

**DISCIPLINE COMMITTEE OF THE COLLEGE OF IMMIGRATION AND
CITIZENSHIP CONSULTANTS**

Citation: *CICC v Roque* 2022 CICC 03

Date: 17-03-2022

CICC File No.: CD.2017.037; CD.2017.237; CD.2017.358; CD.2017.378

Between: **Immigration Consultants of Canada Regulatory
Council, now the College of Immigration and
Citizenship Consultants**

(Applicant)

-And-

Hazel Roque, R511671

(Respondent)

Written Submissions by:

Justin Gattesco, Counsel for the Applicant

Before: M. Laurie Sanford, Public Representative,
Chairperson
Sylvie Bertrand, RCIC
Alicia Peters, Public Representative

**Date of Reasons for
Decision:** March 17, 2022

DECISION, REASONS FOR DECISION AND ORDER

Overview

1. Ms. Hazel Roque is a Regulated Canadian Immigration Consultant (“RCIC”). Originally Ms. Roque was subject to regulation by the Immigration Consultants of Canada Regulatory Council but the responsibility for licensing and regulating RCICs has been assumed by the College of Immigration and Citizenship Consultants (the “College”). Ms. Roque is a licensee with the College. Her licence has been administratively revoked due to non-payment of dues. The College brings this application to revoke Ms. Roque’s licence permanently on the grounds of her conduct.
2. Four complaints made against Ms. Roque form the basis of the College’s application. Ms. Roque made submissions to the College’s investigator on the first and second of these complaints but since then has not participated in the College’s investigation of the complaints or in this written hearing.
3. On reviewing the evidence submitted by the College, we find that Ms. Roque committed multiple breaches of the applicable Code of Professional Ethics (the “2012 Code” or the “2016 Code”). The panel is particularly concerned about Ms. Roque’s misappropriation of tuition funds that had been entrusted to her by two separate applicants for student permits. Ms. Roque also repeatedly failed to communicate with her clients when necessary.
4. For the reasons set out below, we conclude that it is appropriate that Ms. Roque’s licence as a RCIC be revoked. It is also fitting that Ms. Roque pay a penalty in the amount of \$20,000 and pay the College’s legal fees in this matter in the amount of \$18,850.

Preliminary Legal Issues

5. The transition to the College raises some issues regarding jurisdiction and process. The first is the question of whether the College has the jurisdiction to license and regulate Ms. Roque. Under subparagraph 85(7)(j) of the *College of Immigration and Citizenship Consultants Act*, S.C.2019, c. 29, s. 292 (the “Act”), RCIC’s are considered to hold a class of licence under the College. As well, under subparagraph 85(7)(i) of the Act, any complaint before the prior regulator continues before the College. All four complaints in this case were filed before the transition to the College. We conclude that the College has the jurisdiction to bring this application. It should be noted that portions of the investigation were conducted before the transition to the College. For ease of reference, we will refer throughout this decision to the investigation being done by the College.
6. A second question is whether this panel has the jurisdiction to hear the application. The College is a complaint driven regulator. When a complaint is received, it must be reviewed by the Complaints Committee of the College. One possible outcome of that review is a referral of the matter to the Discipline Committee for a hearing. Under section 58 of the Act, the Discipline Committee must hear matters referred to it by the Complaints Committee of the College, as was done in each of these four cases. Additionally, subparagraph 85(7)(r) of the Act maintains the jurisdiction of the Discipline

Committee, of which this is a panel, to hear and determine this complaint despite that fact that it was brought under the former regulatory regime. The panel concludes that the Discipline Committee has the jurisdiction to hear this matter.

7. The third issue is what effect, if any, does Ms. Roque's current status as an administratively revoked licensee have on the College's jurisdiction to regulate her and the Discipline Committee's jurisdiction to hear the matter. As noted above, complaints lodged before the transition to the College continue under the College's jurisdiction. Section 65 of the Act specifically gives the Discipline Committee the authority to hear and determine a complaint against a previous licensee. The College in this case is bringing the application to permanently revoke Ms. Roque's licence on the grounds of misconduct which is a different matter than the administrative revocation for failure to pay dues, which is Ms. Roque's current status. Ms. Roque's administrative revocation does not operate to nullify a complaint against her conduct. We conclude that the College has the jurisdiction to bring this application despite Ms. Roque's current status and the Discipline Committee has the jurisdiction to hear the matter.
8. Ms. Roque made a reply to the investigator who looked into the first and second complaints against her. Those replies will be considered below. However, Ms. Roque did not respond to any of the later complaints and did not participate in this written hearing. Specifically, Ms. Roque did not reply to the Witness Evidence Form submitted by the College in this written hearing, nor did she contest any of the statements or documents in the attachments to the Witness Evidence Form, which included the results of the College's investigation into the four complaints made against her. Under Rule 47.5 of the Tribunal Committee Rules of Procedure, 2019-001, where a party has not responded during a written hearing, the panel may accept the facts or documents included in the Witness Evidence Form as true or proven. This is a discretionary authority and the panel may choose not to accept a fact or document as true if, for example, there are internal conflicts in the Witness Evidence Form or attachments to it. In this case, the panel reviewed the statements of fact made by the College investigator and the complainants. The evidence submitted appeared credible and plausible and the panel accepts the facts and documents as true or proven.

Decision

Notice of Referral #1 – Complaint CD.2017.037

9. On or about February 7, 2017, a complaint was filed against Ms. Roque by a person who will be referred to as "CDT". By a Notice of Referral dated September 27, 2021, the complaint was referred to the Discipline Committee for a hearing. Ms. Roque made a reply to the investigator who looked into the complaint but she did not participate in the written hearing.
10. CDT wished to apply for a Permanent Residence Visa to Canada and, in May, 2016 entered into a retainer agreement with Ms. Roque. Ms. Roque agreed to represent CDT in her application for a fee of \$2,500 which was paid in installments. The College provided receipts for some of the payments made and we accept that the one payment for which there is no receipt was also made.

11. The amount of \$1,400 for filing fees to Citizenship and Immigration Canada ("CIC") was also paid in the summer of 2016. Ms. Roque represented to CDT that she had remitted the filing fees to CIC on or about August 1, 2016 and filed the application on or about August 2, 2016.
12. CDT said that she made numerous attempts to contact Ms. Roque without receiving a reply. The College has provided copies of correspondence from CDT to Ms. Roque and copies of automated replies. Ms. Roque made a general statement that "important emails are always replied to especially emergency ones". However, Ms. Roque provided no evidence that she had replied to the specific emails and voicemails referred to by CDT in her statement. We accept CDT's statement that Ms. Roque failed to respond to questions and communications from CDT in the summer and fall of 2016.
13. On or about December 23, 2016, CDT contacted the CIC to inquire about the status of her application and was advised by the CIC that they had not received an application on her behalf. After several further unsuccessful attempts to contact Ms. Roque, which the College documented, CDT contacted a Member of Parliament, Mr. Bill Blair, to request assistance about her application. On or about January 17, 2017 someone from Mr. Blair's office contacted the CIC and was informed that there was no application on file.
14. According to CDT, on January 18, 2017, Ms. Roque provided her with "proof of submission" which appears to have included a receipt showing payment of \$1,400 to the CIC on August 1, 2016 and a cover letter from Ms. Roque enclosing the application, dated August 2, 2016. Ms. Roque, according to CDT, had previously provided her with a confirmation by text message of the submission of the application in August, 2016. On or about January 19, 2017, CDT provided Mr. Blair's staff with a copy of the August 2nd letter and the CIC receipt showing that a payment of \$1,400 was made to the CIC on August 1, 2016. When someone from Mr. Blair's office contacted the CIC and provided the CIC with the receipt number, the CIC advised that the number on the CIC receipt matched a deposit that had been made a day earlier, that is on January 18, 2017, the same day that Ms. Roque provided the receipt to CDT.
15. Throughout the period from December 2016 to January, 2017, CDT made numerous attempts to contact Ms. Roque but received no reply, apart from the contact on January 18th, according to the College's investigation. While CDT says that Ms. Roque did return the supporting documents of her application on request, Ms. Roque did so in a piecemeal fashion and by unsecured post.
16. In her response to the investigator for this complaint, Ms. Roque stated that she had submitted CDT's application in August, 2016 but added some documentation in January to correct lapses in her documentation. Ms. Roque said that she had provided the services CDT had retained her to provide. Ms. Roque said after filing the submission, she discovered, upon further discussion, that there were problems with CDT's work history that would have rendered her inadmissible through no fault of Ms. Roque. Regardless of whether or not CDT would have been admitted, Ms. Roque did not explain the discrepancy between what she told CDT and what the CIC told CDT and Mr. Blair's office about whether an application had ever been filed and about when the filing fee had been paid.

17. The panel accepts the CDT's statement that the CIC informed her in December, 2016 that there was no application on file. The panel also accepts what the CIC told Mr. Blair's office, about both the lack of an application on file and the date of payment of the filing fee. We acknowledge that these statements are hearsay but acting under Rule 47.5, we accept them as true and proven. The evidence from Mr. Blair's office notes a payment to the CIC dated January, 2017 and no visa application on file with CIC. We conclude that Ms. Roque misled CDT about the date on which she paid the CIC for CDT's application and about whether or not she had filed an application for CDT.
18. The College submits that Ms. Roque never refunded any unused portion of her fee. Given that the panel has found that the visa application was not filed, then Ms. Roque should have returned any unspent portion of that fee as she had failed to provide the services for which she was retained.
19. We accept CDT's statements and the evidence provided about CDT's unsuccessful attempts to contact Ms. Roque through the fall of 2016. While there was some communication in December, 2016 and January, 2017, CDT's attempts to contact Ms. Roque after CDT had heard from the CIC and from Mr. Blair's office were again unsuccessful. The College has demonstrated that Ms. Roque failed to communicate with her client in a timely way and failed to respond to requests for information and queries about the status of CDT's application. Ms. Roque made general statements about replying to "important" emails but provided no specifics about her communications with CDT that contradicted CDT's claims.
20. There are two major areas of concern about Ms. Roque's conduct in this matter. The first is her misleading statements to her client and her failure to either file the application or refund a portion of her fee. The second is Ms. Roque's persistent failure to communicate with her client.
21. Considering the first area of concern, the College cites multiple breaches of the 2016 Code that it submits were committed by Ms. Roque. Article 7.1.1 requires a Licensee to be "honest and candid" when advising clients. Clearly, Ms. Roque's conduct violated this Article. Similarly, Article 3.1.1 of the 2016 Code imposes a duty to act in good faith to clients and to the College. When Ms. Roque misled her client and failed to provide the services she was retained for, and failed to refund the fee, she fell short of the obligations imposed by this Article.
22. The College also alleges that Ms. Roque failed in her obligation to maintain competence. However, the panel concludes that there is no evidence here of Ms. Roque's competence or lack of it. The issue is her misleading statements and her failure to provide the services she had been paid for. The College alleged breaches of other Articles of the 2016 Code. The most serious of these is an alleged breach of Article 2.2.9 of the 2016 Code. This Article is labeled "professional misconduct" and includes a series of serious offences, including misappropriating funds, recklessly attempting to mislead an employee of the College and promising that the Licensee will influence the outcome of an application. Without wishing to diminish the severity of Ms. Roque's conduct, it does not rise to this level.

23. Considering the second area of concern, the failure to communicate, under subparagraph 6.1.1(iii) of the 2016 Code, Ms. Roque had an obligation to “communicate with the Client at all necessary stages of a manner in a timely and effective way;”. The College alleges that Ms. Roque breached this section of the Code in failing to respond to CDT in the summer and fall of 2016 and at times in December and January, 2017. We agree that Ms. Roque breached this provision of the 2016 Code. A failure to respond to a client’s queries is more than simply a technical breach of the 2016 Code, it is a failure to meet the standards expected of immigration consultants. The College submits that this is also a breach of other, more general, provisions of the 2016 Code. We conclude that the finding of a breach of the provision most specific to Ms. Roque’s conduct is sufficient. In failing to send a copy of the visa application to CDT on request, Ms. Roque was again in breach of her duty to communicate with CDT.
24. The College alleges that Ms. Roque was also in breach of two provisions of the General Working By-Law 2021-2 (the “By-Law”). The first of these provisions, Section 24.1, is a general provision requiring familiarity and compliance with By-Laws, Regulations and the 2016 Code. It stands to reason that any breach of the 2016 Code is simultaneously a breach of this section of the By-Law. The College also alleges that Ms. Roque is in breach of Section 28.11 of the By-Law and invites this panel to find that Ms. Roque is “ungovernable” under this section. This allegation will be considered below when assessing the totality of Ms. Roque’s conduct across all four of the complaints dealt with in this hearing.

Notice of Referral #2 – Complaint CD.2017.327

25. On October 23, 2017, the College received a complaint against Ms. Roque by a person who will be referred to as “ROC”. ROC was complaining on behalf of her brother and sister-in-law. The matter was referred to the Discipline Committee on September 27, 2021.
26. ROC’s sister-in-law (the “Applicant”) wished to apply for a study permit and a temporary resident visa. ROC’s brother and the Applicant entered into a retainer agreement with Ms. Roque and paid \$2,200 in two installments for Ms. Roque to represent the Applicant. According to ROC, Ms. Roque failed to provide a copy of the retainer agreement or receipts for the payment.
27. In April, 2016, Ms. Roque suggested to ROC that the Applicant pay the tuition fees of \$6,669 for the fall, 2016 semester directly to Ms. Roque, who would hold the fees in trust and transfer them to the school on the Applicant’s behalf. In April and July, 2016, the tuition fees were paid to Ms. Roque.
28. Ms. Roque did submit the application but in January, 2017, the CIC refused the study permit for the Applicant. In February, 2017, ROC advised Ms. Roque that the Applicant did not want to pursue another study permit and requested a refund of the tuition fees that were being held in trust. In March, 2017, Ms. Roque’s licence was administratively suspended. She did not advise ROC of this. Ms. Roque told ROC that as soon as she received a refund of the tuition, she would forward the funds to ROC. Ms. Roque did not refund the monies and in early 2017, ROC contacted the school directly and was told that all tuition fees were refunded to Ms. Roque in 2016.

29. Ms. Roque told ROC that she would follow up on the tuition refund on May 17, 2017 but did not. Despite repeated attempts to contact Ms. Roque, she stopped communicating with ROC after May, 2017.
30. Ms. Roque, in her reply to the investigator, alleged that the Applicant was a difficult client and that she, Ms. Roque “may have wanted to think about accepting her case”. Ms. Roque made several unsubstantiated claims about the Applicant and/or ROC but did not directly address the allegations made against her or ROC’s account of events. We accept ROC’s statement as fact and proven.
31. The College alleges that Ms. Roque misappropriated the tuition fees paid to her in trust. The panel agrees that this is the only plausible explanation for why ROC was told by the school that the tuition fees had been refunded to Ms. Roque before the Applicant’s request for a study permit had been considered by the CIC.
32. This is a serious matter. Article 2.2.9 of the 2016 Code addresses “Professional Misconduct” which includes, in subparagraph (iv) “misappropriating or otherwise dealing dishonestly with money or property in connection with a [Licensee’s] practice”. Ms. Roque has engaged in professional misconduct in taking the monies entrusted to her for tuition and failing to return them. The College also alleges several violations that might be considered “included offences” such as a failure of the duty of honesty and candor and a breach of an obligation to comply with the 2016 Code. The finding of professional misconduct is the most specific of these allegations and is sufficient for our purposes.
33. The College also alleges that Ms. Roque failed in her duty to communicate in a timely way with her client as is required under Article 6.1.1 (iii) of the 2016 Code. The panel agrees that Ms. Roque fell short of this duty. Again, the College alleges a number of breaches of other sections of the 2016 Code but they are more general provisions. The article cited here is the most relevant. The College’s allegation that Ms. Roque was ungovernable as a result of this complaint will be considered below.

Notice of Referral #3 – Complaint CD.2017.358

34. On November 15, 2017 a complaint was filed with the College by “RSS”. On September 27, 2021, the complaint was referred to the Discipline Committee.
35. In the spring of 2015, RSS retained Ms. Roque to prepare and submit a Labour Market Impact Assessment (“LMIA”) under the Live-in-Home Caregiver Program. RSS paid \$2,500 for the work and received no receipt. Ms. Roque told RSS that the total processing time for her application was approximately 12 to 18 months. RSS did not receive a copy of the retainer agreement from Ms. Roque. Nor did she receive a copy of her LMIA application.
36. After about 12 months, starting in the spring of 2016, RSS made “numerous” attempts to contact Ms. Roque with no reply. The College provided evidence of at least 6 automated replies from Ms. Roque to emails during this time. In June, 2017, RSS contacted Ms. Roque’s agent in the Philippines and was told that the agency could only contact Ms. Roque by email. RSS continued to attempt to contact Ms. Roque and says

that in total, she called Ms. Roque approximately 20 times and emailed her 15 times. She provided a summary of her emails.

37. In October, 2017, RSS contacted Services Canada to inquire about the status of her application. She was told that no LMIA application had been filed on her behalf. RSS emailed Ms. Roque on learning this but received no reply.
38. Ms. Roque made no reply to these allegations. We accept the statement of RSS and find that Ms. Roque failed to provide RSS with a receipt for the funds paid or with the retainer agreement. Ms. Roque failed to file the LMIA application on behalf of RSS. She failed to respond to numerous voicemails and emails from RSS.
39. There are two versions of the Code that are applicable to this complaint. The 2012 Code applies to the events up to March 11, 2016 and the 2016 Code applies to events after that date. The failure of Ms. Roque to provide a copy of the retainer agreement to RSS and the failure to perform the services contracted for are governed by both Codes as each was an ongoing obligation.
40. Turning first to the 2012 Code, the College submits that Ms. Roque was in breach of several provisions of the 2012 Code. We agree that Ms. Roque was in breach of Article 3.1 of the 2012 Code, which imposes a duty to “provide immigration services honourably, and to discharge all responsibilities to Clients . . . with integrity”. By failing to perform the services she was retained to provide and failing to communicate with her client at critical times, Ms. Roque failed in this duty. Likewise, she was in breach of Article 4.1 – the duty to “maintain the integrity of the profession of immigration practice” as well as Article 4.2, the duty to “act in good faith”. Further, Ms. Roque violated Article 6.1.3 the duty to “communicate with the Client at all stages of a matter in a timely and effective way” and Article 7.1, the obligation to “be honest and candid when advising clients”.
41. The College also submits that Ms. Roque was not competent. The panel finds insufficient evidence of this. The issue is not Ms. Roque’s competence but her misconduct. The College also submits that Article 4.5 was breached in that Ms. Roque engaged in professional misconduct or conduct unbecoming a Licensee. The panel is aware that the 2016 Code defined professional misconduct more completely than the 2012 Code did. As will be seen below, the panel does not find Ms. Roque committed professional misconduct as defined in the 2016 Code and, to avoid confusion and inconsistent results, the panel does not make a finding as to whether or not Ms. Roque was guilty of professional misconduct under the 2012 Code.
42. The 2016 Code also applies because Ms. Roque’s failure to submit the LMIA application and her failure to communicate with RSS extended past March, 2016, when the new Code was enacted. The panel finds that Ms. Roque breached her duty of good faith under Article 3.1.1, and her duty to communicate “in a timely and effective way” with RSS as required under Article 6.1.1 (iii). The panel also agrees with the College’s submission that Ms. Roque is in breach of Article 14.2, the obligation to “reply promptly to any communication from the [College]. However, here again, the panel does not accept the College’s submission that Ms. Roque’s competence is the issue in this case. The panel also does not accept that Ms. Roque’s conduct rose to the level of professional

misconduct as exemplified in 2.2.9 of the 2016 Code. Ms. Roque's failure to reply to the investigator's requests for information is a violation of Article 14.2 of the 2016 Code.

43. The College also submits that Ms. Roque is in breach of two provisions of the By-Law. The first of these is section 25.8 which states, "No person shall obstruct or hinder or make a false or misleading statement either orally or in writing, to an investigator who is performing their functions". There is no doubt that Ms. Roque did not reply to the investigator's questions. But that is a passive resistance. The "obstruction" referred to in this section is a more active role and the panel finds that Ms. Roque's conduct does not rise to this level. The question of whether Ms. Roque is ungovernable under Section 28.10 of the By-Law will be considered below.

Notice of Referral #4 – Complaint 2017.378

44. On November 30 a complaint was filed with the College by someone who will be referred to as "JMM". In March, 2016, JMM signed a retainer with Ms. Roque to represent her on an application for a study permit and temporary resident visa. The fee was approximately \$2,900. The fee was paid in 2016 and receipts were given. According to JMM, in May 2016 Ms. Roque suggested that JMM could pay the tuition of \$6,459 directly to Ms. Roque who would hold it in trust and pay it to the school on her behalf. JMM made the payment in two installments in the spring and early summer of 2016.
45. In August, 2017 the CIC issued a study permit for JMM and she was admitted to the school of her choice. However, when JMM arrived in Canada in August, 2017, she learned that Ms. Roque had not forwarded her tuition to the school. Despite "numerous" attempts to contact Ms. Roque, there was no response. JMM's parents were obliged to pay the tuition a second time, this time directly to the school. The tuition paid to Ms. Roque has never been refunded. Ms. Roque made no reply to the investigation into this matter and did not participate in the hearing.
46. The panel accepts JMM's account as true and proven and finds that Ms. Roque misappropriated JMM's tuition and failed to answer emails or phone calls made to try and resolve the matter.
47. The College submits that this constitutes Professional Misconduct under Article 2.2.9 of the 2016 Code. Professional Misconduct, in Article 2.2.9 (iv) includes "misappropriating or otherwise dealing dishonestly with money or property in connection with a [Licensee's] practice". The panel finds that Ms. Roque committed professional misconduct in misappropriating JMM's tuition. It is important to note that JMM was applying from outside Canada. The professional misconduct committed by Ms. Roque left JMM newly arrived in the country and faced with the situation that the tuition that she had every right to assume had been paid had in fact taken by Ms. Roque. JMM's parents were left to pay the tuition a second time. The College submits that Ms. Roque committed other breaches of the 2016 Code in misappropriating the funds but these may be regarded as "included" in the major offence.
48. The College submits, and the panel finds, that Ms. Roque failed to communicate with her client as required by Article 6.1.1 of the 2016 Code. Ms. Roque is also in violation of Article 14.2 of the 2016 Code in failing to respond to the College investigator.

Totality of Ms. Roque's Conduct

49. In each of the four complaints, the College submits that Ms. Roque showed that she was "ungovernable" under the By-Law. Section 28.10 of the By-Law provides:

If the majority of members of a Discipline Committee hearing panel finds that a [Licensee] or RISIA is Ungovernable, including:

(a) repeated failure to respond promptly and adequately to the Council's requests for information or to respond promptly to requests for information or meetings by an investigator appointed by the Registrar or the Complaints Committee;

(b) substantial abandonment of the licensee's Clients;

(c) failure to comply promptly and fully with decision or Orders of the Discipline Committee, the Registrar Appeal Committee, the Fitness to Practice Committee;

(d) repeated offences under the By-law, RCIC Code of Professional Conduct or a Regulation; or

(e) any other repeated substantial failure or inability to comply with the Professional Conduct's obligations;

it may by order suspend or revoke the licence of the licensee.

50. The panel has considered the totality of Ms. Roque's conduct and find that it does not support a finding that Ms. Roque is ungovernable. She did make a reply to the first two complaints against her and while she did not communicate adequately, or at all at some times, with her clients, she did obtain a study permit for JMM and did submit an unsuccessful application for a study permit for ROC's sister-in-law. While it does appear that Ms. Roque substantially abandoned the other two complainants, the panel is not convinced that this conduct, while undeniably serious, supports a finding of ungovernability.

51. The panel has a broad discretion to determine what sanction should apply in this case. Under Section 69(3), of the Act:

69(3) If the Discipline Committee determines that the licensee has committed professional misconduct or was incompetent, the Committee may, in its decision,

(a) impose conditions or restrictions on the licensee's licence;

(b) suspend the licensee's licence for not more than the prescribed period or until specified conditions are met, or both;

(c) revoke the licensee's licence;

(d) require the licensee to pay a penalty of not more than the prescribed amount to the College; or

(e) take or require any other action set out in the regulations.

52. It is important to note that the “professional misconduct” referred to in subsection 69(3) is not the defined term in the 2016 Code but the meaning given in section 44 of the Act, as follows:

A licensee must meet the standards of professional conduct and competence that are established by the code of professional conduct. A licensee who fails to meet those standards commits professional misconduct or is incompetent.

In this case, the definition includes the violations of the 2012 and 2016 Code that the panel has found Ms. Roque committed.

53. Sanctions in a professional regulatory context serve three principal purposes. They serve to inform the particular licensee that his or her conduct was unacceptable. Sanctions also inform the larger population of RCIC licensees of what conduct the College considers reprehensible, and why. Finally, sanctions inform the wider public of how seriously the College takes breaches of its Code and other governing documents.

54. In considering what sanction should apply in this case, the panel is particularly concerned about the two instances in which Ms. Roque misappropriated tuition fees which had been entrusted to her. This conduct alone would have justified the revocation of her RCIC license. Added to this are the two instances in which Ms. Roque accepted a retainer from a client, failed to provide the services she had been paid for and failed to return the funds. This is serious misconduct. Finally, in each case, Ms. Roque failed to communicate with her clients leaving them without support during a time of uncertainty as they awaited the results of their visa applications. Ms. Roque’s conduct warrants the revocation of her license.

55. The College requests that Ms. Roque’s license be revoked “permanently” so that she would never be able to re-apply. The wording of section 69(3), with the distinction made between as suspension for a specified time and a revocation with no specified time, would seem to support an argument that the Discipline Committee has this jurisdiction. However, subsection 33(1) of the Act states:

On application, the Registrar must issue to an individual who, in the Registrar’s opinion, meets the eligibility requirements set out in the by-laws for the class of licence for which the individual applied, a licence of that class.

While the section is clear that it is the Registrar’s opinion which determines whether the eligibility requirements have been met, it is also clear that the Registrar must make that determination. An attempt to permanently revoke a licence would be outside the jurisdiction of the Discipline Committee. It would be an attempt to remove from the Registrar the ability to act as he or she is obliged to do under section 33.

56. The College submits that a penalty, or fine, in this case is also appropriate and proposes that Ms. Roque pay a penalty of \$10,000 for each of the four complaints against her, for a total of \$40,000. The panel agrees that a fine is appropriate. However, the panel wishes to impose a fine that bears a relationship to the harm and loss suffered by the complainants in each case. In the case of the two students whose tuition was misappropriated, a fine of \$6,500 in each case approximates the harm caused. In the

other two cases, the complainants lost the retainer they had paid and suffered the stress of being unable to communicate with Ms. Roque. A fine of \$3,500 for each of these two complaints is appropriate. Ms. Roque will pay a total fine of \$20,000 to the College.

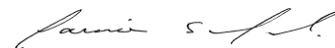
57. The College requests its costs in pursuing this matter, including investigatory, legal fees and Tribunal costs in the amount of \$18,850. These costs are authorized under Article 28.9 (h) of the By-Law. It is appropriate that Ms. Roque should bear these costs. If she were not held liable for these costs, they would have to be borne by all licensees collectively. It is particularly appropriate to allocate all these costs to Ms. Roque given her failure to defend the complaints against her or to settle the matter with the College without the need to conduct a full investigation and written hearing. Ms. Roque will pay the costs of this matter.
58. The College requested that all amounts to be charged to Ms. Roque be payable by her within 30 days of the date of this order. In view of the amounts involved, the panel believes that a 60-day payment period is appropriate.

Order

59. This panel orders the following:
- a. Ms. Roque's license as an RCIC with the College is revoked effective the date of the Order, March 17, 2022.
 - b. Ms. Roque shall pay a fine to the College through the College's Finance Department in the amount of \$3,500 in respect of each of complaint numbers CD.2017.037 and CD.2017.358 and the amount of \$6,500 for each of complaint numbers CD.2017.327 and CD.2017.378 for a total penalty of \$20,000. This penalty shall be paid within 60 days (May 16, 2022) of the date of this Order.
 - c. Ms. Roque shall pay the College's costs in this matter, in the amount of \$18,850 to the College through the College's Finance Department within 60 days (May 16, 2022) of the date of this Order.

This panel of the Discipline Committee directs the Tribunal Manager to insert the panel's electronic signatures at the end of the Discipline Committee Decision, Reasons and Order.

Discipline Committee Panel Members:



M. Laurie Sanford, Public Representative,
Chairperson



Sylvie Bertrand, RCIC



Alicia Peters, Public Representative