IN THE MATTER OF PART 3 OF THE
***LEGAL PROFESSION ACT*, RSA 2000, c. L-8**

AND

IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF GARY HANSEN
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee

Glen Buick – Chair and Former Bencher
Barbara McKinley –Bencher
Sandra Mah – Adjudicator

Appearances

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)
Pat Peacock, QC – Counsel for Gary Hansen

Hearing Date

July 16, 2019

Hearing Location

LSA office, at 500, 919 - 11 Avenue SW, Calgary, Alberta

HEARING COMMITTEE REPORT

Overview

1. Gary Hansen has been a member of the Law Society of Alberta since 1975. He is at present, and has been for several years, a sole practitioner, with a practice that is predominantly (about 80%) immigration law.

2. In 2014, Mr. Hansen agreed to represent OK, an Iranian immigrant to Canada, who was accused of misrepresenting his status to Canada Immigration (CIC). Mr. Hansen represented OK at a CIC immigration hearing on December 6, 2016, which resulted in an exclusion order under which OK would be inadmissible to Canada for five years.

3. This result was appealed immediately to the Immigration Appeal Division (IAD), which heard the appeal on May 29, 2017. The appeal was refused on July 5. By late July, after being unable (according to OK) to have a satisfactory substantial discussion about his matter with Mr. Hansen, OK sought assistance from another firm and eventually achieved satisfactory results: a successful judicial review to the Federal Court, which set

aside the July 5 IAD ruling and ordered a new IAD hearing, differently empaneled, which ultimately ruled in favour of OK's application.

4. As a result, OK and his now 12-year-old daughter, A, have become Canadian citizens.

5. On July 16, 2019, the Hearing Committee (Committee) convened a hearing into the conduct of Mr. Hansen, based on the following citation:

> It is alleged that Gary Hansen failed to serve his client in a conscientious and timely manner and that such conduct is deserving of sanction.

6. After reviewing all the evidence and exhibits, and hearing the testimony and arguments of the LSA and Mr. Hansen, for the reasons set out below, the Committee finds Mr. Hansen not guilty of conduct deserving sanction on the citation, pursuant to section 71 of the *Legal Profession Act* (the *Act*).

Preliminary Matters

7. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested so a public hearing into Mr. Hansen's conduct proceeded.

Agreed Statement of Facts/Background

8. A Statement of Admitted Facts was provided by Mr. Hansen and accepted into evidence. Although it was not an 'Agreed Statement of Facts', there was no objection to its acceptance. A redacted version is attached as an appendix.

Evidence

9. In addition to the Statement of Admitted Facts, the Committee received 35 evidentiary exhibits, heard evidence from two witnesses: OK and Mr. Hansen, and received two supplementary submissions from Mr. Peacock and responses from Ms. Hunka, on behalf of the LSA.

10. Ms. Hunka called OK, who testified to the events leading up to the immigration hearings, which were the main focus of his relationship with Mr. Hansen, and to the reasons he considered Mr. Hansen to have failed him. He noted that at the initial immigration hearing on November 1, 2016, a postponement was required to enable all the relevant documents presented by Mr. Hansen to be disclosed. The hearing was postponed to December 6, with the Presiding Officer stating that disclosure deadlines would be enforced for that meeting, so that everything would have to be available five days in advance.

11. The December 6 hearing resulted in OK receiving a Removal Order, tantamount to deportation. Mr. Hansen immediately filed an appeal to the IAD and in early February OK received notice from a paralegal in Mr. Hansen's office that the hearing had been set for May 29, 2017. He testified that he heard nothing more from Mr. Hansen until meeting with him on May 1.

12. On May 2, he received an email from Mr. Hansen's office asking him to provide a number of documents, number 13 of which was a letter from his ex-wife, Ms. B, confirming "that he was a good father." He provided most of the documents in the few days allotted, but no communication from his ex-wife. OK said he passed "some information" about Ms. B to the paralegal.

13. OK testified he had a short meeting with Mr. Hansen on the weekend before the hearing and that Mr. Hansen also had meetings of about a half-hour with each of the three witnesses who were being called to support him. In his briefing on the forthcoming hearing, OK said:

> Mr. Hansen..(said)…we don't talk a lot about – about [A's] mom during the hearing. You have your witnesses, and if all goes on – on to be a good father for your daughter, and we don't focus on [A's] mom.

14. OK confirmed that he had been in Cyprus, working with a work permit, before coming to Canada, but no longer had any assurance of being able to return to Cyprus.

15. Just before the hearing itself, Mr. Hansen outlined the order of the witnesses he would call, with OK to come last, and so he should be outside the hearing until he was called to give evidence. Once again, the May 29 hearing resulted in failure for OK, although he did not receive news of the result until July 17. He tried immediately to discuss the situation with Mr. Hansen, but was unable to do so for a week or more.

16. At this point, OK indicated to Mr. Hansen that he wanted to discuss his case with another law firm, and "…Mr. Hansen told me, they are very strong lawyer, it's good if you want to go there and ask them about your situation."

17. The result of that was OK's decision to work with Ms. M, at a different firm. Ms. M moved quickly to seek judicial review. OK confirmed that one aspect of the appeal was that he had not been represented properly by Mr. Hansen. The new lawyer focused on the situation of his daughter and his ex-wife, stressing the importance of that focus on successfully re-opening the appeal. OK said he had next to no communication with his wife, and Ms. M got the contact number from OK and succeeded in getting persuasive information from her, in a letter and in person. In response to Ms. Hunka's question if Mr. Hansen had done that, OK replied, "No."

18. Ms. M also indicated to OK that the failure to disclose the Country Report on Iran with its impersonal assessment of the conditions in that country was an important aspect of his case.

19. In cross-examination of OK, Mr. Peacock asked whether OK had been asked by Mr. Hansen for his ex-wife's contact information, since OK was unable to get the requested letter from her. OK said he didn't remember if Mr. Hansen had called him, but said he thought he had passed the number by phone to the paralegal who was assisting (and who left Mr. Hansen's firm some time after these events).

20. Mr. Peacock quoted from paragraph 50 of the Statement of Admitted Facts as to the specific request for a supporting letter from his former wife, Ms. B. The paragraph continued:

> [OK] did not respond. Mr. Hansen offered to contact her directly. [OK] did not respond. Ms. [B] lives in California and communicates regularly with [A]. [OK's] judicial review application was not approved until Ms. [B] wrote a highly persuasive letter on December 25th, 2017. She also produced an interim consent parenting order describing the legal rights she had to [A]. That court order was drafted on April 14th, 2015, long before the ID and IAD hearings. He did not provide us with this document, nor make us aware of it, nor of the US immigration status of Ms. [B]. This information would have been enormously helpful to [OK's] appeal, had he disclosed it.

21. Asked to comment on that paragraph, OK replied in effect that he had given the contact number to the paralegal, that he received the request for the letter only a few days before it was needed, and that the importance of involving his ex-wife was never stressed by Mr. Hansen, only by his new lawyer who did get in touch with Ms. B.

22. Mr. Peacock called Mr. Hansen, who testified in response to OK's complaint and the Citation issued by the LSA. He reviewed and confirmed his adoption of the Statement of Admitted Facts as his evidence before the Committee. In referring to the IAD hearing and the witnesses for OK, he said:

> All of these witnesses were very well-educated people who were living in Calgary or were permanent residents or citizens, but they also returned to Iran regularly to visit family. So they were familiar with the conditions in both countries, and they also were familiar with not only [OK] but his daughter.

23. Mr. Hansen noted, in connection with asking OK to obtain a supportive letter from his wife, that OK "didn't mention his wife very often", that they were divorced and not maintaining a "close relationship". He assumed, from information given by OK, that he had sole custody of [A] and that the contact with [A] by Skype and some visits to Calgary were the result of "kind of generosity" on the part of OK. Mr. Hansen didn't learn until later of the existence of the Court Order from 2015 that established certain rights of A's mother and placed some restrictions and obligations affecting OK, Ms. B and A.

24. Asked whether he had told OK on May 1, 2017 (immediately before the IAD appeal) that it was important that he get something from his ex-wife, Mr. Hansen said

> Well, yes. I mean, all of them -- I mean, in our view, everything on the list was important. Some things were more important. In immigration law, Canadian immigration law, these days, for many types of cases, they call it, you know, best interest of the child, BIOC, B-I-O-C, is really the primary consideration. So anything to do with his daughter was extremely important…

25. Mr. Hansen considered the evidence provided by the witnesses, and A, and to a more limited extent by OK, who "didn't make a favourable impression" to be very good. He indicated that his decision to have OK present his evidence last was because he thought the others would make a more favourable impression, and that that would be in OK's best interest.

26. Mr. Hansen said he could not recall OK providing any contact number for his ex-wife, whose testimony, on the basis of later example, would probably have been very important. He indicated that he had attempted "probably twice" to get OK to produce something from Ms. B but that OK "just didn't reply". He also said that he had never been informed by his paralegal of anything coming from OK, and that he was positive she would have told him. He said "And so the first I heard about the contact number was today, you know, when [OK] gave his evidence."

27. Mr. Hansen admitted that the failure to get the Iranian Country Report into evidence was unfortunate, and essentially his fault.

28. He said he filed the application for leave to judicially review "because [OK] asked us to." In the event, that application was filed after one had been filed by Ms. M although he did not receive written notice of OK's decision to change lawyers until August 18, well after the deadline for filing.

29. In cross-examination of Mr. Hansen, Ms. Hunka drew attention to:
    - occasions on which Mr. Hansen had not delivered material for disclosure within the stated time period;
    - descriptions of letters of support that were not exactly as described;
    - the fact that some dates in recollection were wrong;
    - some documents that were misinterpreted;
    - the very brief period of time between meeting with OK and the IAD hearing for which he was being prepared;
    - Mr. Hansen having requested 23 documents from OK only 3 or 4 days before they were needed; and
    - Mr. Hansen not taking the initiative to enquire of OK about the existence of any court orders, etc., that would be relevant.

30. She asked Mr. Hansen about the decision to have OK testify last at the IAD hearing, which he characterized as a tactical decision which he had to make, and one that he considered sensible and appropriate.

31. Mr. Peacock's July 23 submission stressed that the case against Mr. Hansen amounted primarily to accusation of negligence, and noted that Mr. Hansen had reported the matter to ALIA, disputing any suggestion of incompetence. Mr. Hansen asserted in his correspondence with ALIA (Exhibit 37) that he had presented argument and evidence sufficient, he believed, for the appeal to be upheld.

32. The LSA's response reiterated the major elements behind the Citation, noting in particular that:

> Mr. Hansen's failure to… [present relevant information in the form of admissible evidence in this case] … goes beyond mere negligence or even one mistake and rises to the level of a pattern of neglect and mistakes. Such incompetence can give rise to disciplinary action (see commentary to 16 to Rule 3.1-2).

33. In his July 29 additional submissions, Mr. Peacock argues that the "errors and omissions" catalogued by Ms. Hunka were not made out, and that it was OK's refusal to respond to Mr. Hansen's request for contact and information from OK's ex-wife, plus OK's lack of credibility, that were responsible for the failure of the appeal.

34. The LSA's supplemental reply stresses that the "citation against Mr. Hansen is based not just on incompetent service but also lack of timely and conscientious service" and goes on to say that it does not require a pattern of neglect or negligence to amount to sanctionable conduct.

Analysis and Decision

35. The Committee finds that Mr. Hansen's handling of OK's case was far from exemplary, beginning with the late disclosure at the immigration hearing in November, 2016, which required delay and earned an admonition from the Presiding Officer at the hearing. A later failure, at the IAD hearing, to disclose the "Iran Country Report" was more serious, but the Committee accepts the evidence of Mr. Hansen that he does acknowledge this as an error but honestly believed that the evidence he brought forward from the witnesses for OK was sufficient to have overcome the lack of that document.

36. The Committee finds that the "last minute request" for numerous documents from OK before the IAD hearing may not have been as onerous nor as crucial as it sounds. OK was able to provide almost all the documents quickly and without undue stress; the letters requested from his ex-wife and his sister and brother-in-law were never provided (the sister was apparently out of the country), and, according to Mr. Hansen, OK simply did not respond to repeated requests for the information from his ex-wife nor to requests for her contact information to enable the office to pursue the information directly. OK contends that he passed the contact information to the paralegal who was assisting Mr. Hansen, but no evidence was presented to confirm that position (nor, it must be said, was there anything from Mr. Hansen's office to confirm or refute that position).

37. The assertion that Mr. Hansen harmed his presentation of the case by briefing OK's witnesses only the day before the IAD hearing, and then inadequately, is not substantiated by the evidence. It may be true, but equally it may not, or might not have been a significant factor in itself.

38. With regard to the insufficient focus on "foreign hardship," including that specific to OK and specific to his daughter within Iran should they be required to return there, Mr. Hansen testified to his belief that the *viva voce* evidence at the IAD hearing was sincere and convincing and should have been enough to win the appeal even without production of the "Country Report." He admitted that non-disclosure of the report in timely fashion was an error which he regrets. The Committee finds that while this error may have contributed to the unfavourable decision, and may be regarded as negligent, it does not amount to sanctionable conduct.

39. The question of whether adequate attention to the 'best interests of the child', as perhaps the major element in the ultimate success of OK's appeal (with, of course, different counsel), seems to the Committee to be of critical importance in deciding whether the citation is made out. Mr. Hansen certainly failed to make this the centrepiece of OK's appeal. He can be rightly criticized for this, but he did so largely if not wholly because of OK's repeated assertions that he had nothing to do with his ex-wife, and that she had no claim over the child (because of his 'sole custody' granted by

Iranian authorities in 2011), coupled with his stonewalling requests to obtain a letter of support from her or to provide contact information to Mr. Hansen (according to the latter).

40. OK's description of his relations with his ex-wife and her relationship with their daughter left out a development of major importance: in April of 2015, while Mr. Hansen was representing OK in his Immigration matters and before the initial ID hearing took place, Ms. B (the ex-wife) obtained an Interim Consent Parenting Order from the Court of Queen's Bench, in Calgary. The Order sets out a number of communication, travel, and parenting recognition obligations, and makes clear that OK's ex-wife is to be recognized as A's mother, with contact and the consonant privileges and responsibilities with respect to her daughter. It is inconceivable that OK was not fully aware that this legal change was relevant to his status in Canada, if only because of the travel requirements (e.g., "13. Neither party shall be at liberty to apply for a passport or any other necessary travel documentation, travel internationally with the child, or authorize any other person to travel internationally with the child, without further order of this court").

41. Paragraph 50 of Mr. Hansen's Statement of Admitted Facts says "[OK] did not provide us with this document nor make us aware of it nor of the US immigration status of Ms. [B]." The Committee finds no reason to doubt Mr. Hansen's veracity on this point, and no explanation was provided why OK would withhold such a basic document from his Counsel.

42. Mr. Hansen admitted to mistakes in the conduct of OK's file, but the Committee finds they did not amount to sanctionable conduct. Similarly, while there were issues that were characterized as amounting to a pattern of neglect or negligence, the Committee finds there was not adequate support for this claim in the context of this hearing. The Committee does find Mr. Hansen's conduct of the file barely adequate, especially considering his long years of experience in the immigration field.

43. OK's actions throughout his representation by Mr. Hansen, however, seem almost incomprehensible. He continued to claim "sole custody" of his daughter, and not to know the status or contact information for his ex-wife even though they had gone through a court action that established numerous rights for her vis-à-vis their daughter more than a year before his first ID hearing, and while Mr. Hansen was representing him on his immigration difficulties. If he had set out to ensure that his Counsel would be unable to assist him successfully throughout the process, he could hardly have done more.

44. In these circumstances, the Committee finds that the citation has not been proven on a balance of probabilities and that Mr. Hansen's conduct in this matter is not deserving of sanction.

Concluding Matters

45. The exhibits and other hearing materials, and this report will be available for public inspection, including providing copies of exhibits for a reasonable copy fee, although redactions will be made to preserve personal information, client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, September 6, 2019.

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Glen Buick – Chair and Former Bencher

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Barbara McKinley –Bencher

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Sandra Mah - Adjudicator

Appendix A

IN THE MATTER OF THE LEGAL PROFESSION ACT

AND

IN THE MATTER OF A HEARING INTO THE CONDUCT

OF GARY E. HANSEN,

A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATEMENT OF ADMITTED FACTS

INTRODUCTION

1. I have been a member of the Law Society of Alberta (LSA) since 1975.

2. There is 1 citation directed to a hearing by a Conduct Committee Panel as follows:

Citation 1: It is alleged that Gary Hansen failed to serve his client in a conscientious and timely manner and that such conduct is deserving of sanction.

The following is a summary of the conduct:

3. On December 18 2012 [OK] applied for permanent residence under the sponsorship of his common law wife [Ms. BK]. The application is based on the common law relationship of the partners who must be living together throughout the duration of the permanent residency process. [OK] was represented by [MG].

4. On October 25 2013 Ms. [BK] requested [OK] and his daughter [A] to leave the residence at […] SW Calgary Alberta […].

5. [OK] resided at suite # […] South West Calgary AB […] from on or about November 01 2013 until at least October 31 2014.

6. On October 28 2013 [OK] sent an email to his lawyer [MG] which stated:

> ***[MG],***
> ***If we run into some relationship bumps, could you please elaborate on any potential issues with my application? And in such case, what would be my options?***

7. On April 11 2014 [OK] sent another email to [MG] regarding the same issue which states:

3. [Ms. BK] is working as an architect in a company and she is busy, is it necessary that she attends the interview with me?

[MG]'s email reply on April 12 2014 states:

[OK], To be clear, if [Ms. BK] does nor attend, you will NOT get PR.

8. [OK] and Ms. [BK] attended an immigration interview on April 16 2014 at Calgary CIC. Neither of them disclosed that they were not living in the same residence. [OK] and his daughter [A] received their permanent residence on April 16 2014.

9. On April 17 2014 [MG] sent an email to [OK] which states:

I am very disappointed to get the news that you have represented to Canada Immigration that you were living together when you are not. This is a misrepresentation, perhaps by both of you. I was under the impression that you two had fixed your relationship and that everything was fine. Misrepresentation is very serious and can result in prosecution, fines, and even a jail sentence. Not only does it put both of you in danger, it also threatens my reputation and could hurt my ability to assist future clients. Unfortunately, this new information now puts me in a position where I am in a conflict of interest. According to Law Society rules, although I am not permitted to notify Immigration of your misrepresentation, I am not allowed to give legal advice to either one of you. You may want to seek advice from another immigration lawyer who is not in our firm.

10. On May 05 2014 [OK] met Mr. Hansen and asked him to represent him.

11. Ms. [BK]'s counsel reported [OK]'s nondisclosure to CIC on or about May 13 2014.

12. By letter dated August 12 2014 Calgary CIC officer [RA] requested [OK] to provide proof of his cohabitation with Ms. [BK] from April 16 2014 to August 12 2014.

13. Mr. Hansen represented [OK] and made various submissions and had various communications with Calgary CIC until on or about February 16 2015 when officer [CJ] wrote a section 44(1) report alleging misrepresentation under section 40 of the *Immigration and Refugee Protection Act (IRPA)*.

14. An admissibility hearing occurred on November […] 2016. On October 31 2016 Mr. Hansen filed some documentary disclosure. As [OK]'s case was weak [OK], Mr. Hansen and [OK]'s family lawyer [PL] were preparing an explanation for the nondisclosure. [PL] wrote a letter dated October 31 2016 explaining that after leaving the residence of his common law wife they continued their relationship until May 02 2014.

15. Mr. Hansen faxed CBSA officer [TS] and Vancouver ID (Immigration Division) on October 31 2016 to advise them of the situation and of deficiencies in the CBSA disclosure. Mr. Hansen also advised that he was willing to reschedule the hearing because of the late disclosure.

16. Admissibility hearings are held by videoconference with the adjudicator (decision maker)

appearing on video from Vancouver and the CBSA representative, [OK] and Mr. Hansen in person in Calgary. At the hearing CBSA did not object to the late disclosure and were willing to proceed on November […] 2016. The adjudicator made the decision to adjourn the hearing to December […] 2016.

17. The exclusion order was made against [OK] but not his daughter [A]. She retained her permanent residence. As she is a minor Mr. Hansen at that time believed that [OK] had full custodial rights over [A]. It was assumed that his daughter would accompany him if he left Canada. [OK] informed Mr. Hansen that he would go to Cypress if he were deported as he was a permanent resident of Cypress and his brother still operated their business there.

18. [OK] did not discuss other options for [A] such as living with her mother in the United States, his sister in Burlington or family friends in Calgary.

19. At the hearing on December […] 2016 the adjudicator determined that [OK] and Ms. [BK] did have an ongoing relationship at the time of the interview. He determined that there was a misrepresentation on the narrow technical point that [OK] should have advised CIC of his change of address when he left Ms. [BK]'s residence on October 25 2013. An exclusion order was made against him making him inadmissible to Canada for 5 years. [OK] appealed the order to the Immigration Appeal Division (IAD).

20. The appeal occurred on May […] 2017. Mr. Hansen filed about 160 pages of disclosure. [OK] was not able to obtain a reference letter from the principal of his daughter's school until May 23 2017. The IAD Member (decision maker) allowed this letter to be introduced on May 29. Mr. Hansen also requested that the DOS Country Report on Iran be introduced. The Member refused. He had the discretion to allow late disclosure but refused to exercise his discretion. However [OK] had provided substantial evidence of country conditions in Iran and its effect on [OK] and his daughter in the form of 3 witnesses from Iran, 1 of whom was a refugee and political commentator and 2 of whom were professionals with families who were friends of [OK]. [OK] also provided 2 reference letters from his friends' spouses commenting on the hardship of return to Iran to his daughter [A]. Mr. Hansen had requested that the 2 spouses be witnesses in addition to the husbands but was informed that they would provide letters instead.

21. Mr. Hansen requested that [OK] be the last witness because he considered [OK] the least credible of the 5 witnesses. He wanted to enhance [OK]'s credibility through the evidence of the first 4 witnesses including [A]. As a consequence [OK] was not allowed to hear the testimony of these witnesses. On July […] 2017 [OK]'s appeal was refused because the Member found [OK] not credible and not remorseful for his misrepresentation. Paragraphs 17 and 18 of his decision state:

> *[17]* ***The appellant did not accept responsibility for the misrepresentation****. He placed the blame on BK. Whether, as he claims, BK did all the talking at the appellant's final interview on April 16, 2014, is irrelevant. The appellant knew the change in living circumstances would impact the application****. The responsibility to disclose was his. The nondisclosure was willful.*** *The seriousness of the misrepresentation is a negative factor.*

[18] ***The appellant continues to minimize the significance of the misrepresentation*** *by emphasizing the ongoing relationship with BK after October 25, 2013. He tendered a letter from his family law counsel as evidence. That counsel describes the relationship between BK and the appellant as "a substantial continuing adult relationship between the parties up to the point of the May 2, 2014 Emergency Protection Order". I have already found on the evidence before me that after October 25, 2013, the relationship was not a common-law partnership or a conjugal partnership. I give the counsel's opinion little weight. Whether it was "a substantial continuing adult relationship"- whatever that means- is of little relevance. They were not cohabiting. They were not in a common-law relationship. The appellant should have disclosed that. He did not. His testimony indicates that he does not fully accept responsibility for the misrepresentation.* ***In the absence of that, it is hard to accept his claims that he is sorry and would not do it again. I find there is little evidence of genuine remorse. I find it likely that, were it to his advantage, the appellant would again commit violations against the Act. That is a negative factor.***

22. On or about July 26 2017 [OK] informed Mr. Hansen that he was planning to obtain another legal opinion from [PW] of [C] Partners. He was unable to meet [PW] but was able to meet [Ms. M]. On July 27 2017 Mr. Hansen sent the ID and IAD files by email to Ms. [M]. After his meeting with her [OK] informed Mr. Hansen that she told him his case was weak. He did not state he had retained her.

23. Judicial review by the Federal Court of decisions made pursuant to section 72 of the *Immigration and Refugee Protection Act* is commenced by filing an Application for Leave and Judicial Review. There is no right to judicial review unless leave is granted by a Federal Court judge. Subsection 72(1) of *IRPA* states:

> *72.(1) Application for judicial review - Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is, subject to section 86.1, commenced by making an application for leave to the Court.*

24. Subsections 18.1(3) and (4) of the Federal Courts Act state:

> *(3) Powers of Federal Court – on an application for judicial review, the Federal Court may*
>
> *(a) order a federal board, commission or other tribunal to do any act or thing it has unlawfully failed or refused to do or has unreasonably delayed in doing;*
>
> *or*
>
> *(b) declare invalid or unlawful, or quash, set aside or set aside and refer back for determination in accordance with such directions as it considers to be appropriate, prohibit or restrain, a decision, order, act or proceeding of a federal board, commission or other tribunal.*

(4) Grounds of review – The Federal Court may grant relief under subsection (3) if it is satisfied that the federal board, commission or other tribunal

(a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction;

(b) failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe;

(c) erred in law in making a decision or an order, whether or not the error appears on the face of the record;

(d) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it;

(e) acted, or failed to act, by reason of fraud or perjured evidence; or

(f) acted in any other way that was contrary to law.

25. [OK] reminded Mr. Hansen of the deadline for filing an application for leave for judicial review. As the deadline was August 01 2017 Mr. Hansen filed the leave application on July 31 2017. Our application was superfluous. Mr. Hansen swears positively, under penalty of perjury and without any mental reservation whatsoever, that he did not file the leave application without instructions.

26. Neither Ms. [M] nor [OK] advised Mr. Hansen that Ms. [M] had filed an application for leave on July 26 2017. Neither of them informed Mr. Hansen that he had retained Ms. [M] until August 18 2017 when he received an email from [OK] which states:

Hi Gary,

I made my mind and decided to follow my file with other attorney.
Please stop any processing on my file and pass the documents to other office if they ask.

See paragraph 3 of Mr. Hansen's letter to [VH] dated November 30 2017.

27. [OK] has never alleged that the leave application was filed without instructions.

28. On August 23 2017 [OK] filed a complaint with the LSA alleging incompetence by Mr. Hansen. None of the allegations were supported by any evidence. Mr. Hansen reported the claim to the Alberta Lawyers Insurance Association (ALIA) and filed documents refuting the claim. ALIA heard nothing from [OK] or Ms. [M] and closed its file.

29. The Federal Court Procedural Protocol states:

> *Re: Allegations Against Counsel or Other Authorized Representative in Citizenship, Immigration and Protected Person Cases before the Federal Court*
>
> *March 7, 2014*
>
> *2. Requisite Steps Before Pleading Incompetence*
>
> *i. Prior to pleading incompetence, negligence or other conduct by the former legal counsel or other authorized representative as a grounds for relief in an application for leave and for judicial review under the* Immigration and Refugee Protection Act*, S.C. 2001, c. 27, or in an application brought as an appeal under the* Citizenship Act*, current counsel must satisfy him/herself, by means of personal investigations or inquiries, that there is some factual foundation for this allegation.*
>
> *iii. If after reviewing the response of the former counsel or authorized representative, current counsel believes that there may be merit to the allegations, current counsel may file the application or appeal record with the Court.*

30. In his decision of July […] 2017 the Member described various reasons for dismissing the appeal but incompetence was not mentioned including paragraphs 20, 21, 28 and 31 and including paragraph 17 and 18 described above:

> *[28] The problem with assessing how the appellant's, and presumably AK's, removal from Canada would impact AK's relationship with her mother is that her mother's status in the United States is unknown. Other than the consent to bring AK to Canada, the appellant provided little evidence from his ex-wife…The appellant testified that he does not know how his ex-wife gained status in the United States…If the mother has permanent status in the United States that would mitigate against the appellant's removal so that AK could remain closer to her mother.*
>
> *[31] I am unable to properly assess how that may be achieved given the lack of clarity around her status in the United States.*

31. The Supreme Court of Canada stated in *R. v. G.D.B. 2000 SCC 22* that for incompetence to count as a ground for judicial review it must be established that:

> 1) previous counsel's acts or omissions constituted incompetence; and
> 2) a miscarriage of justice resulted from the incompetence.

32. In *Galyas v. Canada (Citizenship and Immigration) 2013 FC 250*, Justice Russell states at paragraph 84:

> *It is generally recognized that if an applicant wishes to establish a breach of fairness on this ground, he or she must:*

a. Provide corroboration by giving notice to former counsel and providing them with an opportunity to respond;

b. Establish that former counsel's act or omission constituted incompetence without the benefit and wisdom of hindsight; and

c. Establish that the outcome would have been different but for the incompetence.

See, for example, Memari, above; Nizar v Canada (Minister of Citizenship and Immigration), 2009 FC 557 (CanLII); and Brown v Canada (Minister of Citizenship and Immigration) 2012 FC 1305 (CanLII).

[OK] and his counsel complied with a, alleged but did not establish b and did not establish c.

33. Mr. Hansen responded to the incompetence allegation to the LSA, ALIA, [OK]'s counsel, and the Minister's counsel. ALIA closed its file, hearing nothing from [OK] nor his counsel. The Minister's counsel took no position on the matter. The Federal Court made no mention of it in its decisions to grant leave for judicial review and judicial review.

Ribic Factors and Stay of Removal Order

34. The test for staying a removal order is articulated in the factors outlined in *Ribic v. Canada (Minister of Employment and Immigration)*, [1985] 1.A.D.D. No 636 (*Ribic*). The factors are exemplary not exhaustive.

35. The Ribic factors were listed in an e-mail sent by Mr. Hansen to [OK] on May 2, 2017 which states:

> *Please be advised that the following factors are to be considered by the member of the Immigration Appeal Division:*
>
> - *The seriousness of offence or offences leading to the deportation and the possibility of rehabilitation;*
> - *The circumstances surrounding the failure to meet the conditions of admission which led to the deportation order;*
> - *The length of time spent in Canada and the degree to which the applicant is established;*
> - *The existence of family in Canada and the dislocation to that family that deportation of the applicant would cause;*
> - *The support available for the applicant not only within the family but also within the community; and*
> - *The degree of hardship that would be caused to the applicant by his return to his country of nationality (this factor is sometimes referred to as "foreign hardship").*

These factors were fully discussed with and explained to [OK] on several occasions before and after the ID hearing and before the IAD appeal. These factors, the exclusion order and the exclusion order appeal were sent by email to [PL], [OK]'s family lawyer, on December 12 2016.

36. The evidence of foreign hardship was provided by the 3 witnesses [AD], [OA] and [EK], all of whom were very familiar with living conditions in Canada and Iran. The first 2 were personally familiar with his daughter and all were personally familiar with [OK]. They all provided cogent evidence of the hardship of returning to Iran. [EK] was a refugee from Iran who comments regularly on Iranian affairs in his Iranian newspaper Iran Khabar. None of this evidence was referred to in the decision of the Member except to acknowledge that he had considered it.

[LM] states in her letter dated May 08 2017:

> *I know Mr. [OK] and his daughter, [A], since early 2013, when we moved to Calgary. His daughter is the same age as my daughter and they had many play dates so far.* ***She is a sweet brilliant girl with a bright future.***
>
> *Her father is a caring and supportive dad that dedicated all his life for the well-being of his daughter. He already established a great relationship with individual families for her daughter and their assimilation in the local community. They are well-established in Calgary and benefited from the support of several close friends and families.*
>
> *He recently started a business to further strengthen his roots in Canada for their life and future support. His effort for supporting his daughter to form her future is remarkable.*

[MS] states in her letter dated May 08 2017:

> *I am writing to you regarding our friend, [OK], and his daughter, [A]'s condition. My understanding is that [OK] and [A] are being heard on their status and there might be asked to leave Canada.*
>
> *[OK] and [A] are our family friend. My family and I have known [OK] since 2012. We have watched [A] grow from a cute little girl to a young bright lady. My first daughter, [N], is now 4 years old and since her birth,* ***she has had the chance to have [A] around her and feel the love and presence of a caring child. [A] is a girl full of love and passion. In the last five years, she has had a chance to grow like every Canadian girl, free from gender and religious discrimination. She has had the chance to experience the free world, where she was not forced to wear hijab or stayed isolated from her friends of other gender.***
>
> *All of my friends and myself know [OK] for his courage and strength as a Single parent to raise [A] and take excellent care of her in their more difficult days.* ***[OK] has started a new business recently and he has the perspective not only to***

thrive himself, but also to provide the best opportunities for [A] to reach her dream. *His determination to run a successful business has already showed the benefit of providing jobs for other Canadians.*

Besides his personal life, [OK] is an important part of our circle of friends. He has been present to help whenever we needed him and has always been by our side in difficult times

If [OK] is asked to leave Canada today, we will lose a very valuable friend, a great Member of the soc1ety, an employer, and an amazing father. On top of that, if [A] has to leave Canada, she we be forced back to face a gender discrimination beyond imagination. She will have to bury the dream of growing free and the give up the opportunity of reaching places only a great society like Canada can offer women The experience that [A] had during the last five years will make it even harder for her to go back to Iran, as her personality has been shaped in Canadian culture I strongly believe, forcing [A] to return to Iran will cause a great harm to her as a child.

My family and I completely support giving [OK] and [A] the privilege to stay in Canada as they know the true value of this society by heart.

This evidence was not questioned by the Member or the Minister.

37. The Member did not question these witnesses although he has the right to do so. Live evidence is far more powerful than documentary evidence. The documentary evidence included the 2 letters from [MS] and [LM] the wives of the first 2 of the Iranian witnesses both of whom were friends of [OK] and his daughter. The letter of Ms. [MS] is compelling but insufficient for the Member.

38. Mr. Hansen prepared the list of documentary disclosure which he requested [OK] to provide after discussions with [OK]. The documentary evidence of 160 pages included:

[OK] - Appellant

1. Residential offer to lease agreement with [V] Group dated Nov 01 2013
2. 2012 – 2016 Notices of Assessment
3. Letter of [PL] dated Oct 31 2016
4. Business card
5. APEGA Application
6. Curriculum Vitae

[R] Ltd. Operating as [D] - Appellant's Business

7. Certificate of Incorporation
8. 5 year offer to lease agreement with [A] Corporation dated April 27 2017
9. Business advertisement in the Iranian newspaper
10. Pictures of store front

11. Share Certificates CA-1 and CA-3
12. Resolution of the Board of Directors
13. Resignation of [MV]
14. Royal Bank of Canada accounts' statements
15. Royal Bank of Canada Mastercard statements
16. Balance sheet
17. Profit and Loss statement July 2016 – June 2017
18. Change Director/Shareholder – Registration Statement
19. [JR] – Current Source Deductions Remittance Voucher as of April 2017
20. [JR] – Paystub
21. PD7A Summary
22. Rate quote by [CD] Inc. dated May 01 2017

PICTURES – APPELLANT

23. 10 pictures at different occasions and dates showing [OK], [BK] (former common law wife) and [AK].

[Ms. B] – MOTHER OF [A] AND FORMER WIFE OF [OK]

24. Tehran Iran notarized consent by [Ms. B] to [OK] dated September 07 2011
25. Calgary Alberta Notarized consent by [Ms. B] to [A] [OK] permanent residence dated November 11 2013

[A] – DAUGHTER OF APPELLANT

26. Birth certificate
27. PR card
28. Various Pictures from different occasions and dates
29. Royal Bank of Canada Registered Education Savings Plan
30. [K] Society of Alberta 2015 tax receipt

[G] COMMUNITY KINDERGARTEN AND [B] SCHOOL – [A]'S EDUCATION

31. Class pictures
32. School fee receipt report September 2015
33. Pictures showing [A] with classmates and at school activities
34. Calgary Board of Education invoice
35. [B] School report cards June 2016 and January 2017
36. Certificate of Achievement – Family Historian

EXTRA-CURRICULAR ACTIVITIES – [A]

37. City of Calgary recreation receipts – day camp activities
38. Certificate – Ballet dance; [I] Aquatic and Recreation June 2015
39. City of Calgary recreation receipts – Arts Centre pre care activities
40. Swim Patrol progress reports – Swim for Life Lifesaving Society

COMMUNITY SUPPORT LETTERS

41. [MS]
42. [LM]
43. [B] School letter from principal

39. The documentary disclosure of May 8 and 9 2017 did not contain the US Department of State Country Report or similar third party report outlining the country conditions in Iran including human rights and freedoms. This was an omission by Mr. Hansen. Notwithstanding this omission the Member could have allowed its admission on the date of the hearing but chose not to.

40. The documentary evidence did not include letters or other evidence from [OK]'s sister in Burlington or ex-wife in California which Mr. Hansen asked [OK] to provide. Mr. Hansen offered to request these documents directly but [OK] declined the offer.

41. The Member chose not to consider the analysis of the Ribic factors in the Federal Court case *Jiang v. Canada (The Minister of Public Safety and Emergency Preparedness) 2013 FC 413* although it was the only case presented to him during the hearing. He chose another case, *Canada (Citizenship and Immigration) v. Liu, 2016 FC 460*, 5 weeks post hearing, on which to base his decision. Neither the Member nor the Minister's representative nor Mr. Hansen had opportunity to comment on this case. The Minister presented no case law.

42. The issue in these types of immigration cases is how much weight to give each factor after assessing the strength of the factor. Justice [S] states at paragraphs 9 – 12 of *Jiang v. Canada (The Minister of Public Safety and Emergency Preparedness) 2013 FC 413*:

> *[9] In this case, the IAD erred in its assessment of the second factor, the degree of establishment, by failing to give weight to this factor independently of the other factors. This error occurs at paragraph 27 of the Decision where the IAD says:*
>
> *Considering the appellant's assets and long-term employment, I am satisfied that the appellant is established in Canada however, the positive weight that I attribute to this factor is diminished by the fact that but-for the misrepresentation, the appellant would not have been able to establish himself in Canada. As such, I attribute only minimal positive weight to this factor.*
> *[10] The IAD erred in that it weighed the misrepresentation against the degree of establishment when considering the degree of establishment and then it considered the misrepresentation again, at paragraph 37 of the Decision, where it concluded as follows:*
>
> *It is never an easy decision splitting up a family but the appellant has nobody to blame but himself. I have carefully weighed all of the factors in this case but I have found that the seriousness of the misrepresentation, together with my finding of lack of remorse with respect to the appellant's behaviour, in my view, outweighs all of the other factors. Granting a stay of removal in these circumstances would serve no purpose.*
>
> *[11] The problem with this approach is that the IAD essentially double-counted the seriousness of the misrepresentation by using it to reduce the weight attributable to the establishment factor and then using it again in the final weighing.*

[12] I cannot say that this error is immaterial because if the IAD had assessed degree of establishment independently of the misrepresentation, the final tally might well have included two "considerable positives" and two "very negatives" as opposed to the result described above. It is therefore possible that the Decision might have been different if the IAD had not erred in its methodology.

43. This Federal Court case law is divided on this issue and the Member chose the *Canada (Citizenship and Immigration) v. Liu, 2016 FC 460* case which double counts the seriousness of the misrepresentation by using it to reduce the weight attributable to establishment and using it again in the final weighing of all the factors in the humanitarian and compassionate assessment. The Liu case cocerned [sic] a fake marriage. [OK]'s case concerned a genuine common law relationship in which the separation of the partners was not disclosed. The gravity of the misrepresentation is not the same. The Member appears to be punishing [OK] for his high degree of establishment.

44. Mr. Hansen believed, based on his 3 years of representing [OK], that it was in [OK]'s best interests to give his evidence last because he had the least credibility of all the witnesses. Mr. Hansen wished to present the positive evidence first to create a more favourable impression of [OK] by the Member before [OK] gave evidence. Mr. Hansen's belief was confirmed by the decision of the Member on credibility.

45. [OK] was a self-employed businessman operating a retail mattress store. He had 1 part time employee. He could rarely leave the store. When Mr. Hansen and [OK] met it was always at his convenience but not for long periods. [OK] and Mr. Hansen often communicated by phone or email. If Mr. Hansen was too busy to meet [OK], Mr. Hansen would tell him directly and if he could not meet, he would tell Mr. Hansen directly. Prior to the hearing Mr. Hansen interviewed the other 3 witnesses on May 27. Mr. Hansen met [OK] and [A] on Sunday May 28 2017.

46. Mr. Hansen read the decision on July […] 2017 the day it was released as has always been his practice. There may have been a misunderstanding on [OK]'s part. On July 05 2017 Mr. Hansen had a phone call with [OK] and discussed the decision.

47. Immediately following the IAD appeal on May […] 2017 and until August 21 2017 [OK], Mr. Hansen and his legal assistants [MD], [MK] and [KA] had various meetings, telephone calls and emails as shown by the time records, namely:

Mr. Hansen:

1. May 30 2017 correspondence with [OK] (0.1 hr)
2. May 30 2017 phone call with [OK] (0.3 hr)
3. July 05 2017 phone call with [OK] (0.2 hr)
4. July 18 2017 phone call with [OK] (0.6 hr)
5. July 24 2017 meeting with [OK] (1.10 hr)
6. July 25 2017 correspondence with [OK] (0.1 hr)
7. July 26 2017 meeting with [OK] and phone call with [OK] (0.6 hr)
8. July 28 2017 phone call with [OK] (0.1 hr)

9. August 10 2017 2 phone calls with [OK] (0.5 hr)
10. August 18 2017 phone call with [OK] (0.1 hr)
11. August 21 2017 correspondence with [OK] (0.1 hr)

[MD]:

1. May 29 2017 email to [OK] among other work on file (0.9 hr)
2. June 08 2017 2 phone calls with [OK] (0.5 hr)
3. June 12 2017 email to [OK] (0.2 hr)
4. June 13 2017 2 phone calls with [OK] (0.4 hr)
5. June 23 2017 phone call with client (0.1 hr)

[MK]:

1. July 24 2017 conference with [OK] among other work on file (1.2 hr)
2. August 15 2017 phone call with [OK] (0.2 hr)

[KA]:

1. August 17 2017 4 phone calls with [OK] (0.4 hr)

48. [OK] had 7 days to provide the documents Mr. Hansen asked for on May 2 to ensure that Mr. Hansen had time to review, analyze and prepare the disclosure and to allow time before the deadline if there were delays.

49. During the week of May 02 2017 Mr. Hansen and his legal assistant Ms. [MD] communicated various times with [OK] about the disclosure and what to include or exclude:

Mr. Hansen:

1. May 05 2017 correspondence with [OK] (1 hr)
2. May 08 2017 correspondence with [OK] among other activities on file (2.6 hr)
3. May 09 2017 phone call with [OK] (0.6 hr)

[MD]:

1. May 02 2017 email to and phone call with [OK] (0.5 hr)
2. May 05 2017 emails to and phone call with [OK] (0.7 hr)
3. May 08 2017 various emails and phone calls with [OK] among other activities on file (6 hr)
4. May 09 2017 various various [sic] emails and phone calls with [OK] among other activities on file (3.8 hr)

50. Mr. Hansen specifically requested support letters from his former wife Ms. [B]. [OK] did not respond. Mr. Hansen offered to contact her directly. [OK] did not respond. Ms. [B] lives in California and communicates regularly with [A]. [OK]'s Judicial Review application was not

approved until Ms. [B] wrote a highly persuasive letter on December 25 2017. She also produced an Interim Consent Parenting order describing the legal rights she had to [A]. The court order was dated April 14 2015, long before the ID and IAD hearings. He did not provide us with this document nor make us aware of it nor of the US immigration status of Ms. [B]. **This information would have been enormously helpful to [OK]'s appeal had he disclosed it.**

51. Ms. [B]'s letter states:

> *For the past 5 years, I've had permanent U.S. residency. On December 13, 2017, I was approved to become a Naturalized U.S. citizen. [Attached please see a copy of my Green Card and Naturalization Interview approval] … After [A] and her father left Iran, I knew my options to ever see my daughter would be extremely limited if I was to remain in Iran. With the help of my U.S. Citizen Uncle, I moved to the United State in 2011.*
>
> *My move to the U.S. was singularly motivated by my hope and desire to be close to my child and to see her again. In 2013 I received my Green Card. Immediately after receiving my Green Card, I traveled to Calgary and reunited with [A]. With the help of a family law attorney, I now have visitation rights and parenting provisions which [A]'s father and I have agreed upon. Furthermore, I help with [A]'s expenses by voluntarily sending a monthly sum of money similar to child support through my family lawyer in Calgary. Moving to the US has allowed me to have input into raising our daughter. This type of arrangement would be impossible in Iran… I also have hired a powerful family lawyer to protect both mine and [A]'s rights.*

52. The order of April 14 2015 included the following parental rights granted to Ms. [B]:

- Access – paragraphs 2,3 and 4
- Names, contacts of health care providers and copies of health care records – paragraphs 4 and 5
- Access to school and school records including principal and teachers – paragraph 6
- Access to [A] in May and July 2015 and other times upon 1 month's notice – paragraphs 7, 8 and 9
- Communication in writing with [OK] regarding parenting matters – paragraph 11
- Equal rights regarding passport issuance and international travel – paragraph 13

53. The December 25 2017 letter and the court order are much different than Ms. [B]'s consent letter of September 07 2011, enclosure 27 of Mr. Hansen's IAD disclosure, which states:

> *she gave her approval and consent regarding to the full custody and guardianship of her minor child Ms. [A] daughter of [OK]*

54. Ms. [B]'s letter and order are in conflict with [OK]'s affidavit of August 24 2017 filed in Federal Court which states:

> ***I have sole custody over my 10 year old daughter**, [A], who has been with me in Canada since my arrival*

55. They are also in conflict with [OK]'s emails of November 12 2013 to [MG] and November 14 2013 to [E] which state:

Email of November 12 2013 to [MG]:

On another note, please be advised that my ex-wife lives in another country and has no interest in my life or that of my daughter's, therefore she has absolutely no interest in getting involved or helping with this matter. Please also be advised that when a parent provides the letter of "Full Custody" in Iran, means that she does not want to have any responsibility or involvement in the life of the child furthermore. I can provide witnesses to testify such concept in court if need be.

Email of November 14 2013 to [E]:

On another note, please be advised that my ex-wife lives in another country and has no interest in my life or that of my daughter's, and she is extremely hard to contact or communicate with, therefore she has absolutely no interest in getting involved or helping with this matter. Her involvement with us ended with providing me with the custody letter and completion of our divorce.

56. Mr. Hansen was not aware that a parenting order had been in place since March […] 2015 and a consent parenting order since April […] 2015. The ex parte order of March […] 2015 is still in effect but we have no knowledge of what is in the order. These 2 orders encroach on the Iranian court order of September […] 2011.

57. [OK] states in line 1 of paragraph 34 of his affidavit of August 24 2017:

"[A]'s mother lives in the United States and is a Green Card holder."

[OK] did not provide this evidence at the appeal. His oral evidence was more tentative and uncertain as confirmed by the Member's comments about Ms. [B]'s immigration status in paragraph 28. Why was [OK] so unclear at the IAD appeal of May […] 2017 about Ms. [B]'s immigration status and so certain in his affidavit of August 24 2017?

58. [OK] states in paragraph 4 of his affidavit of January 08 2018:

In his reasons, the IAD Member wrote that my daughter [A]'s mother status in the United States was critical to our case but insufficient evidence was before him. The Member said that if [A]'s mother had permanent status in the US, it would mitigate against my removal so that my daughter could remain close to her mother

59. Based on [OK]'s affidavit of August 24 2017 [OK] knew that Ms. [B] was a permanent resident yet did not answer this question asked of him by the Member.

60. Paragraph 28 of the Member's decision states:

[28] The problem with assessing how the appellant's, and presumably AK's, removal from Canada would impact AK's relationship with her mother is that her mother's status in the United States is unknown. Other than the consent to bring AK to Canada, the appellant provided little evidence from his ex-wife…The appellant testified that he does not know how his ex-wife gained status in the United States…If the mother has permanent status in the United States that would mitigate against the appellant's removal so that AK could remain closer to her mother.

61. Paragraph 31 of the Member's decision states:

    It is equally important that AK's mother continue to play an important role in her life. I am unable to properly assess how that may be achieved given the lack of clarity around her status in the United States.

62. The second last sentence of paragraph 18 of the Member's decision states:

    I find it likely that, were it to his advantage, the appellant would again commit violations against the Act.

63. The Member's statement in paragraph 18 is prescient. [OK]'s omission to disclose Ms. [B]'s court order of April […] 2015 to the IAD is a misrepresentation. His failure to disclose Ms. [B]'s permanent resident status is a misrepresentation. An adverse inference should be drawn from [OK]'s refusal to disclose his family litigation file concerning Ms. [B] to Mr. Hansen to allow him to address the LSA complaint by [OK].

64. It is Mr. Hansen's respectful opinion that had [OK] provided Ms. [B]'s documents at the IAD and requested her cooperation he would have been successful. Ms. [B] could have been a witness in person or by phone or videoconference. Ms. [B] advised me by phone on July 09 2018 that she had great concern for her daughter's well being. [OK] never advised Mr. Hansen of the existence of this order. His disclosure at the IAD included an obsolete consent showing him as the sole custodial parent.

65. The Member asked [OK] and [A] at the hearing about the immigration status of Ms. [B] in the United States. Both of them replied that they did not know/ and/or were not sure. See paragraph 28 of the IAD decision.

66. On July 09 2018 I spoke by telephone with Ms. [B] to obtain information about the letter she had written to the Federal Court and the 2014 court order. She informed me that she had informed [OK] and [A] of her permanent resident status in the United States. While a 10-year-old might not be expected to retain this information [OK] would know precisely what it means.

67. Ms. [B] referred me to her family lawyer [LA] in Calgary. Ms. [LA] advised me by telephone on July 16 2018 that Ms. [B] and [OK] had engaged in litigation in Calgary over several years regarding [A]. The position of Ms. [B] is that [A] would not have to return to Iran with [OK] if his appeal were unsuccessful as [A] could live with her. Ms. Anderson stated that the reason Ms. [B] did not allow Mr. Hansen access to her family law file was fear of negative repercussions for [A].

68. [OK] informed me in person that the reason he did not get a support letter from his sister [NK] in Burlington ON was because he did not have a close relationship with her. The Member states in paragraph 21:

[21] The appellant's sister lives in Toronto with her family. He has visited her once since coming to Canada, and she has visited him once. There is little evidence that the appellant's removal from Canada would cause his sister undue hardship. The remainder of his family lives in Iran and Cypress.

ADMISSIONS

69. I admit to these facts but deny that these facts constitute conduct deserving of sanction.

CONCLUSION

70. I acknowledge that all parties retain the right to adduce additional evidence and to make submissions on the effect of and weight to be given to these agreed facts.

"Gary Hansen"
GARY E. HANSEN