

Self-regulation for Immigration Consultants in Canada

June 30, 2011 marked an historic day for Canadian immigration consultants. After 7 years of regulation of immigration consultants by the *Canadian Society of Immigration Consultants (CSIC)*, CSIC lost its authority to confer the status of “authorized representative” on consultants. On June 28, 2011 the Minister Jason Kenney, announced that, by operation of law, all 1900 CSIC members would be deemed to be members of the newly-minted *Immigration Consultants of Canada Regulatory Council (ICCRC)* two days hence. They would be permitted to continue to practice for 120 days, during which ICCRC could develop a registration process and a membership list. No fees were payable to ICCRC until October 28, 2011 as CIC had given a start-up loan to ICCRC. The transition was expected, the timing and method unpredicted.

Such change is surely unprecedented in the annals of government oversight of regulatory bodies in Canada. What had happened? Why such a dramatic change? Below is a chronicle of the major events on the public record leading up to June 30, 2011. On this date, the profession was given a second chance, embraced as a welcome and deserved opportunity by most in the profession, and especially those who so determinably fought over many years to bring attention to the serious concerns at CSIC, and developed a viable alternative.

Below are highlights, necessarily abbreviated, of the key events from the historical record. In the years to come, if the present optimism of many in the profession is warranted, they may comprise merely a detour on the road to true and permanent self-regulation for Canadian immigration consultants.

1995 – 2001 How it All Started

- In the 1990s, a court case wound its way through the B.C. court system to the Supreme Court of Canada, *Law Society of British Columbia v. Mangat*, [2001] 3 S.C.R. 113. The LSBC prosecuted Mr Mangat, at the time an immigration consultant, for the provincial offence of practicing law without a licence by providing immigration services to clients for a fee. The federal *Immigration Act 1978* in force at the time permitted representation by a barrister, solicitor or “other counsel”. The SCC found this provision to be permissible under federal jurisdiction over immigration in s. 95 of the *Constitution Act, 1867* (formerly BNA Act). Given the incompatibility of the federal and provincial rules on the matter of who could be counsel for a fee on immigration cases, the SCC applied the constitutional doctrine of paramountcy and held that the federal law prevailed.
- The law now settled, the federal government moved to considering policy options to permit non-lawyers to practice immigration consulting while protecting the public. The lack of regulation had led to many instances of incompetence, fraud and consumer exploitation. In addition, some unscrupulous consultants were employed by equally unscrupulous clients to defraud the system.
- In 2001, the current immigration legislation, the *Immigration and Refugee Protection Act (IRPA)* was passed. It took effect on June 28, 2002. Section 91 set out the new authority for the Minister to decide who could represent clients before immigration officials. It

stated: “*The regulations may govern who may or may not represent, advise or consult with a person who is the subject of a proceeding or application before the Minister, an officer or the Board.*” This was seen as a major step forward, but only covered advising, consulting and representing *after* the case was filed, and not the preparation.

2002 – 2003 Setting up an Advisory Committee

- In 2002, then Minister Denis Coderre created an Advisory Committee to identify problems in the immigration consulting field. He appointed several current immigration consultants, immigration lawyers and NGO representatives. The committee’s task was to propose recommendations on how to regulate the industry.
- The Committee examined the problems, researched and explored options, and sought input from the public. Many briefs were presented, as listed in their final report.
- In 2003, the Committee reported to the Minister. It did not advance one specific recommendation but laid out several options for the Minister. The full report can still be read online at:
http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?ls=c35&source=library_prb&Parl=40&Ses=3&Language=E

2003 — Creation of the Canadian Society of Immigration Consultants

- The Advisory Committee’s recommendations resulted in the creation of the Canadian Society of Immigration Consultants (CSIC) which was incorporated as a non-profit corporation under Part II of the *Canada Corporations Act* on October 8, 2003. The incorporation was a prelude to the intent of the Minister to appoint the Society as the regulator.
- Letters Patent were filed with Industry Canada which gave the Society the mandate to regulate immigration consultants, including the power to adopt a code of conduct, discipline members, set educational standards, and establish a compensation fund to compensate victims of fraudulent members.
- Four individuals incorporated the Society, also a prelude to them being appointed to the initial board of directors of the Society.
- The intent was to create an independent body, arms length from the federal government, run by a board of directors and under its own by-laws and allow its members to regulate themselves in accordance with the Letter Patent.
- In December 2003, CIC signed a Contribution Agreement with CSIC to give it start-up funds of \$700,000 and a repayable loan of \$500,000 once a membership of 3000 was reached. The latter never occurred; CSIC membership never surpassed 2000). The government’s objective was “to enhance public confidence, preserve the integrity of the

immigration program and protect vulnerable clients by providing them a recourse mechanism when they have been given inappropriate advice.” CSIC undertook to establish the structures required to regulate: by-laws, a code of conduct, a discipline system, errors and omissions insurance, etc.

- At that time, the Government committed to stakeholders that should CSIC fail to fulfill its central role of consumer protection and maintaining professional standards, the Government would take action to remove its recognition of CSIC members.
- The Department, through a Secretariat on Immigration Consultants, also oversaw the start-up process and ensured the contribution agreement was being met by placing a CIC staff member as a non-voting member on the initial CSIC board of directors for 3 years, from 2003 to 2006.

2004 – Establishing the Legal Status of Authorized Representatives

- Cabinet then amended s. 13 of the IPR Regulations using its authority in s. 91 of the Act to provide that only Authorized Representatives could advise, consult with or represent clients before immigration officials for a fee. It defined “Authorized Representative” in s. 2 of the Regulations as a member in good standing of the Canadian Society of Immigration Consultants, a provincial or territorial bar, the Chambre des notaires du Québec or articulated students. No one else was authorized to do the work and charge the public, and would be acting illegally if they did so. The new Regulations were to take effect on April 13, 2004 with a sunset clause for representatives on current cases.
- These Regulations did not apply to citizenship applications as the *Citizenship Act* was not similarly amended. A CIC proposal in this regard has been published and such an amendment is anticipated in future.
- Leading up to the new regime in April 2004, hundreds of consultants began registering with CSIC. Those who were already working, as established by proof of cases filed, who met basic requirements could register as “transitional members”. They had a window of time to pass a language test and entrance exam and meet all criteria to become “full members” by the self-regulation date of April 13, 2006.
- For the period from late 2003 until April 2006, transitional members had the “pains and penalties” of membership in that they had to pay fees to cover CSIC’s operating costs, and were subject to rules and policies, including the complaints and discipline procedure. But they had no rights or privileges, and could not vote. They were given no voice or influence over the directions or operations of the Society. The initial board ran the operations unilaterally without consultations with transitional members. Reports were issued periodically on matters the board desired to share with members, but members has no ability to obtain information otherwise, and transparency arose as an early concern.

2004- Early Challenges

- The government had appointed several of the Advisory Committee members to be the first board. It named immigration lawyer Ben Trister as the initial Chair and immigration

consultant John Ryan as the initial Vice-Chair, and seven others. The nine initial directors were simultaneously the only members of the Society. They had the powers of members under the bylaws, e.g., to hold an AGM, approve board compensation levels, amend the bylaws, accept financial statements, etc. They had the powers of the board to establish rules and policies, create committees, hire the CEO and generally govern the organization. Within the constraints of the Contribution Agreement to establish the basics (code of ethics, discipline process, etc), they had the ability to operate the Society as they saw fit. Transitional members had no legal or practical ability to hold the initial board to account.

2005 – Early Signs of Trouble

- Early decisions showed a sense of entitlement had taken root. As a first decision, CSIC entered into a ten-year lease in the Munich Re Centre in the elite rental district of 350 Bay Street in downtown Toronto, at a cost in excess of \$225,000 per year when its fee-paying paying membership amounted to a few hundred people. Rumours of lavish travel, hotels and expense accounts started to circulate within the profession.
- An early legal challenge was brought by small group of immigration consultants connected with the Chinese Business Chamber of Canada. They challenged the power of the federal government to create a compulsory regulatory scheme that required all immigration consultants to be members of CSIC. They applied for an order preventing CIC and the IRB from refusing to deal with immigration consultants who were not members of the CSIC. The Federal Court rejected their request in January 2005 and stated the following:

“The immigration consultant regulations are aimed at the protection of vulnerable persons and the preservation of the integrity of the immigration process, both of which are clearly in the public interest. Indeed all of the parties agree that regulation in this area is both necessary and long overdue.”

The decision was later upheld by the Federal Court of Appeal: *Chinese Business Chamber of Canada v. Canada* (2006 FCA 178).

- In late 2005, three of the initial appointed directors resigned in a short period. One was the Board Chair, Ben Trister, the second was public interest director representing the Canadian Council for Refugees, Francisco Rico Martinez, and the third was a prominent immigration consultant involved in the *Mangat* case, Jill Sparling. The first two went public, issuing letters to the press, which were publicized, citing serious financial mismanagement, excessive directors’ fees, secrecy of the Board of Directors and ethical concerns particularly regarding practices of the Vice-Chair John Ryan and Treasurer Imran Qayuum.
- Transitional members were without remedies, votes, or rights under the transitional by-laws. Many complained privately to CIC and then Minister Volpe.
- With the resignation of Ben Trister in December 2005, John Ryan became Chair of the Board. Imran Qayuum became Vice-Chair.

2006 – The Situation of CSIC Members

- In April 2006, most of the 1000 transitional members were set to become full members, entitled to vote and exercise the standard rights of members of a self-governed profession to influence the affairs of the Society.
- In March 2006, shortly before the transitional members were eligible to become full members, the interim Board amended the CSIC By-laws. They removed the “requisition right” from members of the Society. This is a standard clause that allows members to call a Special Meeting if a certain percentage requests it in writing (usually 5 to 15%). The clause was in the earlier registered versions of CSIC’s bylaws, but was deleted in the final version. It was the final version that, after the self-regulation date, could only be amended by a 75% of all full members at a members’ meeting.
- The By-laws amendments deleting the requisition right were registered by *Industry Canada* and took effect on March 22, 2006. Legally, the by-laws of a non-share corporation under Part II of the *Canada Corporations Act* did not require the requisition right, but it was *Industry Canada* policy to include it, and their template provided for it. In registering the by-laws of CSIC without it, the kingpin of CSIC members’ rights and their ability to hold the board accountable was removed from CSIC members.
- Under the CSIC by-laws, members could only remove directors at a Special Meeting. Thus, the inability to compel a Special Meeting now enshrined in CSIC’s Bylaws effectively meant that CSIC members had no standard power or ability to remove directors. The directors had thus insulated themselves in a significant way from accountability to the membership. Consequently, the Board and staff had little incentive to listen to members, meet with them or deal with their concerns. Indeed the Board did not, in seven years of operation, ever meet with the members of CSIC in person to discuss the affairs of the Society. The first effort to request such a meeting was made in October 2006 when 14 members led by Tanveer Sharief petitioned the Board in to discuss matters of serious concern to the membership, the request was dismissed.
- The first elections where members could elect members to the board was to be held on June 19, 2006.
- A second legal challenge was filed. The Law Society of Upper Canada (LSUC) contended the regulatory scheme was an improper delegation of authority, not arms length enough, and a breach of solicitor-client privilege for those CSIC members employed by law firms. The Federal Court dismissed the application in December 2006 and reaffirmed the importance of regulation for public protection and the vital role immigration consultants play in helping individuals navigate the immigration system *Law Society of Upper Canada v. Minister of Citizenship and Immigration et al* (2006) FC 1489.

2007 – Full Members of the Society Seek Participation

- The first AGM where all 1000 CSIC members could attend was scheduled for June 16, 2007. As well, the first elections were to be held June 6-8, 2007 where members could elect consultant directors to the board. Many members, desiring a voice and active participation in the Society, awaited these events in anticipation that things may now change.

- Instead, the CSIC board took several dramatic steps in the spring of 2007 in advance of the AGM and elections to prevent concerned members from advancing change:
 - (1) In April, the Rules of Professional Conduct were amended add an offence of “undermining or attempting to undermine the Society’s mandate and/or governing principles”. A second amendment made it necessary for members to show respect for the Society. The CSIC Complaints and Discipline manager could now lay discipline complaints against members for perceived violations, and soon did.
 - (2) CSIC posed onerous arbitrary requirements to have motions discussed at the AGM, one being that 50 members had to endorse a motion before the Board would consider placing it on the Agenda. Despite very short notice to submit motions, 4 priority motions of members obtained the necessary endorsements and were submitted – these sought to reinstate the requisition right and in-person AGMs, establish transparency, create a finance committee and cap directors fees at \$30,000. None were placed on the Agenda as they did not meet other arbitrary criteria, mainly the board’s approval of the content of the motion as being in the best interests of the Society. The only motions on the Agenda were Directors’ motions, including entrenching in the Bylaws privileges for directors such as their existing high compensation, which saw about \$500,000 a year in fees being paid to CSIC directors.
 - (3) CSIC passed rules limiting which members could run for the Board of Directors – not all members in good standing were permitted. There were subjective criteria, such as the fact that a member with an open complaint against them was ineligible to run for the board. Combined with CSIC’s ability to lay complaints itself against members perceived to “undermine” the Society under Rule 16, this kept many active leaders of the profession from being eligible to run for seats on the CSIC board.
 - (4) No direct communication was permitted with the electorate – CSIC vetted all election material and sent only CSIC-approved messages to members. Despite s. 11.1 of the *Canada Corporations Act* which requires corporations, including non-profit corporations to provide contact information to members for lobbying purposes, CSIC refused to do so despite formal requests. Candidates had no ability to contact members independently.
 - (5) Candidates’ meetings, unless called by CSIC, were prohibited; any candidate attending them would be disqualified. Questions to the candidates at CSIC meetings were vetted by CSIC.
 - (6) The AGM was scheduled for June 16, 2007 as the first AGM that all 1000 new full members of CSIC could attend. CSIC notified members it would be “electronic” only, that no in person meeting would be held. The Bylaws required a members’ meeting to be held at a “place” and a quorum was 20% of members present in person. The Bylaws contemplated electronic voting but did not contemplate a full online-only members’ meeting with provision for effective participation. A small group of members retained a legal opinion which indicated the proposed electronic meeting contravened the CSIC By-laws and an injunction was possible. However, the cost of retaining counsel and taking legal proceedings was prohibitive for individual members.
- CSIC also planned the first educational conference for May 11-12th, 2007 at the Direct Energy Center, Exhibition Place in Toronto at a price tag of \$800 to attend. When 41

members petitioned for changes to the cost of the event, the venue was downgraded to the less expensive Royal York, but with same \$800 price tag for attendance. When members continued to object to the cost, and threatened not to attend, the seminar was declared mandatory. Members were required to attend or else purchase the video for \$800.

- CSIC imposed several limits on members gathering for the education seminar. There was to be no election-related or AGM-related activity. Members were not permitted to discuss the motions or gather signatures openly for them. Armed guards were hired to mill about the seminar.
- In June, the Toronto Star published a series of articles about unethical CSIC members. Underground reporters had interviewed 33 CSIC members or their staff posing as a client with a story that reflected no immigration options. They taped the interviews. In four cases, the consultant or their staff offered to fabricate a refugee claim. Ethical members of CSIC were powerless. In theory, the Board was accountable to the CSIC membership and, as a CIC spokesperson told the press in the aftermath of the *Star* expose: “Evaluating CSIC is a job for its members”. In practice, that was not possible.
- No quorum was attained at the first AGM June 16, 2007. The meeting was re-scheduled until July 18 and again to August 20 and September 24th. No quorum (about 215) was obtained and the effort was abandoned.
- In August, CSIC launched its Media Centre. It hosted video and audio presentations accessible in real time via internet streaming. Using this technology, it soon launched the online report called *A View from the Top* designed to give members “a timely glimpse of the Society from the perspective of the Board and the CEO.” Members could also access the videos to comply with mandatory Continuing Professional Development (CPD) requirements. CSIC was later to develop a full scale “CSIC TV”.
- The travesties unfolding in 2007 prompted many CSIC members to start approaching legal counsel for advice, their MP’s, Industry Canada any who would listen. Many spoke with the press privately, but in the atmosphere of fear were unwilling to place their names on the record for fear of losing their license via Rule 16.
- In November 2007, without the knowledge or consent of CSIC members, the board of CSIC incorporated a subsidiary called the Canadian Migration Institute, later announced to the membership in January 2008.

2008

- On January 27, 2008 CSIC announced to the public and to members simultaneously that it had established a subsidiary, known as the Canadian Migration Institute. It was to have its own Board of Directors and staff. The board was the CSIC board.
- Investigation by members revealed this was a for-profit corporation created under the *Canada Business Corporations Act* and CSIC directors formed its board of directors in their personal capacities. Although explained to members as a “wholly owned subsidiary” the incorporation documents permitted more shareholders and the exact terms of the relationship between the two organizations was not made known.
- The mandate of CMI Inc was a mixture of what CSIC was authorized to do under its Letters Patent (education) and two roles not encompassed in the Letters Patent (accrediting other professionals, lobbying government). CSIC members were concerned about the mandate, possible conflicts of interest, more fees and salaries, and secrecy around the incorporation.

- Programs offered by CMI Inc were soon promoted as qualifying for Continuing Professional Development (CPD) points at CSIC. A member needed 15 “mandatory” points provided by CSIC and 25 “voluntary” points from another approved provider in a two year cycle. All CMI programs were approved for points.
- CSIC overtly advantaged all programs of CMI Inc and systematically disadvantaged others. On March 29, 2008 the CSIC board suspended the status of CAPIC (the Canadian Association of Professional Immigration Consultants) as an approved provider of CPD points. CAPIC was the leading professional association serving several hundred consultants with a history of quality education programs. CAPIC cried foul, and challenged the purported reason, that the organization admitted ghost consultants as members, as patently false. However, its status was never reinstated.
- CSIC required members who wished to use other agencies for education, e.g. CBA or LSUC to apply to have the seminar approved, for a fee of \$300 per member per seminar.
- The air of trouble was wafting through Parliamentarians’ offices, and in March 2008, the House of Commons Standing Committee on Citizenship and Immigration announced it planned to study immigration consultants.
- The Standing Committee traveled throughout Canada during a three-week period in April 2008 to hear from witnesses. These witnesses included, among others, individual members of CSIC, the Canadian Bar Association, CAPIC, the RCMP and the Canada Border Services Agency (CBSA).
- Several members of CSIC made impassioned pleas concerning the lack of accountability to members, the excessive fees, and general governance of the Society. CAPIC did not address the matter of CSIC governance in its brief. It focused on the issue of unauthorized or “ghost” consultants and the loophole in s. 91 of IRPA whereby pre-submission work for a fee was not illegal and should be changed.
- The Canadian Bar Association raised concerns that CSIC was not meeting its mandate to protect the consumers from unscrupulous immigration consultants citing and the governance of the Society. (quote)
- In June of 2008, the Committee issued its report, *Regulating Immigration Consultants*. The Committee raised concerns regarding the regulation system for immigration consultants and its potential impact on public confidence in the immigration program. The Committee stated it had heard from “a number of immigration consultants across the country, many of whom expressed great dissatisfaction with the way CSIC is currently governed.”
- In particular, the Committee noted specific concerns expressed by individual Consultants across the country with respect to CSIC:
 - membership fees were too high
 - the entrance exam was prepared and marked in a questionable way
 - failure to develop a strategic plan
 - decision-making lacking in transparency and not conducted democratically
 - the directors were not accountable to anyone
 - members had no right to call a special meeting of the Society
 - compensation of, and spending by directors was extravagant, ill-advised and unaccounted for
 - board members were in conflict of interest because they created and served on the board of the Canadian Migration Institute, a related for-profit corporation

- members had to pay \$800 buy an outdated educational video in order to obtain sufficient continuing professional development points to maintain their CSIC memberships
 - CSIC does not communicate with members, or provide services to members equally in French and English
 - the ability of members to voice concerns was limited since the CSIC Rules of Professional Conduct were amended making it a professional offence to “undermine” CSIC and compelling members to treat CSIC with “dignity and respect”; and
 - The CSIC website was set up in a way that member cannot send bulk email messages to all other members.
- The Committee concluded government intervention was needed, and made several recommendations, including to re-establish CSIC under stand alone legislation like a law society. The Committee proposed that a federal regulator with a strong governance and accountability framework could better provide efficient and effective regulation of immigration consultants, which in turn would support Canada’s long-term immigration objectives as well as bolster public confidence in the immigration system.
 - CSIC rejected the recommendations and issued a bulletin captioned “Standing Committee Misses the Mark” detailing why the main recommendation was not acceptable.
 - CAPIC embraced the Standing Committee recommendations. It posted a notice on its website supporting them, with the reasons why, and publicly called upon CSIC to endorse them as well, chastising CSIC for not supporting the report.
 - CSIC responded by laying discipline complaints against all members of the CAPIC board of directors under Rule 16 for “undermining” the principles and mandate of the Society.
 - The investigation of these complaints went on for the next 18 months. Meanwhile, any member with an open complaint was not permitted to run for the CSIC board of directors, disqualifying a significant portion of the active leadership of the voluntary segment of the profession.
 - Over the ensuing months and years, the complaints were dropped selectively against several individuals, but maintained against others. In the end, only three CAPIC directors only (Phil Mooney, Rhonda Williams, and Gerd Damitz) were disciplined for the website posting. All three challenged the finding and discipline in Federal Court. In 2011, the Court vindicated the members and overturned CSIC decisions in all three cases: See: *Mooney et al. v. CSIC (cite)* for a detailed description of the use of Rule 16 against CSIC members.
 - The election for consultant directors was held June 3-5, 2008. In this election, John Ryan was to step down as Chair as he had served two terms, the maximum in the bylaws which count partial terms. Imran Qayyum ran on the platform that if elected, he would become Chair in accordance with the succession rules. However, he was defeated. It was announced soon after that the Board voted unanimously to appoint John Ryan as Chair, to serve his second term. The announcement stated that, and that in 2005-2006, he was “acting” as Chair which did not count as a term. Mr Quyyam, upon his defeat in the election, was appointed the Chair of CMI Inc.
 - By June 2008, CMI Inc, the for-profit subsidiary, had uploaded 18 pay-per-view videos to the Media Centre including on topics central to compliance with CSIC requirements such as client account rules and retainer agreements. Members could purchase them to obtain CPD points. CMI Inc purchased *Lexbase*, *Quicklaw* and *Uniques Software* to be offered “free” to CMI Inc members. Although CSIC members’ fees were paying for CMI Inc, these resources were only free for CSIC members who applied and were accepted as “Fellows” of CMI Inc.

- CSIC announced that by November 1, 2008 all members, as a term of continued membership, required a “mandatory reference library”. The resources CMI Inc provided free to CMI Inc members would meet the requirements. Members could join CMI Inc. or buy them privately at a cost of about \$2000.
- On July 18, 2008 the Federal Court of Appeal upheld the 2006 decision of Mr Justice Hughes that the federal government had the legal power to establish CSIC the way it had. It stated that “it was entirely appropriate for the Minister responsible for the administration of the immigration system to take the initiative in designing and putting in place the legal, financial and institutional means of tackling the serious public policy issues presented by unregulated immigration consultants” - thus creating CSIC. The regime to regulate consultants was lawful under s. 91. It was not an improper sub-delegation, nor was solicitor client privilege inevitably breached. Leave to appeal to Supreme Court of Canada was denied. Thus, the law was settled that CSIC is independent, with delegated authority under s. 91 of IRPA to regulate authorized immigration consultants with no concerns relating to solicitor-client privilege. *Law Society of Upper Canada v. Canada (Citizenship and Immigration)*, 2008 FCA 243
- The AGM was set for Sept 25, 2008. Members put in several motions with requisite 70 signatures on matters such as creating a finance committee and the CPD system. Motions dealing with the running of Society were rejected for the Agenda; one concerning education of consultants was added. To encourage a quorum, members were offered 3 CPD points for attending.
- A chat room was provided where members could write questions by email. Following the meeting, CSIC proceeded under the code of conduct against a dozen members who had made derogatory comments during the meeting, many concerning Mr Ryan. They were given the opportunity to write letters of apology to be posted on the CSIC members website, which option most chose except those who retained legal counsel.

2009

January

- CSIC launches IMMFund with own Board of Directors
- The reinstatement fee for administrative suspensions is raised from \$250 to \$750 and gst
- CSIC implemented a Client Compensation Fund effective January 1, 2009. It was to be operated by a new non-profit subsidiary of CSIC. The subsidiary company was to have its own staff and a Board of Directors of three.

February

- Feb 16 - CSIC member Bruce Perrault, past defender of Mr Ryan’s leadership at CSIC, makes public the fact that John Ryan and Imran Qayyum approached him with a detailed plan to oust the president of CAPIC, Phil Mooney, in the hope of installing Keith Frank instead who would be more sympathetic to them; Mr Perrault initially went along with the plan, then had a change of heart and made the matter public

- Feb 19 – CAPIC calls on the Board of CSIC to conduct an independent investigation of the allegations of interference with the internal affairs of CAPIC; no response was received from CSIC regarding this apparent contravention of the CSIC Code of Professional Conduct

March

- Minister Kenney appears before Standing Committee re: CIC's zero tolerance for fraud in the immigration system; launches video warning about unscrupulous representatives – in a pattern repeated through the year, the Dept does not take pains to distinguish regulated from unregulated consultants
- CAPIC continues to support Standing Ctmees' call for statutory body to regulate immigration consultants with proper legal mandate & enforcement powers needed to protect consumers against unregulated individuals; CAPIC calls on CSIC to support this
- Compliance Policy and audits of CSIC members announced despite no Practise Advisor for members with authority to give binding answers in context of frequently incoherent policies
- March 6 - In a surprise announcement, the AGM is called six months early, for March 26th,
- Members, taken off guard, are given 10 days (incl 2 weekends) to submit any motions with 80 signatures (5% of membership) to have them considered for the Agenda – members uninterested as a result of much work in 2007 and 2008 to obtain necessary signatures, and all motions dealing with governance rejected for Agenda
- The only motion on the 2009 AGM is the Board's package of by-laws proposals to amend the by-laws to benefit the directors and change transitional language
- Reason for early AGM comes clear – the Directors want to have no break after 2 terms – as Holly Gracey unable to run in 2009 otherwise; plus hundreds of transitional changes – some with serious implications
- 3 CPD points awarded for attendance at the AGM
- Members not permitted to register for AGM unless watch video by Board's lawyer, Linda Godel, on governance, and complete a "quiz" involving pushing buttons until get the "right" answers
- CAPIC develops extensive Guide explaining implications of several proposed changes; launches education campaign for members
- Directors on cross-Canada tour to sell members on by-law proposals
- March 26: 685 members attend AGM; online meeting is tightly controlled by Chair so no discussion; no chat room provided (previous meeting allowed chatroom for discussion but several members disciplined for their comments and wrote apologies published on the website); this meeting, members could email questions of up to 256 *characters* for Chair to pick and choose which to answer; point of order made by member to restrict time for Chair to answer but not honoured; members not able to see questions emailed by others; no ability for members to communicate, discuss, reach meeting of minds; anonymous Discussion Board set up by Peter Bernier on his site to help members participate
- Members not asked to approve financial statements at AGM; ie no accountability regardless of figures; Financial report is too high level to disclose many matters of interest to members, eg amounts paid to exec of the Board (and ex-directors such as Imram Qayyum) from all CSIC/CMI Inc sources; inadequately informs members re: directors expenses, CMI Inc funding; new auditor proposed without notice by CSIC – members required to accept new one or old one stays by default; vote for auditor done online, contrary to By-laws
- One bundled vote on hundreds of by-law changes: 271 in favour; 221 opposed and 181 not vote; proposals defeated as need 2/3 of those voting
- Bruce Perrault makes public further detailed allegations concerning incident re interference with CAPIC; existence of legal opinion on how to thwart CAPIC's AGM written by CSIC lawyer Linda Godel for Imram Qayyum raising more serious questions about ethics of Mr Ryan and Mr Qayyum – CAPIC calls for transparency on who paid Godel's \$3800 legal bill to produce the legal opinion (our CSIC fees?) and demands independent investigation, or else resignations; no response from CSIC
- Several members send allegations of impropriety on the part of Mr Ryan and Mr Qayyum to MPs seeking investigation

- CSIC launches the “*Instant, Eh! The Immigration Spray*” ad campaign, inviting members to post the ad to their websites
- CSIC issues release in support Bill 210 in Ontario and proposes that all foreign worker recruiters be required to join CSIC (despite fact that CSIC’s Letters Patent extend neither to recruiters nor to lobbying of governments)
- Earlier CPD policy: All members must obtain 15 “mandatory” points in the 2 year period from Nov 1, 2008-Oct 31, 2010 through taking 3 CSIC courses (5 points each), as well as 25 voluntary points
- On March 31, CSIC changes CPD rules: the first “mandatory” conference (by then outdated video of the Sept 6, 2008 Vancouver seminar) to be purchased for \$400 by May 14th or be suspended (purchase only was required; members were not obliged to watch it)
- The second “mandatory” video purchase (\$600) of the May 09 national conference had to be completed before Oct 31, 2009 or be suspended
- The third “mandatory” video of a Montreal 2009 conference to be completed by May 31, 2010 or be suspended
- Board fails to call election in March (3 months’ notice for annual election in June)

April

- CSIC moves to take away 3 CPD points from 181 who did not vote on the by-law proposals, (was not a requirement, plus was no option to abstain, plus vote was held well after the posted end time of mtg)
- After outcry from members, Board reneges and awards 3 CPD points to all attendees
- CSIC conducts Members Satisfaction Survey; declares that results “*suggest that CSIC has done a good job at recognizing and meeting the needs of its members*”
- Retreat at Banff Springs Hotel for directors, some staff and select members to discuss the “Mission, Vision and Values” of CSIC facilitated by Dr Chris Bart at rumoured cost of \$70,000
- Petition circulates by Katarina Onuschak and signed by 484 members (over 30%) asking to **discuss** CPD program with the Board as widely perceived not meeting needs and is too expensive; number huge, especially as CSIC unwillingness to provide contact information to members for lobbying purposes as required under the Canada Corporations Act
- No election is called in April - no reasons given for delay

May

- May 1: Board calls surprise Special Meeting for June 15 for the purposes of considering and the Society’s Mission, Visions, Values and “proposed amendments to the By-laws.” No motions on MVV were tabled; only Board’s motion to amend By-laws; first Special Mtg in CSIC history despite several member requests for Special Mtg with the Board since 2006
- The notice referred to one by-law only - 3.16 re: terms of directors
- As 30 days’ notice of any by-law amendment required, only By law 3.16 had proper notice. A strange convoluted document accompanied the notice not containing any specific resolution, only various options for how the by-laws *could be* changed; Board again attempting to have no mandatory break after 2 terms, now seeking to lengthen all terms as well
- Every option presented resulted in more privileges for the existing directors (eg 5 year terms, 4 year terms, 3 year terms but unlimited number of sequential terms). No option was presented to retain the present by-laws (3 years terms with mandatory break after 2 terms)
- Later on, package of hundreds of “transitional” changes appeared on Agenda despite no proper 30 day notice; many, but not all, same as AGM ones
- May 2-3: joint CSIC/CMI Inc conference held in Toronto; 11 CPD points made available only to those who participated in the (voluntary) CMI Inc seminar as well as the (mandatory) CSIC seminar. Cost = \$75 per point, compared to CAPIC’s \$10-15 per point; CSIC refuses to accept CAPIC as CPD provider despite quality program

- On May 7, CSIC announces appointment of Nigel Thompson to serve until June 2010 to fill a position vacated (by himself) in June 2008; filled on eve of 2009 election with no fresh call for expressions of interest. Effect: denial of members right to elect consultant directors; thus only 2, not 3 consultant directors could be elected in 2009 (3 may have changed the dynamics substantially). CAPIC calls for Mr Thompson to do the right thing and run for election; no response
- CSIC adopts "Retention of Records and File Management Guidelines" policy with expectations set out for members; still no staff assigned to answer members questions authoritatively
- May 15 – the Board dismisses CPD Petition saying Special Meetings are reserved for "the most serious of reasons". Also indicates some members had contacted CSIC to take their names off the petition (estimated by organizers to be possibly 15 of the almost 500 signing)
- May 26, election called for August 26 for two consultant director positions
- Election notice fails to state all members in good standing eligible to run; states that "*ONLY those packages which are fully completed, meeting all of the criteria and error free will be accepted by the SEO*". No SEO identified; no criteria published
- Inquiries re: SEO and eligibility criteria go unanswered
- CSIC issues release publicizing the Pandher case, a case of immigration fraud, citing successful CBSA case against ghost consultant, apparently not realizing that Mr Pandher was until recently a CSIC member
- Minister Kenney puts survey on CIC website asking public to answer questions about ARs and holds town hall meetings on unscrupulous immigration representatives

June

- To register for June 15 Special Meeting, members required to watch mandatory video by Dr Chris Bart, governance adviser for CSIC, explaining excellence of CSIC's values such as accountability, integrity, etc. Transparency no longer on list of espoused values
- Special Meeting worth 2 CPD points, only if the member watches the video, passes "quiz" of 5 generic questions from Mr Bart's presentation, registers in advance for mtg. AND votes on ALL resolutions
- Use of special meeting for such self-serving purposes by directors (motions even more self-serving than the ones just-defeated March 26) widely seen as improper; demand to watch video to attend a members meeting identified as violation of a members right to attend; members patience tested with vapid "quiz" bearing no relation to immigration or practice lacking objective information, needing only to push buttons indefinitely until one "passed". Answers circulate widely in industry in frustration with futility, impropriety of the exercise
- June 15 – 560 members attend Special Mtg; overwhelmingly reject all Board's proposals
- Mr Ryan states we can expect same changes back again in September, and will keep coming back until members pass them
- Mr Ryan also chastises active members critical of his leadership as a "small group of malcontents" spreading negativity, mis-information, seeking to tear down Society. Suggests, instead of opposing him, they simply leave the Society; no acknowledgement of 484 members requesting Special Mtg, hundreds signing motions requesting changes, etc
- June 16 – CAPIC calls on CSIC to conduct consultations *in advance* on by-law changes to see what changes members support and what by-law changes members want to see on Agenda
- June 16 - CSIC launches an "*investigation into the irregular activities of members and the recent Mission, Vision, Values quiz.*" Further, that "*CPD credits for completing the MVV quiz and attending the Special Meeting will be delayed until the investigation is complete*". This investigation still ongoing
- CSIC launches complaint against Katarina Onuschak and Lynn Gaudet for "undermining the principles of the Society" by distributing the answers to the "quiz" on the Listserv citing this allowed members to get 2 CPD points by cheating. As with the other political complaints, orders them not to discuss fact of the complaint with anyone but their lawyer. On legal advice that such gag orders are illegal, Gaudet's counsel (Clayton Ruby, expert on freedom of expression rights in s. 2 of the Charter) writes CSIC advising them of no legal basis for the gag order, plus he has advised Gaudet she need not follow it; Complaint is still outstanding and issue now before Fed Ct in Onuschak case
- CSIC orders Onuschak as Administrator of the IC Listserv to turn over the names of all members as of June 11th as part of their "investigation"; no rationale given. Despite letters from Onuschak, the Listserv

and then legal counsel for Onuschak explaining that no archive exists with the software, and only current day's list can be given, offering that (after putting Listserv members on notice to unsubscribe if wish) CSIC persists with demand for list as of June 11

- June 19 - CSIC informs members that for 6 months the Membership Committee (composition not publicized) was working with a "herald" from Canadian Heraldic Authority to create a coat of arms for CSIC. Draft Coat of Arms circulates with survey for feedback. Outrage over waste of time, garish design. Despite this, coat of arms adopted by Board at June meeting (web-streamed for members), with ovation to the director responsible (Holly Gracey) and Membership Committee
- CAPIC calls on CSIC to be transparent about the Membership Committee – who is on it, and calls on Membership Committee (whoever is on it) to start listening to members' concerns and priorities
- June 24 - CSIC publishes the second call for nominations with no reference to eligibility criteria. Is major concern, as CSIC has always disallowed members with complaints from running, but stepped up number so complaints by CSIC itself, disqualifying most of the voluntary leadership of industry from running for the Board eg all CAPIC directors subject of complaint for "undermining the principles of the Society" for public endorsement of Standing Committee recommendations re: need for new statutory body, with proper mandate and enforcement power and urging CSIC to endorse same
- After numerous requests to confirm ALL members in good standing were eligible to run, CSIC states the SEO would release the Elections Package at his sole discretion when deems it appropriate and not later than July 24; members thus forced to seek signatures not knowing if eligible or not (and each member only permitted to nominate one candidate)
- CAPIC obtains legal opinions from renowned governance expert Hugh Kelly, QC author of *Duties and Responsibilities of Directors of Non-Profit Corporations*, on whether CSIC Board has right to impose requirements to attend members meetings, and impose conditions on which members in good standing can be a director. His opinion: Directors denying CSIC members rights in both respects; CAPIC conveys this information to CSIC, with no results; both issues now among those being litigated
- June 24 - CSIC issues bulletin to industry called "CSIC Requests Your Assistance" with chilling message re: obligation under Rule 3.9 to report any "illegal or unethical conduct by colleagues". Further said: *Accordingly, members who have knowledge, who have been approached or who have received communications providing them with the answers to the test, are asked to contact CSIC immediately at pbenesch@csic-scci.ca as per the Rules of Professional Conduct.* Perceived as intimidation of the Listserv and inciting members to "inform" on others or face discipline. Bulletin takes Rule 3.9 out of context, omitting part concerning taking the matter up with the member first. Some members, scared over discipline for "not reporting" their colleagues, left the Listserv. Most stayed.
- June 2009 – Holly Gracey and Dawn Moore's terms expired. Ms Gracey unable to run again but continues as Chair of IMMFund, despite own record for false UIC claims upheld by Umpire in 1995
- Standing Committee on Citizenship and Immigration re-affirms 2008 recommendations regarding CSIC – that a proper statutory body be set up
- June Board mtg, Mr Ryan announces purchase and use of Sentinel – Internet monitoring tool for both internal purposes (keeping track/files of all member communications, by member) and external (sweeping the Internet) for intelligence purposes for CSIC

July

- Compliance program announced to begin October 2009 – every member to have their practice audited every 3 years; new Compliance Unit set up – staff hired and members invited to apply for part-time positions
- CSIC submits recommendations to Government of Ontario re: how to protect foreign workers from exploitation and abuse; no longer proposing to be the regulator
- July 24– Katarina Onuschak is suspended for failing to co-operate with an investigation by not providing the (non-existent) list of Listserv members as of June 11, 2009
- Lorne Waldman retained to fight suspension and other injustices against CSIC members; with his intervention and IT person swearing affidavit backing up Katarina, suspension is lifted within a week; complaint still outstanding

August

- CSIC starts “Member Spotlight” section on its webpage
- Onuschak counsel, Lorne Waldman, sends properly completed nomination papers for Katarina Onuschak to CSIC with letter that, as she is good standing, she is entitled to run
- CSIC refuses to accept Onuschak as a candidate
- Aug 26 - Notice of Application filed in Federal Court by Mr Waldman on behalf of Onuschak seeking declarations that on 13 different matters the Board is acting illegally, contrary to the by-laws, without jurisdiction or in bad faith; the issues include violations of numerous by-laws eg right of all members in good standing to run for election, right to attend members meeting without “admission criteria”, right to an in-person AGM, limit on Chair’s terms to 2, and by-law prohibiting directors from being CEO
- Injunction to stop the election initially sought, but had to be abandoned when the Court required arguments first on whether it had jurisdiction;
- Members commenced legal fund
- CSIC announces Electronic Harassment rule to deal with “*members’ reports about being victims of cyber-bullying and complaints about receiving unsolicited and unwanted emails generated by other members, member-operated listservs and various other electronic forums*”. Fine = \$750 for breach.

September

- 7 Candidates announced; Tad Kawecki permitted to run despite having a complaint along with other CAPIC directors when nominations called;
- Election campaign tightly controlled; CSIC organizes 3 poorly attended forums - questions to be submitted ahead of time, vetted by SEO; members not permitted to pose questions directly to candidates, candidates and members not allowed to interact with each other
- Sept 15 – CAPIC publishes questions for all candidates, intending to post responses on website
- Sept 20 - Candidates forbidden from answering questions posed by CAPIC or having material on CAPIC’s website
- CSIC forbids candidates to appear at any 3rd party events, ie CAPIC events, during election period and orders them to take existing election material off website
- Campaign contained numerous violations of rights of candidates and rights of members to have any free exchange of ideas –(election now subject of separate Federal court action alleging violation of natural justice by candidate Kay Adebogun)
- Board would not release election results (instantaneously available) to members for 2 days
- Board vice-chair Dawn Moore goes down to defeat in Ontario. Members not know how badly as no count released
- Dory Jade (first Quebec consultant director) and Eugenia Wang (BC) elected
- The Board appoints Nigel Thompson as "Lead Director", a position not contained in the By-laws. The proposal to change by-laws to establish it brought forward by Board at 2009 AGM but defeated by members; Board appoints it anyway.
- CSIC establishes a Peer Practice Review Panel with mandate to answer questions on ethics and practise, by online request. Names of the panel not publicized, no commitment to timeliness; video indicates the information given will not be binding on CSIC. CSIC members continue to call for a staff person, with authority, to answer queries especially on urgent ethical issues, quickly and authoritatively, with accountability for answers they give
- CSIC announces no increase in fees; with fees of \$2645, plus insurance; same as 2008 and includes \$300 for IMMFund (despite no claims); however, instalment fee raised for real increase of \$150 for majority who pay by instalments
- CSIC issues bulletin stating fees low compared to lawyers, not acknowledging higher insurance for lawyers. Deducting for insurance, CSIC members are paying 46% more than lawyers in fees; get fewer services and poor client service from CSIC office; plus, fees for “mandatory videos” required by all CSIC members regardless of utility are fees by another name

- CAPIC launches fees petition and sends numerous suggestions to CSIC for getting costs down immediately; no response; no ideas adopted
- Mr Waldman addresses CAPIC “Pillars of Strength” seminar Sept 15 on topic of democracy and need to fight for it or otherwise lose it; his compelling and timely speech posted on CAPIC website
- 3 Quebec CSIC members involved in alleged fraudulent passport scheme; According to the reporters, CSIC was approached and responded could not do anything because the consultants had no complaints against them

October

- Oct 5 - call goes out for nominations for public interest director; deadline Oct 13
- Oct 7 - CSIC announces changes to “mandatory electronic library”; only acceptable one now is one CMI Inc has purchased from Lexis Nexis. Carswell’s electronic library does not qualify. CSIC members have 2 choices: either join CMI Inc or purchase the mandatory material themselves– costs range from \$800-2200 depending on deals one can get; CAPIC negotiates deals for interested members but most join CMI Inc under the financial pressure on top of already high fees and high costs for “mandatory” videos
- Member survey conducted on CSIC Members website operated by Peter Bernier provides some confirmation of widespread perception that electronic library not a tool members need or use to maintain competency; CSIC maintains (with no rationale cited) it is “vital” for all members to have *the same* resources, and only CMI Inc’s resources will do
- Members given two weeks to complete the online membership renewal by Oct 31 or be suspended
- Members must pay first fee instalment by Oct 31 or be suspended
- Members must complete 6 hour CPD Module by Oct 31 or be suspended. Most of content of this not immigration-related; that which was (refugee hearings) not area of practice of most practitioners; Mainly CSIC officials presenting information, including Mr Ryan, Dr Bart (a repeat of special meeting video espousing governance values at CSIC) the IMM Fund Chair Holley Gracey. Critical area of client accounts not delivered or explained by anyone with responsibility at CSIC for client accounts but by defeated director Mr Qayyum
- Oct 16 - New public interest director named - Major Alex Moseanu. Bio discloses no public interest background. Is recipient, like Mr Ryan, of Order of St John (had previous appointment at CSIC as SEO); career military man; later supply and logistics coordinator at Air Canada
- New fee penalty announced for members who pay by instalments - \$250; announced that \$150 would be deducted from final payment if all instalments paid on time

November

- Nov 5 – major court decision in Onuschak litigation of significant benefit to CSIC members. Mr Justice Harrington rules CSIC is a “federal board, commission or other tribunal” for the purposes of the Federal Courts Act. This opens door for any CSIC member to challenge decisions of the Board that are unreasonable, lacking in natural justice or outside scope of Board’s authority. CSIC members entitled to streamlined procedures and powerful remedies under Judicial Review; main case on merits of allegations can now proceed
- Members required to provide client account details, including number of account, by fax to CSIC by Nov 16 or be suspended; no rationale given as to use of this, commitment to protection of the information, etc
- CSIC issues bulletin to justify members contributions to the IMMFund stating...” *its members do not want to see the integrity and reputation of the profession stained by the dishonest actions of a few and this is why public trust in the profession is at the heart of why IMMfund must exist.*” Lynn Gaudet writes requesting they find an IMMFund Chair without a record for false UIC claims; no response

- Call goes out for members to serve on three committees: Education, Ethics and Membership. The composition and work of these committees is not made know to the membership – all Committee membership on the website blank throughout the year
- Nov 13 – CSIC announces establishment of 4th organization under the control of the Directors –CSIC e-academy. Decision made without knowledge or consent of CSIC membership, despite all liabilities accruing to them. Will operate in New Brunswick (where no registration or oversight is required) and offer immigration practitioner’s course starting January 2010. Enrolment fees not publicized to members; nor quota for student body; potential is millions in revenues. Appears to violate CSIC Letters Patent by creating source of operating funds from *non-members*; basic premise of self-regulation is members to fully fund operations in exchange for Board's accountability to them. CAPIC write letter of concern to Minister re potentially thousands of students paying large sums to CSIC with no rights, protections or accountability, plus can be expected to exacerbate numbers of ghost consultants
- Later in the month, CPD points are offered to serve on CSIC Committees
- CSIC flip flops several times on points for LSUC conference; finally awards points for webinar attendance at last minute

December

- CIC publishes results of its online (not scientific) survey about ARs
- CAPIC appears before Ontario Standing Committee on Nanny Bill (Bill 210) because of tnegative implications of some provisions on immigration consultants; only consultant org taking up this issue for CCIC’s
- Dec 10 – CAPIC submits brief on impact of proposed federal Foreign Worker Regs
- Dec 14 – CAPIC members submit input to CIC’s online Vegreville system
- More than 70 members are on CSIC’s Suspension list in mid-December, many not even informed they were suspended; most likely for minor offences including unclear policies not understood, issues around credit card numbers changing, inability to contact someone at CSIC to get an administrative matter cleared up, etc.
- CAPIC calls on CSIC to stop using hammer of suspension for minor administrative infractions which have no bearing on consumer protection and impose a penalty equal to the administrative costs, not \$750 – practice contrary to interests of clients and members
- Dec 30 – Prime Minister prorogues Parliament
- Year end: Members, very concerned about the CSIC governance, now ready to take their case public – to judicial arena and political arena in 2010 if necessary; CAPIC continues regular contact with Minister and Dept officials seeking better regulation; CSIC uses professional lobbyists all year (Fleishman Hillard) to meet with high level officials to plead the case of the CSIC and CMI Inc directors