowledged that the evidence suggested that if a complainant removed GPCL as the representative, the complainant's AINP nomination was immediately approved. She stated that the removal and subsequent approval were not related. Apart from assessing employer and job position criteria, each complainant's application was in order. Therefore once she decided that the employer and job position were genuine, the nomination approval was issued. Ms. Gupta denied any impropriety in her approvals of the complainants' applications. She also denied advising any complainant to file a Service Alberta complaint in order to obtain the AINP nomination.
118. Ms. Gupta was concerned that each applicant had paid a significant amount to GPCL. She acknowledged telling applicants that the only recourse against GPCL was through Service Alberta or the ICCRC.
119. Alberta Labour also consented to **Brad Trefan** appearing as a witness for the Appellants. Mr. Trefan was the Director of the AINP at all relevant times. He was not involved in the decision to review any GPCL files and was not aware of

any complaint made by Ms. Chi or GPCL about any AINP officer's discriminatory comment. Mr. Trefan stated that it was not unusual for AINP applications filed by one representative to be referred to one officer for processing.

120. **Yan Chi** moved to Edmonton from Vancouver in 2010 and has been working in the immigration field for 16 years. GPCL was incorporated in 2014. At all material times she was a RCIC and estimates that she has assisted 20,000 to 30,000 clients seeking entry into Canada under various classifications. The Appeal Board understands that Ms. Chi's activities are under review by the ICCRC.
121. In 2017, Ms. Chi and different investors acquired 4 liquor stores from a public company. The stores were the businesses of 'Regal Wine & Spirits', 'Mickey n Minies', 'Forest Green Liquor', and 'Liquor, Beer & Wine'.
122. Ms. Chi stated that she had started and developed the businesses of Golden Maple Travel Services Ltd. and Academy of English Language Plus Ltd. Further she purchased the 'Iruka' restaurant with 2 former clients.
123. Ms. Chi testified that she was a shareholder and/or director, and was the directing or controlling mind for each of the corporations that employed one or more of the complainants.
124. Ms. Chi asserted that following a discrimination complaint she lodged by email dated July 11, 2018 with AINP Acting Director Mr. Michael Payette, she and GPCL experienced considerable hostility from AINP with their clients' AINP applications.
125. In direct examination, Ms. Chi stated that her first notice of the Service Alberta investigation was the Director's letter dated May 25, 2020 to which her Counsel responded by letter dated June 25, 2020.
126. On cross-examination Ms. Chi conceded that she had received a Service Alberta letter dated June 3, 2019 from Ms. Matthews. The letter advised that an investigation had been opened into 14 complaints, provided details of each complaint, and invited Ms. Chi and GPCL to respond by a specific date. Counsel for Ms. Chi and GPCL responded by letter dated July 19, 2019.
127. Ms. Chi stated that GPCL's fees were set by 'ghost' investigating the fees charged by competitors for similar services. That is by contacting a competitor and pretending to be a prospective immigration client seeking fee information. She stated that in 2017/18 fees for similar services as provided to the complainants ranged from \$12,000 to \$100,000. Currently the range is \$28,000 to \$150,000. Ms. Chi testified that a GPCL advertisement on WeChat for "Immigration \$2988" was for an 'Express Entry' application.

128. Ms. Chi stated that a typical AINP application involved collecting all necessary information and documents from the client, determining the most suitable immigration category, preparation of the forms including translation of documents as required. Generally all forms for the permanent resident application would be prepared concurrently. Finally, update information such as address or employment changes, and pay increases would be sent to AINP as required.
129. Each complainant's evidence was reviewed with Ms. Chi. She was adamant that only immigration services and no employment agency services had been provided to each complainant.

Issues:

130. Do the provincial CPA and EABLR apply to federally regulated immigration consultants?
131. Was either Ms. Chi or GPCL an 'employer' or an 'employment agency' within the meaning of the 'Designation of Trades and Businesses Regulation' ("DTBR")?
132. Did Ms. Chi or GPCL engage in any unfair business practice within the meaning of the CPA?
133. Did Ms. Chi or GPCL violate or fail to comply with any EABLR or DTBR requirement?
134. Was the administrative penalty assessed unreasonable and excessive, or in violation of the governing legislation?

Argument:

135. At all material times Ms. Chi was an RCIC whose activities were regulated by the federally regulated ICCRC. The Appellants contend that it is self evident that Alberta provincial legislation cannot apply to regulate federally governed immigration consultants.
136. The Appellants note that s.103(2)(b) of the CPA lists self-regulated professions that are not subject to the legislation, for example those subject to the provincial *Health Professions Act*. Several of those professions listed allow members to set fees directly with the client. Dentists are an example. No reported Alberta decision considers the application of the CPA to a dentist accused of overbilling or other unfair practices. Such matters are dealt with by the Alberta Dental Association and College. Therefore, unfair practices of a dentist are not addressed under the CPA. By extension, the CPA has not been applied to unfair business practices of self-regulated professions.

137. Re Overseas is a 2017 decision of an appeal board appointed under the Alberta *Fair Trading Act*, the predecessor to the CPA. The matter considered 2 corporations, one incorporated in British Columbia and the other in Alberta. The BC corporation was an employment agency and the Alberta corporation operated as an immigration consultant. The appeal board concluded that on the facts the Alberta EABLR applied because the complainants believed they were dealing with a single corporate entity with operations in the 2 provinces.
138. The Appellants submit the Overseas decision is distinguishable because GPCL was not acting as a recruiter for employers but as the employer.
139. The Respondent refers to the Supreme Court of Canada judgment in Bank of Montreal v. Marcotte, 2014 SCC 56. The Court considered whether jurisdictional immunity prevented provincial laws from applying to activities governed under federal jurisdiction. At paragraph 72 of the decision, the Court stated:
- The mere fact that Parliament has legislated in an area does not preclude provincial legislation from operating in the same area, as stated by this Court in Canadian Western Bank, at para. 74:
- The fact that Parliament has legislated in respect of a matter does not lead to the presumption that in so doing it intended to rule out any possible provincial action in respect of that subject.
140. The purpose of the Alberta CPA is to protect consumers from unfair business practices. The ICCRC governs the professional practices and conduct of its members. There is some overlap between the 2 legislative regimes but they are compatible.
141. This Appeal Board accepts and agrees with this submission. The CPA and EABLR can both apply to Ms. Chi as an ICCRC regulated immigration consultant. GPCL is not and cannot be an RCIC and is subject to Alberta legislative and regulatory requirements.
142. The Appellants maintain that neither Ms. Chi nor GPCL was acting as an employment agency relative to any of the complainants. Rather, each was an employer and therefore exempted by the DTBR from the application of the EABLR.
143. Ms. Chi asserts that she was the guiding mind who controlled the decision making and operations of GPCL and the corporations employing the various complainants. The evidence before this Appeal Board is in various Alberta Corporate Registry searches. With the exception of the GPCL search all others are dated October 3, 2018.
144. The GPCL search is dated August 31, 2018 and discloses that Ms. Chi is the sole director and a minority shareholder of the corporation.

145. 2070735 Alberta Ltd. carried on business as 'Mickey n Minies' liquor store. The search discloses that the sole director is Wei Ren and the sole shareholder is 1982841 Alberta Ltd. There isn't any information on the shareholder corporation.
146. The Regal Wine & Spirits Inc. search states that Ms. Chi is a director and Golden Pinnacle Holding Ltd. is a minority shareholder of the corporation.
147. The Golden Pinnacle Holding Ltd. search discloses that Ms. Chi is the sole director of the corporation. No shareholder information is disclosed.
148. 2079618 Alberta Ltd. carried on business as 'Liquor, Beer & Wine'. The search discloses Ms. Chi to be a director but she is not listed as a shareholder.
149. 2097918 Alberta Ltd. operated the 'Iruka' restaurant. The search discloses Ms. Chi to be the sole director and Golden Pinnacle Holding Ltd. to be a minority shareholder. A 'proof of employment' letter dated May 25, 2018 from 'Iruka' to AINP is not signed but appears ready for signature by Coral Y. Chi as owner.
150. The Golden Maple Travel Services Inc. search does not disclose Ms. Chi to be a director or shareholder of the corporation.
151. Ms. Chi is disclosed to be the sole shareholder and director of Academy of English Language Plus Ltd.
152. The Skydidi Inc. search states Ms. Chi is a director. No shareholder information is disclosed.
153. 2067425 Alberta Ltd. carried on business as 'Forest Green Liquor'. Ms. Chi is listed as a director but not as a shareholder.
154. The 'Liquor, Beer & Wine' letter dated October, 29, 2017 proving Yanjin Wang's employment is signed by Wen Rei as owner, who also signed Ms. Wang's AINP application as 'employer'.
156. The 'Mickey n Minies' letter dated October 24, 2017 proving Sixun Zhang's employment is signed by Minhao Zhang as owner as is a similar letter dated April 18, 2018 for Guanting Li. As owner, Wen Rei signed a second 'Mickey n Minies' letter dated June 25, 2018 for Mr. Li.
157. The 'Forest Green Liquor' letter dated October 29, 2017 proving Pengyu Wu's employment is not signed but is for signature by Yan Yi as owner. A subsequent letter dated June 11, 2018 also is not signed but is for signature by Jason Jin as owner.
158. The evidence discloses that Ms. Chi was a director of 8 of the corporations. She was the sole or majority shareholder in 1 corporation and a minority shareholder in another. Each of the corporations was a legal entity, separate and distinct from the others.

159. On balance there isn't sufficient evidence to establish that Ms. Chi was the guiding mind of all of the corporations or that she controlled the decision making of any of the corporations except the Academy of English Language Plus Ltd. and likely GPCL.
160. The Appellants suggest that GPCL, Ms. Chi and the other corporations were closely connected and that the group should be viewed as an "employer". That is, the corporations and Ms. Chi should be considered as one entity that was the common "employer" of each of the complainants. Support is drawn from the Overseas decision referred to in paragraphs 137 and 138 above, where the appeal board determined the 2 corporations to be acting as a single unit.
161. Neither the CPA nor the DTBR define the term "employer". Both parties referred to case law and authorities to assist in determining when 2 or more distinct entities were a "common employer". The materials referenced direct an analysis into otherwise distinct legal entities to determine common links. Those links include but are not limited to ownership, management personnel, business model or purpose, employees, skills, business premises, operations, customer base, and other indicia. There are few if any such links between either of the Appellants and the other noted corporations.
162. Further, there is no satisfactory evidence that relative to the complainants Ms. Chi or GPCL exercised any day-to-day direction or control, bore any payroll obligations, or had any authority to discipline or dismiss any person. The exception is Yilin Zhang who understood Ms. Chi to be the "boss" of the 4 businesses for which she worked.
163. The Appeal board is not satisfied on the balance of probabilities that Ms. Chi or GPCL was an employer relative to any of the complainants except Yilin Zhang.
164. The Appellants deny that they provided any complainant with any employment agency services and concede that neither was a licensed employment agency at any material time.
165. S.4(2)(a) and (b) of the DTBR provide that "employment agency business" means:
- (a) securing or attempting to secure individuals in Alberta for employment;
 - (b) securing or attempting to secure employment in Alberta for individuals.
166. The Service Agreements that Xuhui Tan and Yanjin Wang signed are substantially similar. Both include the following statements:
- Golden Pinnacle shall also make its best effort to assist the Client to secure a job for immigration purposes at no cost to the Client.

167. Eryu Zhuang, Guanting Li and Yanjin Wang were each advised by Jin Chen that GPCL would assist in finding a job. Jin Chen worked in the GPCL office in Regina.
168. Yi Yan who worked in GPCL's Edmonton office told Zhaoru Cheng's wife that GPCL would introduce him to an employer.
169. Xuhui Tan was advised by William that GPCL would help him find a suitable job.
170. Sixun Zhang was advised by Minhao Zhang that he could have the job posted on WeChat if he retained GPCL as his immigration consultant.
171. Yi Yan told Yilin Zhang that GPCL could provide her a job.
172. Pengyu Wu was advised by Yi Yan that if he signed an agreement he would have the job that was available.
173. Each of the complainants obtained employment almost immediately after signing a contract with GPCL, or with Ms. Chi in the cases of Xuhui Tan and Yanjin Wang. With the exception of Sixun Zhang, none applied for the job each was given.
174. The evidence is unequivocal that GPCL or Ms. Chi secured employment in Alberta for each of the complainants. No other explanation is offered apart from Ms. Chi's unsupported assertion that she was the decision maker for all of the corporations in the context that together they were a common employer.
175. The Appeal Board is satisfied that relative to the complainants, the activities GPCL and Ms. Chi constituted employment agency business notwithstanding their primary business was immigration consultancy.
176. S.1 of the EABLR defines the following terms:
 - (b) "employment agency business" means the business designated as the employment agency designated under the Designation of Trades and Businesses Regulation
 - (c) "employment agency business operator" means a person who is engaged in the employment agency business, and includes any employee, representative or agent of the person;
 - (d) "employment agency business service" means an activity that constitutes the employment agency business;
 - (f) "person seeking employment" means
 - (i) an individual for whom an employment agency business operator secures or attempts to secure employment....

177. An employment agency business operator must comply with requirements of ss.9, 10 and 11 of the EABLR. S.9(1)(c) requires the employment agency business operator to create and maintain specific records for each person seeking employment. S.10 specifies the requirements of an agreement the employment agency business operator and a person seeking employment are required to enter into before securing employment for the person seeking such. S.11 requires an employment agency business operator to communicate an offer of employment in writing to the individual if the employer does not.
178. GPCL and Ms. Chi did not create any such records or agreements and therefore would not have maintained such. As an employment agency business operator, Ms. Chi or GPCL were required to comply with ss.9, 10 and 11 of the EABLR and did not do so.
179. The Appellants contend that the fees paid by the complainants were for immigration services only and those fees were competitive with fees charged by other immigration consultants for similar services. Ms. Chi's evidence is as stated in paragraph 127 above. There is no evidence identifying any competitor, when any contact was made or the fees charged by any competitor for any type of immigration service.
180. Ms. Matthews obtained the 2019 CAPIC Survey of fees charged by RCICs. CAPIC is the professional organization representing RCICs.
181. The survey is based on 219 responses and indicates that fees then charged by RCICs for provincial Nominee Program applications ranged from less than \$1,500.00 to more than \$10,000.00. Approximately 95% of those responding charged less than \$10,000.00 for such an application. 60% charged less than \$5,000. 19.6% of the respondents had their primary business office in Alberta. The survey does not clearly state fees charged for permanent residency applications. The Appeal Panel recognizes the hearsay nature of the survey and the information contained.
182. The contracts establish that the complainants agreed to pay the following fees:
- | | | |
|-------------|---|----------------------------------|
| Eryu Zhuang | - | \$32,000 |
| Lili Jia | - | \$29,000 (Zhaoru Cheng's spouse) |
| Yanjin Wang | - | \$30,000 |
| Guanting Li | - | \$32,000 |
| Xuhui Tan | - | \$46,000 |
| Sixun Zhang | - | \$33,000 |
| Yilin Zhang | - | \$46,000 |
| Pengyu Wu | - | \$25,000. |
183. Although Ms. Chi or GPCL used 3 different forms of contract, each contemplates that an AINP application and a subsequent Permanent Residency application would be prepared and filed on behalf of each complainant. An AINP application

was filed on behalf of each. Each of the complainants' AINP files contain a Permanent Residency application but it is not known if any of those applications was submitted to Immigration, Refugees and Citizenship Canada .

184. Each application required interview time, assembly of personal documents and information, and preparation of several different forms including translation of details from source documents into English. Each AINP application was then submitted. There is evidence that GPCL notified AINP of changes to applicant information, particularly wage rate increases.
185. The fees complainants paid or agreed to pay are significant and appear excessive in relation to the work involved that Ms. Chi described. The fees also significantly exceed the range of fees reflected in the CAPIC survey.
186. The contention is that in addition to paying an amount for immigration consulting services, each complainant also paid for the job for which each was hired. Xuhui Tan was advised by William in the GPCL office that the fee for immigration services would be \$3,000 to \$4,000 but if employment was also included, the fee would be \$30,000 to \$40,000.
187. Yi Yan advised Zhaoru Cheng's wife that the immigration application fee would be \$6,000 and \$23,000 would be for the job.
188. Eryu Zhuang testified that \$16,000 was for the employer and \$16,000 was for GPCL.
189. Minhao Zhang advised Sixun Zhang that if he could have the liquor store job if he retained GPCL as his immigration consultant at a fee of \$32,000.
190. Pengyu Wu was advised by Yi Yan that if he signed a contract with GPCL he would have the liquor store job.
191. WeChat screen shots taken by Yilin Zhang and Pengyu Wu of GPCL advertisements state "Immigration \$2,988".
192. The Appeal Board is satisfied that relative to Zhaoru Cheng, Eryu Zhuang, Xuhui Tan, Sixun Zhang, Pengyu Wu, Yanjin Wang and Yilin Zhang, a portion of the fee each paid was for the job each was given.

Findings:

193. The Appeal Board found each complainant to be credible. Notwithstanding Mandarin is each complainant's first language and 3-4 years have passed since the events in question, each endeavored to recall events and conversations in a straightforward manner to the best of his or her ability. The Appeal Board accepts that perfect recall cannot be expected. Where a complainant's testimony differed from Ms. Chi's, the Appeal Board accepts the testimony of the complainant.

194. S.104(1) of the CPA states:

No person may engage in a designated business unless the person holds a license under this Act that authorizes the person to engage in that business.

GPCL was not licensed as an employment agency from June 22, 2016 to April 19, 2018. The Director found that during that period GPCL had engaged in employment agency business activities contrary to s.104 of the CPA.

195. GPCL concedes that it was not a licensed employment agency during that period but disputes that it engaged in any employment agency business activities.
196. The Appeal Board finds that each of the complainants was a "person seeking employment" to qualify for permanent residency and GPCL was an "employment agency business operator" as those terms are defined in ss.1(f) and (c) of the EABLR. Further, GPCL engaged in "employment agency business" as defined by s.4(2)(b) of the DTBR in securing employment in Alberta for each of the complainants. The securing of employment for each or any of the complainants constituted an "employment agency business service" as defined in s.1(d) of the EABLR.
197. The Appeal Board concurs with the Director that GPCL violated s.104(1) of the CPA.
198. S.132 of the CPA and s.9 of the EABLR requires licensees to create and maintain particular records for a specific period. The Director found that GPCL did not do so which GPCL concedes.
199. The Appeal Board has determined that GPCL engaged in employment agency business activities but was not licensed to do so. The Board considers that s.132 of the CPA and s. 9 of the EABLR apply to licensees but do not apply to non-licensees.
200. S.10 of the EABLR requires an employment agency business operator to enter into a written agreement with a person seeking employment. The agreement must contain specific information and be signed by both parties. Relative to each of the complainants, the Director found that GPCL did not do so. The Appeal Board concurs with the Director's finding.
201. S.11 of the EABLR requires an employment agency business operator to give a person seeking employment a written notice of any job offer obtained. The Director found that GPCL did not provide such notice to any of the complainants. The Appeal Board concurs with the Director's finding with the exception of Xuhui Tan who was given a written employment offer on the day he started work.

202. S.12(2) of the EABLR prohibits an employment agency business operator from charging a fee for services that are not employment business agency business services unless there is a separate agreement for those services that sets out the fee for those services. The fee must not be unreasonable.
203. The Director found that each complainant's contract violated this provision because each contract was for both immigration services and employment agency business services. This result of this analysis is mistaken in the Appeal Board's view. The Board accepts that Ms. Chi and GPCL entered into immigration services contracts but failed to enter into employment agency business contracts with the complainants. The Appeal Board does not agree that the Appellants entered into employment agency business contracts but failed to enter into immigration services contracts with the complainants.

204. s.6(2)(c) of the CPA provides that:

It is an unfair practice for a supplier, in a consumer transaction... to use exaggeration, innuendo or ambiguity as to a material fact with respect to a consumer transaction.

The Director found that "GPCL consistently engaged in exaggeration or ambiguity with respect to the services to be provided and timelines to be met, the nature of the fees, the employment positions and hours, and the ability of the individuals to successfully apply for AINP, and other material facts."

205. The Appeal Board does not agree with the Director's finding. There is little evidence that GPCL consistently advised complainants about timelines, employment positions and hours, or guaranteed success with their AINP applications.
206. Xuhui Tan's and Yanjin Wang's contracts describe services that Ms. Chi agreed to deliver. These included:

- "i. Immigration assessment of the client's background, skill set and related bio-information
- ii. Advice eligible occupations and job descriptions to meet current immigration requirements
- iii. Goal setting and time management pertaining to the Client's career development in line of immigration process
- iv. Resume development and polishing
- v. English language proficiency assessment and enhancement
- vi. Cultural etiquette, interpersonal and communication skills development
- vii. Interview skills development
- viii. Immigration policy and regulations: Dos and Don'ts".

None of these services were provided.

207. Pengyu Wu, Eryu Zhuang, Xuhui Tan and Sixun Zhang were each encouraged to sign a contract as soon as possible because of pending AINP policy changes. There is no evidence before the Appeal Board of any changes pending at the material times.
208. The Appeal Board finds that GPCL or Ms. Chi did exaggerate or use innuendo in securing the contracts with the complainants.
209. S.6(2)(d) of the CPA states that:
- It is an unfair practice for a supplier, in a consumer transaction... to charge a price for goods or services that grossly exceeds the price at which similar goods or services are readily available without informing the consumer of the difference in price and the reason for the difference.
- The Director determined that the fees paid by each of the complainants grossly exceeded the fees charged by other immigration consultants for similar services.
210. The evidence before the Appeal Board includes the CAPIC survey, the WeChat screen shots of GPCL ads taken by Yilin Zhang and Pengyu Wu, Xuhui Tan's evidence and Ms. Chi's uncorroborated statement about the 'ghost' investigation of competitors' fees.
211. Generally, the Appeal Board did not find Ms. Chi to be credible and gives little weight to her testimony.
212. The CAPIC survey is accepted as an indication of the range of fees charged by immigration consultants for similar work. Ms. Zhang's and Mr. Wu's screen shots are evidence of a \$2,988 immigration fee advertised by GPCL. That amount is well within the range of fees stated in the CAPIC survey.
213. Mr. Tan's evidence was that GPCL's fee would be \$3,000 to \$4,000 for immigration services and \$30,000 to \$40,000 if employment was also included. Yilin Zhang paid her new representative \$3,000. Sixun Zhang was instructed to tell AINP if asked that GPCL's fee was \$2,000 to \$3,000.
214. There was no explanation offered for the variation in fees charged - \$25,000 for Pengyu Wu to \$46,000 for Yilin Zhang - for seemingly similar services.
215. The Appeal Board is satisfied that the fee GPCL or Ms. Chi charged each complainant grossly exceeded the fees charged by other immigration consultants for similar work. There is no evidence that Ms. Chi or GPCL informed any complainant of any difference in price and the reason for such.
216. S.6(3)(a) of the CPA states that:

It is an unfair practice for a supplier to enter into a consumer transaction if the supplier knows or ought to know that the consumer is unable to receive any reasonable benefit from the goods or services.

The Decision refers to GPCL having committed this violation. However, the reasoning is not clear and seems to rely on the Director's rationale for his decision on GPCL's violation of s.6(2)(d) of the CPA.

217. The evidence is that each complainant wanted to become a permanent resident of Canada and contracted GPCL or Ms. Chi to assist and provide representation in that process. The process contemplated an AINP application, obtaining AINP nomination and then applying for permanent residency. In addition, GPCL would obtain a suitable job for the complainant.
218. Disregarding the fee agreed to be paid, GPCL prepared and filed an AINP application and obtained a job for each complainant. GPCL also prepared an application for permanent residency for each complainant. With the exception of Sixun Zhang and Pengyu Wu, each of the complainants left the job, found new employment, removed GPCL as his or her representative and promptly received AINP nomination. However, there is little evidence that the original job was not compliant with AINP requirements.
219. Pengyu Wu did not leave his original job but after terminating GPCL as his representative he too immediately received his AINP nomination.
220. Sixun Zhang was terminated from his position on August 22, 2018. He did not find another job until early 2019. On September 11, 2018 he removed GPCL as his representative and received his AINP nomination the following day, September 12.
221. Relative to each complainant, at the time each contract was entered into there wasn't any significant indication that GPCL knew or ought to have known that any complainant's AINP application would be unsuccessful.
222. The evidence does not support a finding that when GPCL entered into each contract it knew or ought to have known that each complainant would be unable to obtain any reasonable benefit from the immigration services to be provided.
223. In defining an "unfair practice" s.6(4)(a) of the CPA includes the following:
- A supplier doing or saying anything that might reasonably deceive or mislead a consumer.
224. S.13(2)(b)(i), (ii) and (iii) of the EABLR provide that:
- It is an unfair practice for an employment agency business operator to do any of the following;

- (b) give false, misleading or deceptive information to a consumer with respect to matters relating to:
 - (i) employment positions,
 - (ii) legal rights,
 - (iii) immigration.
- 225. The Director found that GPCL had violated the CPA and EABLR provisions based on the same facts. In considering both provisions it is apparent that the EABLR prohibitions are captured by the CPA provision. The EABLR provisions are particular to the employment agency business.
- 226. The Director's Decision referred to Yilin Zhang's WeChat screen shots of GPCL's "immigration \$2988" ads and similar ads provided by Pengyu Wu.
- 227. The Director noted the range of services to be provided to Xuhui Tan and Yanjin Wang noted in paragraph 206 above that were not provided.
- 228. The Director also referred to information provided about positions, terms of employment, wage rates, hours of work available, and places of work as being false, misleading or deceptive. There is little or no evidence of any such information having been given to the complainants. There is no evidence that GPCL or Ms. Chi had any such information about the jobs provided.
- 229. The Director determined that some complainants were not correctly or accurately informed about other avenues available in the immigration process qualifying for permanent residency. There is insufficient evidence before the Appeal Board concerning alternative application routes that may have been available to any complainant. Xuhui Tan, Yilin Zhang and Sixun Zhang discussed "Express Entry" applications with GPCL but those applications were not made for unknown reasons.

- 230. The Director also concluded that GPCL verbally guaranteed success to Yilin Zhang and almost certain success to Sixun Zhang. The evidence does not support the Director's conclusion.
- 231. The Appeal Board finds that the WeChat ads identified by Yilin Zhang and Pengyu Wu for "immigration" were false, misleading or deceptive and constituted an unfair practice under the CPA and EABLR.
- 232. S.6(4)(b) of the CPA deems an unfair practice to include:
 - A supplier's misleading statement of opinion if the consumer is likely to rely on that opinion to the consumer's disadvantage.
- 233. The Director noted that Ms. Chi is an RCIC, GPCL advertisements emphasizing the qualifications of its staff, the location of the GPCL office in the same building

as the AINP office, and the complexity of the AINP and immigration systems. None of these assertions are demonstrably false or misleading.

234. The Director also relied on his findings relative to s.6(4)(a) and s.13(2)(b) referred to in paragraphs 223 to 228 above. The Appeal Board's findings on those allegations apply to this aspect.
235. S.13(2)(c) of the EABLR provides that it is an unfair practice for an employment agency business operator to:
- Fail to ensure that separate agreements are entered into with a person seeking employment for services offered by the employment agency business operator that are not employment agency business services....
236. The Director found that GPCL violated this provision. His analysis is difficult to appreciate. He first determined that the contract with each complainant was for immigration services and that GPCL failed enter into a separate contract with each for employment agency services in violation of s.10 of the EABLR.
237. In determining the s.13(2)(c) violation the Director found that the contracts and fees "were tied to employment" and surmises that each contract was for both immigration and employment agency services. Therefore there should have been a separate and distinct contract exclusively for immigration services only (i.e. non-employment agency services).
238. The Appeal Board does not find any merit in the analysis.
239. S.13(2)(e) of the EABLR states that it is an unfair practice for an employment agency business operator to:
- Directly or indirectly demand or collect a fee, reward or other compensation contrary to section 12.
-
240. S.12(1)(a) of the EABLR prohibits an employment agency business operator from directly or indirectly demanding or collecting a fee, reward or other compensation from an individual who is seeking employment
241. The Director determined and the Appeal Board concurs that GPCL violated this prohibition. Each complainant paid the fee for immigration services and a job to be provided.

Decision:

242. The Director's Decision includes an Order under s.157 of the CPA directing GPCL and Ms. Chi, and any employee, representative or agent, to cease specific activities. Those are:

- a. Demanding or collecting, whether directly or indirectly, any fee, reward or other compensation for employment agency services from and individual seeking employment.
- b. Securing or attempting to secure individuals in Alberta for employment or securing or attempting to secure employment in Alberta for individuals without the required Employment Agency Business License.
- c. Charging a price for goods or services that grossly exceeds the price at which similar goods or services are readily available
- d. Engaging in activities intended to deceive or mislead consumers.

243. The Appeal Board confirms the Director's Order under s.157 of the CPA.

244. The Director's Decision issued a Notice of Administrative Penalty in the amount of \$145,000 assessed against GPCL for contraventions of the licensing and regulatory requirements of the CPA and the EABLR. The amount is calculated at page 39 of the Director's letter of September 14, 2020, as follows:

Licensing and Regulatory

s.104 CPA	\$5,000
s.10 EABLR	\$5,000
s.11 EABLR	\$2,500
s.12(2) EABLR	\$2,500
Total:	\$15,000

Unfair Practices

s.6(2)(c) CPA & s.13(2)(b) EABLR	\$5,000
s.6(2)(d) & s.6(3)(a) CPA	\$7,500
s.6(3)(c) CPA	\$5,000
s.6(4)(a) CPA	\$5,000
s.13(2)(c) EABLR	\$2,500
s.13(2)(e) EABLR	\$100,000
Total:	\$130,000

245. In setting the administrative penalty, the Director considered the following factors:

- a. The contraventions of the legislation were intentional;
- b. The impact of the contraventions on the complainants;
- c. The exploitation of the complainants by GPCL and the employers;
- d. The monetary benefit GPCL derived from the contraventions;
- e. The overall magnitude of the contraventions.

246. The Appeal Board concurs that GPCL violated s.104(1) of the CPA in that it engaged in unlicensed employment agency business activities in relation to each complainant.
247. The Appeal Board concurs that GPCL violated s.10 of the EABLR in that it failed to enter into an agreement with each complainant that complied with the requirements of the provision.
248. The Appeal Board concurs that GPCL violated s.11 of the EABLR in that it failed to give each complainant, except Xuhui Tan, a written offer of employment from that individual's employer that included the mandated information.
249. The Appeal Board finds that GPCL did not violate s.12(2) of the EABLR. Each contract was for the provision of immigration services not employment agency business services.
250. The Appeal Board finds that GPCL violated s.6(2)(c) of the CPA. Eryu Zhuang, Xuhui Tan, Sixun Zhang, and Pengyu Wu were each advised that changes to the AINP were pending and it was important to apply as soon as possible. In each instance the advice was intended to create a sense of urgency and constituted exaggeration or innuendo.
251. The Appeal Board finds that GPCL did not violate s.13(2)(b) of the EABLR.
252. In relation to each complainant, GPCL charged a price for services that grossly exceeded the price at which similar services were readily available. With the exception of Xuhui Tan, GPCL did not inform any complainant of the difference in price and reason for the difference, contrary to s.6(2)(d) of the CPA.
253. The Appeal Board finds that GPCL did not violate s.6(3)(a) of the CPA.
254. The Appeal Board finds that GPCL did not violate s.6(3)(c) of the CPA. Apart from the exorbitant cost of each contract, none of the other terms are demonstrably harsh, oppressive or excessively one-sided. The exorbitant cost is a violation in itself and captured under s.6(2)(d) of the CPA as stated in paragraph 252 above.
255. The Appeal Board finds that GPCL violated s.6(4)(a) and (b) of the CPA in its WeChat advertising of "immigration \$2,988". The advertisements were intended to convey to a consumer that GPCL provided immigration services for \$2,988 which, based on the evidence, was deceptive and intended to mislead consumers. GPCL did not offer any evidence of its services, if any, available for that price.
256. Yilin Zhang was not aware that Minhao Zhang was affiliated with GPCL. Minhao Zhang advised Sixun Zhang that the fee was a reasonable price, market related

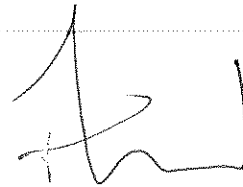
and increasing. Xuhui Tan was advised that the only position available was in high demand.

257. The Appeal Board finds that GPCL did not violate s.13(2)(c) of the EABLR. Each contract was for immigration services not employment agency services.
258. The Appeal Board finds that GPCL violated s.13(2)(e) of the EABLR in relation to each complainant by collecting a fee or other compensation contrary to s.12(1)(a) and (c) of the EABLR. Each complainant was an individual seeking employment. In addition or the alternative GPCL secured employment for each individual.
259. As described in paragraph 244 above, the Director's Decision specified an amount allocated to each category of GPCL's various contraventions and assessed a single administrative penalty of \$145,000. The Director did not issue an administrative penalty for each contravention category. He issued a single administrative penalty of \$145,000 for all contraventions.
260. S.158.1 of the CPA limits the amount of an administrative penalty to \$100,000. The \$145,000 administrative penalty assessed by the Director exceeds the maximum penalty allowable. The Appeal Board shares the Director's abhorrence at GPCL's violations but is constrained by the statutory limitation imposed by s.158.1. The administrative penalty is varied and reduced to \$100,000.
261. So there is no doubt, but for the s.158.1 limitation, the Appeal Board does not consider \$145,000 an excessive amount particularly in view of the factors cited by the Director as noted in paragraph 245 above.

Conclusion:

262. The Appeal Board does not have any conflict with any party, witness or Counsel in this matter.

Dated this 2nd day of December, 2021.



John H. Welbourn

Hilda Lupul

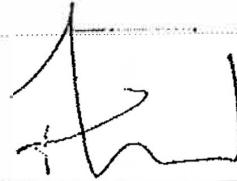
and increasing. Xuhui Tan was advised that the only position available was in high demand.

257. The Appeal Board finds that GPCL did not violate s.13(2)(c) of the EABLR. Each contract was for immigration services not employment agency services.
258. The Appeal Board finds that GPCL violated s.13(2)(e) of the EABLR in relation to each complainant by collecting a fee or other compensation contrary to s.12(1)(a) and (c) of the EABLR. Each complainant was an individual seeking employment. In addition or the alternative GPCL secured employment for each individual.
259. As described in paragraph 244 above, the Director's Decision specified an amount allocated to each category of GPCL's various contraventions and assessed a single administrative penalty of \$145,000. The Director did not issue an administrative penalty for each contravention category. He issued a single administrative penalty of \$145,000 for all contraventions.
260. S.158.1 of the CPA limits the amount of an administrative penalty to \$100,000. The \$145,000 administrative penalty assessed by the Director exceeds the maximum penalty allowable. The Appeal Board shares the Director's abhorrence at GPCL's violations but is constrained by the statutory limitation imposed by s.158.1. The administrative penalty is varied and reduced to \$100,000.
261. So there is no doubt, but for the s.158.1 limitation, the Appeal Board does not consider \$145,000 an excessive amount particularly in view of the factors cited by the Director as noted in paragraph 245 above.

Conclusion:

262. The Appeal Board does not have any conflict with any party, witness or Counsel in this matter.

Dated this 2nd day of December, 2021.



John H. Welbourn



Hilda Lupul

In The Matter of the *Consumer Protection Act*, RSA 2000, c. C-26.3

And In the Matter of an Appeal from the Decision
of the Director of Fair Trading (as delegated) made September 14, 2020
Imposing an Administrative Penalty pursuant to s.158.1
of the *Consumer Protection Act*, RSA 2000, c. C-26.3

Between:

Golden Pinnacle Consultants Ltd. and Yan Chi

Appellants

-and-

The Director of Fair Trading (as delegated)

Respondent

Minority Decision

The minority Decision lists agreed paragraphs under headings:

Preliminary Matters	1-6
Background and Agreed Facts	7-14
Exhibits	15, 16
Evidence	17-116 118-129
Issues	130-134
Argument	135- 174, 176-192
Findings	193-201, 204, 206-215, 219, 223-232 235, 239-241
Decision	242-248, 250 with addition, 252, 254, 256, 258-261

MINORITY DECISION

Evidence

CPA APPEAL BOARD REGULATION - Alberta Regulation 195/1999

14(1) An appeal board is not bound by the rules of evidence in judicial proceedings.

(2) Evidence may be given before an appeal board in any manner that the appeal board considers appropriate

It is agreed that this appeal is a 'de novo' hearing but I disagree, with the Board-majority's argument, that the pertinent evidence is what was testified or produced in the course of the hearing.

The argument is that the Board as a quasi-judicial fact-finding body is not bound by the rules of evidence in judicial proceedings. The minority decision's inclusion of evidence, not referenced by the majority, is due to the differing assignment of weight to documents and oral recordings presented in the Respondent binder.

Correspondence, documentation or other evidence received from the Appellant are: Counsel's correspondences to the Director, with attachments of Ms. Chi's email thread to Michael Payette AINP Acting Director and copies of 7 agreements with complainants; exhibits 3,4 and 6 and witnesses.

The Director's evidence is in the exhibits; joint and respondent binder (with the exclusions as determined by the Board as a whole) and witnesses.

Ms. Matthews, in testimony, confirmed the transcript and translations of the audio files for: interviews with Ms. WANG (TAB F) and Mr. TAN (TAB I); translation of text message and the 3 recordings Mr. WU's submitted (TAB L); translation of the GPCL ads submitted by Ms. Y. ZHANG (TAB J). Ms. Matthews also stated that Ms. J. ZOU and her husband agreed to being recorded. There are also recorded interviews with Ms. Y. ZHANG (TAB J), Mr. CHENG (TAB O), and Mr. S. ZHANG (TAB H) which were not referenced.

Mr. WU, in his testimony, verified his recorded submissions contained in the joint binder which included his conversation with: Yi YAN convincing him to sign an agreement; and a meeting on how to respond to AINP, with Yan CHI, Zhong WANG and Yi YAN. He testified he also submitted other relevant recordings.

The two complainants who did not appear are viewed as having lesser weight and not applied to stand alone but as corroboration of evidence.

CONSUMER PROTECTION ACT

S. 6(3)(c)	Agreed - paragraph 254
S. 104-(1)	Agreed - paragraphs 194 to 197 and 246
S. 132	Agreed - paragraphs 198, 199
S. 6(2)(d)	Agreed - paragraphs 209-215 and 252

S. 6(2)(c) - Agrees - Paragraph 204, 206, 207
Minority Decision ADDS

TAN and S. ZHANG signed October 2017, Y. ZHANG and WU signed in November 2017, ZHUANG signed in March 2018; all felt a sense of urgency to apply.

Yilin ZHANG saw on a WeChat posting, GPCL was saying AINP was going to close Jan 1, 2018 that you must apply before that date.

WU Spoke with Yi Yan at GPCL Edmonton office the end of November 2017 where he was told AINP changing in January 2018.

ZHUANG was told by CHEN, AINP policy may be changing in May and he should go to Alberta as soon as possible.

Sixun ZHANG said Sept or Oct he saw on the AINP website the program would be changing, so he was keen to get a job before the change.

Ms. CHI testified there were announcements at the "end of 2017" that AINP would be changing in January of 2018. The changes were postponed 2 or 3 months and again postponed to June. She suggested that the pressure to apply, the complainants felt, was from "the environment" because the news of changes were 'everywhere'. She added "we don't pressure clients". Sixun ZHANG confirms the announcement of AINP changes occurring in late 2017. Mr. ZHANG and Ms. CHI did not note the date of proposed changes, or the effect of the changes. Ms. Gupta testified the changes made the application process easier.

Additional screen shots of GPCL advertising on WeChat, provided by Ms. ZHANG, says "All above positions are eligible to submit immigration application to seize the last opportunities at the end of AINP program"

The changes to AINP occurred June 14, 2018.

I find that the GPCL's WeChat ad "...last opportunities at the end of AINP Program" was intended to create a sense of urgency and constituted exaggeration.

S. 6(3)(a) - **DISAGREES** - paragraphs 216 & 253

All 10 complainants were endeavouring to get Permanent Residency.

Ms. CHI testified to her 16 years of experience in immigration and her years in operation as GPCL, therefore I find on a balance of probability with her knowledge and experience

She ought to have known that Iruka was not eligible to apply for Mr. CHENG. The AINP files indicates: the Proof of employment letter, although unsigned, lists Coral Y. CHI owner of IRUKA, with a Saskatchewan phone number; Ms. Yan CHI testified that she is Coral Y. CHI.

Both the AINP 003 and AINP 005 forms designate Coral Y. CHI as the employer contact and owner; the AINP 'Employer Compliance Declaration' form indicates under Part 1 Alberta Health Services -that the GPCL's response 'yes' triggered "*Your business not eligible to apply to the AINP at this time*". All these forms were signed by Ms. CHI.

Mr. CHENG's AINP 005, as filed by GPCL, indicates in:

Part A- states that Iruka was established in 2017, CORES documents disagree and shows February of 2018; Mr. Cheng testified that the restaurant was not open when he arrived after his wife had signed the agreement on April 7, 2018.

Part E- the employer did not use an immigration representative; this is true but she failed to make clear that she, Yan CHI, was his representative as she signed in the Candidate- Use of representative AINP 008B form.

Part F(1)- The employer acknowledges "*I have provided true, complete and correct information...*" and *F(3) I acknowledge that the AINP may decline this application or withdraw a Nomination(s) F(3)(a) "If I have submitted any false statements or concealed relevant or significant fact. Both constitutes misrepresentation;"*

With her years of experience Ms. CHI ought to have known:

Submitting applications with false statements or concealed relevant or significant facts could pose a risk to AINP approval and to any reasonable benefit

Ms. WANG - AINP records do not show that AINP received notification of reduced hours. She had multiple discussions with Jin CHEN, Yan CHI and her employer about her hours being reduced to part time.

Sixun Zhang was declined because NOC (National Occupation Classification) filed was for sales representative but when AINP called and asked his duties they determined the duties were of a cashier. AINP later reclassified it as retail sales.

Coaching clients to lie to AINP may the nomination t be declined.
Mr. Wu has a recording of a meeting with Ms. CHI, Zhong WANG and Yi YAN where he was told to lie about work duties, if AINP officers ask.

Sixun ZHANG was told by Yan CHI to tell AINP the GPCL fee was only \$2,000-\$3,000.

Yilin Zhang said she did not want to lie to the government and continue to be paid and stay home and then repay wages so she quit.

**S. 6(4)(a)- Agrees - paragraph 255
Minority decision ADDS**

GPCL did fail to disclose their link to the employer before complainants signed; Y. WANG, S. ZHANG, E. ZHUANG, X.TAN, Z CHENG did not know, P. WU knew there were sister companies. Ms. GUPTA testified company ownership does not disqualify but may trigger a closer look at the application. Complainants should have been made aware of the affiliation before signing.

Six of the 8 witnesses, in either their complaints, audio recordings or testimony confirmed that GPCL did frequently engage in exaggeration or ambiguity in the material facts named by the Director in paragraph 205 of the majority decision. Yanjin WANG was promised a job for immigration; full-time, above average salary, that would meet the immigration requirement. Guanting Li was counseled that after 4-5 months he would get his AINP. Xuhui Tan was told AINP decisions are "within half a year". Sixun ZHANG believed they tried to guarantee the nomination. He stated his payment was for "nomination... and to work there". In the audio recording, Ms. Yilin ZHANG said GPCL "promised 100% guarantee you will immigrate".

The majority position is GPCL agreements were solely immigration services agreements. The minority does not agree, page this decision on EABLR s. 12(2)

The CPA applies to both GPCL activities as an immigration consultant and as an employment agency and the EABL Regulations to activities related to employment agencies services.

Ms. CHI in her testimony said that '\$2988' was for 'Express Entry' immigration. The ad simply said "immigration".

Additional screen shots of GPCL advertising on WeChat, provided by Ms. ZHANG, says "All above positions are eligible to submit immigration application to seize the last opportunities at the end of AINP program" or another states, "the whole family can get immigration status in 4-6 months."

It is agreed that the GPCL WeChat advertising was deceptive and intended to mislead consumers. Expressing guarantee for a nomination or giving timelines,

which are out of the GPCL control, alleging program closure or increased cost in the immediate future are all viewed as deceptive and misleading.

**S. 6(4)(b) - Agrees - paragraph 232
Minority decision ADDS**

Mr. WU produced a text message from Yi YAN. The translation states "The boss of the business we recommend to you is from northern (China) gets along will (sic) employees like friends". Mr. Wu testified "I was being used like a slave."

Yi YAN told Ms. ZHANG "she was very happy and everyone at the company is very happy" Yilin ZHANG also said, "I thought it was expensive but Aaron (Minhao ZHANG, a former classmate) said the regular price is 35-40 thousand, since they also provide Express Entry, this is a fair amount." She testified that she was not aware that Minhao Zhang was affiliated with GPCL before signing the contract.

Sixun ZHANG testified he was told by Minhao ZHANG "\$33,000 was a reasonable price at this time...the fee was market related and it had gone up". He was also told "other consultants may charge higher for AINP by \$2,000 to \$3,000".

Based on this evidence, I find that the appellants violated CPA s. 6(4)(b).

EMPLOYMENT AGENCY BUSINESS LICENSING REGULATION

The Appellants maintain that no services were provided to the complainants under the jurisdiction of the EABLR, and deny that at any time they engaged in unlicensed employment agency and unfair practices relating to the complainants.

- S. 9 - Agreed - paragraphs 198, 199**
S. 10- Agreed - paragraphs 177, 178, 200, 247
S. 11 - Agreed - paragraphs 177, 178, 201, 248
S. 13(2)(e) - Agreed - paragraphs 239-241 and 258

S. 12(2) - DISAGREES

CPA Section 1(1)(c) "consumer transaction" means, subject to the regulations under subsection (2),

- (i) the supply of goods or services by a supplier to a consumer as a result of a purchase, lease, gift, contest or other arrangement, or
- (ii) an agreement between a supplier and a consumer, as a result of a purchase, lease, gift, contest or other arrangement, in which the supplier is to supply goods or services to the consumer or to another consumer specified in the agreement;

CPA Section 2.1 In determining whether this Act applies to an entity, a representation or a transaction, a court or an appeal board must consider the real substance of the entity, the representation or the transaction and in doing so may disregard the outward form.

GPCL supplied services as a result of a consumer purchase. In viewing the real substance of the transactions, fees are a part of the transaction and can not be set aside when viewing reasonable benefit.

Each of the complainants, stated they understood they were paying for employment, specifically to qualify for AINP, and for immigration consultant services. In all the material transactions the service, be it employment or immigration, was dependent on the other.

I find, on the balance of probabilities, the real substance of the agreements, representations and transactions, were combined employment and immigration services veiled as an immigration agreement.

It is difficult to determine the real substance of GPCL as an entity. Was GPCL an employment agency business selling immigration services for an unreasonable price or an immigration service operating as an unlicensed employment agency business selling jobs? The number of job postings, in the complainants' submitted GPCL screen shots, demonstrated GPCL was actively recruiting online. Both Services were promoted because of the dependency of one on the other.

GPCL had been issued an employment agency license in 2014 which was suspended in 2016. GPCL and Yan CHI were familiar with the EABLR. GPCL failed to separate the transaction into two individual agreements, one for immigration services and one for employment agency business services.

The evidence showed that GPCL renewed its employment agency license in 2018.

On the balance of probabilities, GPCL operated in both businesses therefore I find GPCL contravened section 12(2) by not having a separate agreement and charging a fee that was unreasonable for immigration services.

S. 13(2)(b) - DISAGREES

Yilin ZHANG testified the job offer was for assistant but "actually job duties is not about assistant" she performed duties of a receptionist, and worked for 4 of the companies in the GPCL offices. The AINP 009B and the Federal IMM0008 forms specify that she was employed as an Administrative Assistant.

Zhaoru CHENG quit his job in Ontario and came to Alberta to work in a restaurant that was not yet open. He was promised to be a supervisor but worked as server, janitor and cook as he often worked alone.

Yanjin WANG was promised a job for immigration; full-time, above average salary, that would meet the immigration requirement. Ms. WANG was effectively paid minimum wage \$13.60 although she was paid \$16.00/hr she had to repay \$2.40/hr. When her hours were reduced to part-time, she gave GPCL, Yan CHI and the employer a month to resolve, they did not so she quit.

The minority finds the appellants violated s. 13(2)(b).

S. 13(2)(c) – DISAGREES

The Director's analysis spoke to the 'purported' immigration services agreement as both employment and immigration services.

None of the complainants signed a separate agreement of immigration services.

This decision found that GPCL did violate the regulatory s.12(2) and further engaged in 'unfair practice' by not ensuring a separate agreement was entered into.

DIRECTOR'S ORDER AND NOTICE OF ADMINISTRATIVE PENALTY

Director's Order **Agreed – paragraphs 242 and 243**

Administrative Penalty **Agreed – paragraphs 244- 261**

I do not have any conflict with any party, witness or Counsel in this matter.

Dated this 2nd day of December, 2021.

Dellia Tardif

The minority finds the appellants violated s. 13(2)(b).

S. 13(2)(c) – DISAGREES

The Director's analysis spoke to the 'purported' immigration services agreement as both employment and immigration services.

None of the complainants signed a separate agreement of immigration services.

This decision found that GPCL did violate the regulatory s.12(2) and further engaged in 'unfair practice' by not ensuring a separate agreement was entered into.

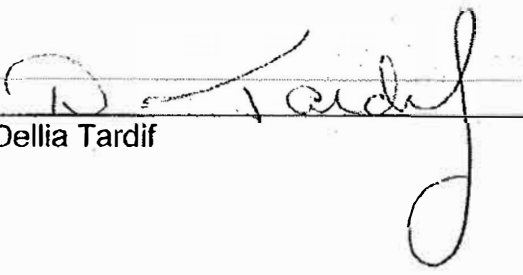
DIRECTOR'S ORDER AND NOTICE OF ADMINISTRATIVE PENALTY

Director's Order **Agreed** – paragraphs 242 and 243

Administrative Penalty **Agreed** – paragraphs 244- 261

I do not have any conflict with any party, witness or Counsel in this matter.

Dated this 2nd day of December, 2021.



Dellia Tardif