



# Blaneys on Immigration

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This newsletter is designed to highlight new issues of importance in immigration related law. We hope you will find it interesting, and welcome your comments.

Feel free to contact any of the lawyers who wrote or are quoted in these articles for more information, or call the head of our Immigration Law Group, Ian Epstein at 416.593.3915 or iepstein@blaney.com.

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## **CITIZENSHIP AND IMMIGRATION CANADA WARNS STAKEHOLDERS NOT TO GIVE IMMIGRATION ADVICE**

Henry J. Chang

Last year, Citizenship and Immigration Canada (“CIC”) published a notice on its website, which provided valuable guidance regarding the giving of immigration advice. It states that due to changes in Canada’s immigration law, many stakeholders are now required to be members of a prescribed regulatory body if they wish to provide immigration services to clients, including immigration advice.

According to the notice, the stakeholders affected include: (1) travel agents, (2) employment agents and recruiters, (3) human resources (“HR”) professionals, (4) educational agents, (5) adoption agencies, and (6) live-in caregivers’ agents. The notice further states that these stakeholders should not perform any of the following tasks:

- 1) They should not explain and/or advise on someone’s immigration options.
- 2) They should not guide a client on how to select the best immigration stream.
- 3) They should not complete and/or submit immigration forms on a client’s behalf.
- 4) They should not communicate with CIC or the Canada Border Services Agency on a

client’s behalf (except for the direct translation of a client’s written or spoken submissions).

- 5) They should not represent a client in an immigration application or proceeding.
- 6) They should not advertise that they can provide immigration advice for consideration.
- 7) HR personnel cannot complete application forms, such as work permits and visa applications, on behalf of workers recruited.

CIC is clearly warning stakeholders not to engage in the unauthorized practice of law. It is also of the opinion that merely advising someone on their immigration options can be considered unauthorized practice. Despite this warning, it remains to be seen whether the above stakeholders will refrain from performing these tasks in the future. ■

## **USE OF KIJIJI IN JOBS REPORT HIGHLIGHTS ITS UNRELIABILITY AS A RECRUITMENT SOURCE**

Henry J. Chang

On February 11, 2014, Finance Canada released its 54-page “Jobs Report” alongside the Federal Budget. In that report, the Canadian Government claimed that Canada’s job vacancy rate had been “increasing steadily since 2009.” However, this claim was challenged by economists, who noted



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that Statistics Canada's own figures proved it was declining.

As reported by the media, the problem related to the Canadian Government's use of data provided by a company known as Wanted Analytics, which uses software to send Web spiders across all known online job sites in order to create a database of available jobs. The Conference Board of Canada, which also uses Wanted Analytics, recently concluded that job postings from Kijiji were overly volatile and removed them as a source of job data for its own Help Wanted Index.

Officials with the Parliamentary Budget Office have also stated that the Kijiji website is so unreliable as a job site that it can single-handedly explain Finance Canada's claims. With the removal of Kijiji from the search, the steep rise in the job vacancy rate essentially disappears.

Some employers still use Kijiji and Craigslist in order to comply with the advertising requirement, which applies to Labour Market Opinion ("LMO") applications. However, the recent media attention surrounding the Jobs Report strongly suggests that such websites should not be considered reliable sources for recruitment.

During the past few months, immigration practitioners have reported that some LMO applications, which relied on Kijiji or Craigslist for recruitment, have been denied by Employment and Social Development Canada ("ESDC"). However, this rejection of Kijiji and Craigslist as a recruitment source is not being applied consistently and no formal guidance has been published by ESDC yet.

Even in the absence of formal guidance, employers that wish to advertise jobs in connection with the filing of an LMO application should avoid the use of free websites such as Kijiji or Craigslist. They should instead consider established employment websites such as [canadastop100.com](http://canadastop100.com), [vault.com](http://vault.com), [workopolis.com](http://workopolis.com), or [monster.ca](http://monster.ca); all of these websites are specifically listed on the ESDC website as examples of acceptable sources for recruitment. ■

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