



Reasons and Decision – Motifs et décision

JULIUS EHIKWE

Date(s) of Hearing	N/A	Date(s) de l'audience
Place of Hearing	TORONTO (In Chambers)	Lieu de l'audience
Date of Decision	17 December 2007	Date de la décision
Panel	Lois D. Figg	Tribunal

Introduction

[1] This decision concerns the practice of Dr. Julius Ehikwe before the Immigration and Refugee Board (IRB) and considers whether Dr. Ehikwe has breached the *Immigration and Refugee Protection Regulations* and engaged in misconduct such as to impugn the integrity of the proceedings of the IRB, and if so, what, if any, sanctions are appropriate to impose upon him.

Delegation of IRB Chairperson's Authority to make this Decision

[2] The Chairperson of the IRB is charged with protecting the integrity of the proceedings of the Board.

[3] The Chairperson of the IRB delegated his authority to the undersigned to consider this matter pursuant to a letter dated 7 August 2007¹ (disclosed to Dr. Ehikwe on 27 August 2007).

[4] The delegation letter indicates that pursuant to section 159(2) of the *Immigration and Refugee Protection Act (IRPA)*, I have authority to find facts with respect to the practice of Dr. Julius Ehikwe before the Board, as a result of allegations of charging a fee to represent claimants before the Refugee Protection Division and an appellant before the Immigration Appeal Division, in the matters of RPD case file numbers:

TA5-10217

TA5-01547

TA4-16466

TA5-11822

TA5-01676

¹ See Exhibit A

and IAD case file number:

TA4-11674

as well as

- an allegation of counselling a claimant to submit a false story as the basis for her refugee claim, in the matter of RPD case file number TA5-11822, and
- an allegation of counselling and assisting a claimant to obtain a fraudulent medical note in order to have his hearing postponed (RPD case file number TA5-01676).

[5] The Chairperson also specifically delegated his authority to take any remedial and disciplinary action, as considered appropriate.

[6] The issue of whether an Assistant Deputy Chairperson, delegated the power by the Chairperson of the IRB, has the jurisdiction to suspend an agent or representative of an individual from appearing before a Division of the IRB because of concerns regarding the agent's or representative's conduct, was dealt with in *Rezaei*.² The Federal Court–Trial Division found that section 58(4) of the former *Immigration Act*³ granted to the Chairperson the power to delegate authority to an Assistant Deputy Chairperson. Moreover, the Court found that the IRB has the inherent jurisdiction to monitor its own procedures in order to ensure integrity, and that in the absence of specific procedures laid down by statute or regulation, the IRB has the ability (through the ADC with the delegated power of the Chairperson) to suspend an agent or representative from appearing before the IRB on behalf of another person.

² *Rezaei v. Canada (Minister of Citizenship and Immigration)*, [2003] 3 F.C. 421 (T.D.).

³ 58.(4) The Chairperson may authorize any Deputy Chairperson or Assistant Deputy Chairperson of the Refugee Division or Appeal Division and any coordinating member of the Refugee Division to exercise any power or perform any duty or function of the Chairperson under this Act, other than
(a) the power to make rules under subsection 65(1),
(b) the power, duty or function in relation to the Adjudication Division, or
(c) the power to delegate under this subsection, and, if so exercised or performed, the power, duty or function shall be deemed to have been exercised or performed by the Chairperson.

[7] Since the decision in *Rezaei*, the *IRPA* has come into force on June 28, 2002, and the former *Immigration Act* was repealed. Section 159(2) of the *IRPA* has replaced section 58(4) of the former *Immigration Act*, and states:

159.(2) The Chairperson may delegate any of his or her powers under this Act to a member of the Board, other than a member of the Immigration Division, except that

(a) powers under subsection 161(1) may not be delegated;

(b) powers referred to in paragraphs (1)(a) and (i) may be delegated to the Executive Director of the Board;

(c) powers in relation to the Immigration Division may only be delegated to the Director General, directors or members of that Division.

[8] It is clear that the Chairperson has statutory power to delegate to IRB Members, other than Members of the Immigration Division, *any* of his powers, except the power to make rules as set out in section 161(1) of the *IRPA*, the power to supervise and direct the work of IRB staff, and the power to appoint and fix the remuneration of experts or persons with special knowledge to assist the Divisions of the IRB (the latter two powers can only be delegated to the Executive Director of the Board). In this case, the Chairperson delegated his general power to review allegations that, if established, could undermine the integrity of the Board's process and to take remedial action, as considered appropriate, with respect to counsel who appears at the Board, without limiting the exercise of that power to any particular Division.

[9] I find that the power of the Chairperson to delegate under the *IRPA* is at least as broad as the power to delegate conferred by the former *Immigration Act*. Consequently, I find that the decision and reasons for judgment in *Rezaei* regarding the issues of jurisdiction of the IRB to ensure the integrity of its process and delegation of the Chairperson's power continue to be applicable under the *IRPA*.

Background

[10] The *Immigration and Refugee Protection Regulations* (the *Regulations*) require that a person must be an authorized representative – a member of in good standing of a bar in any province or a member of the Canadian Society of Immigration Consultants (CSIC) – if she or he wishes to represent or advise a client with respect to matters pertaining to the IRB for a fee. Any individual may represent or advise a person with respect to their IRB proceedings on a *pro bono* (“without a fee”) basis. If a fee is to be charged, however, then the representative must be a member of a bar in good standing or a member of CSIC. This legislation is designed to protect claimants, appellants and persons concerned who typically may be vulnerable (i.e., newcomers to Canada, who may not have a support system, know the language or understand the immigration and refugee system) from incompetent or unscrupulous people.

[11] The term “authorized representative” is defined in section 2 of the *Regulations* as follows:

“authorized representative” means a member in good standing of a bar of a province, the Chambre des notaires du Québec or the Canadian Society of Immigration Consultants incorporated under Part II of the *Canada Corporations Act* on October 8, 2003.

[12] Section 13.1 of the *Regulations* states:

Subject to subsection (2), no person who is not an authorized representative may, for a fee, represent, advise or consult with a person who is the subject of a proceeding or application before the Minister, an officer or the Board.

[13] Dr. Julius Ehikwe is President of “International Investigation Agency Corporation”. He uses that designation and the letterhead of this firm in his dealings with the IRB. He frequently appears at hearings before the Board, primarily at the Refugee Protection Division (RPD), but also at the Immigration Appeal Division (IAD) and the Immigration Division.

[14] Dr. Ehikwe is not a member in good standing of a bar of any province, the Chambre des notaires du Québec or the Canadian Society of Immigration Consultants (CSIC). Consequently, he is not entitled to represent, advise or consult with a person who is the subject of a proceeding or application before the IRB for a fee.

[15] When appearing at the Board, Dr. Ehikwe has been filing the standard IRB form called “Notice of Representation Without a Fee”, on which he declares that he is not charging a fee for representing his client as counsel in the proceeding before the Board.

[16] According to the Board’s records, Dr. Ehikwe has appeared as counsel in approximately 100 matters since the coming into force of section 13.1 of the *Regulations* on April 13, 2004, on a “without a fee” basis.

[17] In six cases it has been alleged by claimants or appellants that Dr. Ehikwe is taking payment for his services for representing them in their proceedings before the Board. In two of those cases, the Board has received additional allegations that Dr. Ehikwe has counselled a claimant to put forward a false claim and counselled another claimant to obtain a medical certificate under false pretences.

[18] These allegations have been brought to the attention of Dr. Ehikwe by the IRB Regional Director of the Central Region of the Board, by letters dated December 19, 2006⁴ and March 6, 2007⁵ and a further letter from the undersigned in her capacity as Assistant Deputy Chairperson on 8 August 2007.⁶ Dr. Ehikwe has replied to these allegations by letters dated January 4, 2007,⁷ March 13, 2007⁸ and 27 August 2007⁹ respectively, in which he denied any improper conduct.

⁴ See Exhibit B
⁵ See Exhibit C
⁶ See Exhibit D
⁷ See Exhibit E
⁸ See Exhibit F
⁹ See Exhibit G

[19] Pursuant to the above referenced letter from the undersigned to Dr. Ehikwe dated 8 August 2007, Dr. Ehikwe was offered the opportunity to provide evidence and make representations at an oral hearing. He did not respond to that offer. Consequently, this decision is based on the evidence the IRB has received from the clients of Dr. Ehikwe and the written representations and other documents proffered by Dr. Ehikwe.

Allegations and Findings

[20] The material particulars of these six cases, and Dr. Ehikwe's response to them, and my findings are set out below.

TA4-16466 – 8 June 2005

[21] In RPD case file no. TA4-16466, heard by Member Ken Sandhu on 8 June 2005, the claimant stated on the record, in front of Dr. Ehikwe, that she had paid Dr. Ehikwe to represent her at the hearing of her claim. The transcript of these proceedings reads in part as follows (with emphases added)

Member: We are just getting started with this case ... I asked the claimant is [sic] she was paying for her services and I'm going to, on the record, ask her one more time.

Miss, are you paying for your services to the counsel, for the services that he's rendering here?

Claimant: Do I pay the government?

Member: No, not the government but the counsel?

Counsel for the Claimant: That's me.

Member: Yes.

Claimant: If I'm paying him money?

Member: Yes.

Claimant: Yes, sir.

Member: Okay. And what are you paying him for? Do you know? What is he supposed to do for that money?

Claimant: To represent me.

Member: To represent you, okay. All right.

Now, counsel, do you have anything to say about it?

Counsel for the Claimant: Yes. What she gives me some money and we give money to – we give that donation, not that we charge per month. **She's made it as a donation to our office and we give her a receipt of what she gives.** Not that we charge like this is the amount you are going to pay us. She said – she came and said whatever she has paid, she was satisfied with it for what they did and said it was a donation. So there is a difference between the money she paid or whether we charge her money to pay us. She voluntarily gave the money that she was satisfied with what we are doing and gave us the money. The money she gave us was a donation to us, not actually what's charged and say this is the cost of doing this case for her. We didn't do that. We never said that and start to pay us but **she brought money and said she was [sic] with what we are doing and we give her receipts** and that money was taken as a donation, not that we try to have the money to do that for her, sir.

Member: Mr. Henderson, what re your thoughts on this?

Refugee Protection Officer: Well, whatever the counsel may say, the claimant seems to be under the impression that she's paying for this service and whether one wants to get in the semantics and call it a donation or a payment I think is to undermine the principle of the legislation which is that people are not members of CSIC or counsel should not be representing claimants.

Member: So what options do we have?

Refugee Protection Officer: Well, if the Panel decides that the claimant is paying for the representation, then my understanding is that counsel would not be allowed to participate in the hearing and we discuss with the claimant what she wants to do after that.

Member: Okay. What I have been told clearly is that you have paid to have representation. The counsel is saying that this is a donation of some sort. No matter what, I determine that you have paid the counsel for representation. I accept your word on it and what that means is that counsel cannot represent you today.

...

Refugee Hearing Officer: All I can say is you might want to – well, I don't know what your financial situation is either.

Claimant: I don't have any money.

...

Member: Dr. Ehikwe?

Counsel for the Claimant: Yes, sir.

...

Member: Yeah. Okay. We have discussed the matter with the claimant and we are convinced that this is a situation in which money is being paid.

Counsel for the Claimant: And therefore, I am not able to allow you to stay and represent her.

Counsel for the Claimant: Okay.

[22] The Board's record includes a partial transcript of the proceedings with the relevant exchange.

[23] Dr. Ehikwe provided the following response to this allegation in his letter of January 4, 2007 (reproduced in part):

TA4-16466 was a client whose uncle introduced to our office. The Refugee claimant with TA4-18603 received a letter dated 13th June 2005 in which the Refugee Board encouraged her to make a submission against me for receiving a fee. A copy of that letter is enclosed as exhibit A1. Incidentally, TA4-16466 and TA4-18603 were friends and both had discussed and planned to report to the Board that I received a fee in order to be granted Conventional Refugee status as promised by some Board members. It was a pre-planned confession of fee payment that was not a reality, but a way of achieving their immigration goal.

The claimant TA4-16466 did not say when and to whom money was paid. Was the money paid before or arriving in Canada? The same claimant did not say how much money was paid, nor did she produce the receipt of any fee payment to or from my office. This case was a calculated conspiracy, and did not have any evidence to support the allegation of fee payment. The Panel did not ask any question regarding the amount of money paid and when it was paid. The Panel did not ask any question about the receipt issued for the fee. The Panel was biased in its line of questioning about fee payment. ...

[24] I find that at the hearing Dr. Ehikwe admitted that the claimant gave him money as payment for services provided to her, for which receipts were issued. Despite his characterization of those payments as a “donation,” I agree with Member’s ruling that this arrangement involved a fee. The claimant understood this to be payment for services rendered in relation to her refugee claim.

[25] I note that the letter from the IRB submitted by Dr. Ehikwe does not, on its face, encourage the addressee to denounce Dr. Ehikwe, as suggested in his submission. Moreover, it postdates the hearing of TA4-16466 at which the RPD member initiated questioning on the matter of payment of a fee.

[26] Finally, Dr. Ehikwe presented no evidence of collusion between these two claimants, allegedly at the instigation of the Board, to obtain refugee status. I further find that there is no evidence of bias on the part of the member.

[27] In conclusion, I find that this claimant paid a sum of money to Dr. Ehikwe or his firm and that this payment was a fee for Dr. Ehikwe’s services in relation to a proceeding before the Board.

TA4-11674 – 19 April 2006

[28] In case file no. TA4-11674 before the Immigration Appeal Division, heard by Member E. Sangmuah on April 19, 2006, the appellant stated that he would give Dr. Ehikwe an “incentive”

for assisting him with his appeal. The panel ruled that this arrangement involves a fee – consideration for representation – and removed Dr. Ehikwe as counsel of record. The transcript of the hearing reads in part as follows (with emphases added):

Member: The appellant is present, and counsel of record is, Dr. Julius Ehikwe ...

Sir, I have a few questions for you and I will put you under oath.

...

Member: How do you know Dr. Ehikwe?

Appellant: I was, h'm, I was informed by a friend, right, that he could actually, m'hm, guide me during the – during the, or the counsel, during the appeal.

Member: ... And what arrangements do you have with him?

Appellant: Well, he told me he would have sit as a representative for me, right, for the fact that there is legal ramification which I thought we cannot, I would not know, right; therefore, he could have act, he could have act as a counsel, sort of speak.

Member: Okay.

Now, are you going to pay him for guiding you?

Appellant: Well, okay, I tell him that, it was just a verbal, sort of verbal agreement, based on how much time you – he would have to put inside, I told him I probably would have given him some incentive, for his time.

Member: Okay.

The problem – you may not be aware of the situation, but, in order for anybody to guide somebody through a hearing, here, they have to be a lawyer or a registered consultant, okay? –

Appellant: Is the –

Member: – Dr. Ehikwe is not a registered consultant.

In the olden days, days before the rules came – the registration rules came into force, he used to come here from time to time.

But now, he cannot charge you a fee, and represent you.

So, whether you pay the fee to him, before or after, it doesn't matter. He can't appear here, under those circumstances.

[29] Subsequently, the Member issued written reasons for the decision to remove Dr. Julius Ehikwe as counsel of record, in which he stated in part:

[6] ... The appellant testified under oath that he arranged with Dr. Ehikwe to give him an "incentive" for his efforts after the appeal is heard. In the panel's opinion, this arrangement involves a fee, consideration for representation, and violates section 13.1 of the IRP Regulations. Accordingly, the panel removed Dr. Ehikwe as counsel of record in this case. The panel was not present to challenge the appellant's testimony. If he wishes to consent this ruling he can apply to the IAD to reinstate him as counsel of record.

[30] Later, on 26 July 26 2006, Dr. Ehikwe brought an application challenging that decision; however, he did not attend the scheduled hearing to argue the matter.

[31] The Board's record includes the following documents: a "Notice of Representation Without a Fee" form signed by Dr. Ehikwe, a transcript of the proceedings with the relevant exchange, and the decision of the Member on this issue (with correction).

[32] Dr. Ehikwe provided the following response to this allegation in his letter of January 4, 2007:

I will stand by the defence submitted on July 26, 2006 as exhibit A7.

[33] In that document (a submission from Dr. Ehikwe in response to the decision of the IAD Member to remove him as counsel), Dr. Ehikwe further stated in part:

The Panel concluded that Dr. Ehikwe was representing the appellant for a fee because the appellant testified that he would give Dr. Ehikwe an "incentive" which he accepted. The Panel has totally misconstrued "Incentive" as a fee. Encouragement to continue to do free good job is "incentive". Praying and asking

God to bless an individual, for a free work done is an “incentive”. The Panel has failed to clear from the appellant what incentive he agreed to offer.

The Panel has failed to take full cognizance of what constitutes a contract under the law. In this “incentive” theory, the panel did not clear what is “contract negotiation”, offer and acceptance, and consequently its decision should be overturned. As the panel stated that Dr. Anthony Ehikwe will accept incentive from the appellant, Dr. Julius Ehikwe who is the counsel on record never negotiated and kind of “incentive”.

[34] I find that at the hearing the appellant stated that Dr. Ehikwe agreed to represent him in his case before the Board. When asked by the Member whether he would be paying Dr. Ehikwe for his services, the appellant stated that he had a “sort of verbal agreement” whereby he would provide an “incentive” to Dr. Ehikwe based on the amount of time Dr. Ehikwe spent on the appellant’s case.

[35] I find that, on a balance of probabilities, the appellant’s response indicates that some sort of material compensation would be paid for Dr. Ehikwe’s services. The fact that payment was to be made at a later time, and that there was no formal written contract, does not alter the nature of the arrangement. I agree with the Member’s ruling that this arrangement involved a fee, “consideration for representation.”

[36] In conclusion, I find that this claimant was to pay a sum of money to Dr. Ehikwe or his firm and that this payment was a fee for Dr. Ehikwe’s services in relation to a proceeding before the Board.

TA5-01547 – 16 March 2006

[37] In RPD case file no. TA5-01547, heard by Member Veda Rangan on 16 March 2006, the claimant stated on the record, in front of Dr. Ehikwe, that he had paid Dr. Ehikwe \$500 to represent him at the hearing of his claim. He presented a receipt confirming payment of \$500 to International Investigation Agency. The transcript of these proceedings reads in part as follows (with emphases added):

Member: Sir, would you please stand up, raise your right hand. Do you solemnly affirm that the evidence to be given by you shall be the truth, the whole truth and nothing but the truth?

Claimant: Yes.

...

Member: Sir, before I go into the merits of the claim I just need something clarified. Have you at any time paid the counsel to represent you?

Claimant: No.

Presiding Member: I have here on file a receipt for \$500 received by International Investigation Agency.

Claimant: Yeah, that's just a fee, \$500 dollar fee.

Presiding Member: Yeah, that's a fee. Just one second, Counsel. What was the fee paid for?

Claimant: Just to represent me.

Presiding Member: To represent you. So Counsel, you have no business to collect money from any claimant. What is your answer to that?

Counsel: No, what happened he made a donation to us. Not that it's the fee. He was not trying to say pay us. **He paid and made the donation of \$500 dollar and we gave it to him.** He did not say – I do not charge him; there was no contracts, 10 percent fee (inaudible).

Presiding Member: A donation for what? You are not a charitable organization to receive a donation.

Counsel: No, I have rights, Madam.

Presiding Member: What was the reason for your donation, sir?

Claimant: He just asked for a fee to us.

Presiding Member: Okay. He asked for your fee and you paid him?

Counsel: I never asked you for a fee.

Claimant: Asked for a donation, a donation, sorry donation.

...

Presiding Member: Okay. You just told me three times that it was a fee. I have a role here to make sure that everything is okay before I even proceed. There are certain rules to be followed, okay? I have nothing against this counsel personally but there are certain rules to be followed and the rule is if he doesn't have membership in a particular council, in an organization, he is not allowed to charge a fee. And you specifically stated that he charged you, you paid a fee of \$500 to the counsel. Three times. Why would you, a refugee claimant who is on assistance pay \$500 donation to an agency? He is not running a charity. He is running a business. Do you understand that?

Claimant: Yeah.

Presiding Member: So did you pay a fee or not?

Claimant: No.

Presiding Member: So what is this money about?

Claimant: Donation.

Presiding Member: For what?

Claimant: I don't know.

Presiding Member: A donation for what? You don't know what the donation is for?

Claimant: Probably to represent me.

Presiding Member: Okay. Counsel, I am going to ask you to excuse yourself from this claim.

Counsel: Thank you.

[38] The Board's record includes a "Notice of Representation Without a Fee" signed by Dr. Ehikwe, a copy of a receipt issued to the claimant by International Investigation Agency, and a partial transcript of the proceedings with the relevant exchange.

[39] Dr. Ehikwe provided the following response to this allegation in his letter of January 4, 2007 (reproduced with omissions):

He was also introduced to my office for free work by ... a friend of his from Jamaica that was granted Convention Refugee in Canada. ... TA5-05147 concealed his criminal convictions in the United States of America and did not tell the truth about himself. He did not pay us any money neither did he promise to pay us thereafter. ... TA5-01547 was arrested and charged in Toronto for illegal drugs dealing and from his fingerprints, his criminal record was discovered.

However, when [the claimant's] record was disclosed to me, I decided to withdraw as a counsel before the hearing started, but the Refugee Panel decided to talk about a copy of a receipt for \$500 found in the client's file purported to have been issued in our office.

The Issue: I explained that if the receipt was issued from our office, it must be a donation, not a payment as a fee. ...

The Error of the Panel: As stated, the Panel did not present the photocopy of the receipt to the Refugee claimant to be identified if it was received from our office in respect of payment he made. The Panel also did not show or present the receipt to me in order to confirm whether the receipt originated from our office, rather, the Panel concluded in an error that the receipt was from our office and concluded that it was a fee payment.

Analytical exposition of the receipt:

The receipt has no origin from our office and it has been tainted with serious errors. The receipt was not signed by any person as the receiver. The receipt has no official seal or stamp. The name International Investigation Agency Corp. was written with ordinary pen and that was not Helen's (our accountant) writing, not even Dorothy's (our secretary). There is a conspiracy theory as some people manufactured these receipts for the purpose of implicating me and our business.

...

TA5-01547 was not a credible witness and the same Board found that his evidence was tainted with errors. If the Board is accepting part of the evidence of a liar, for the purpose of rendering negative decision in this case, such negative decision will be overturned.

[40] I find that this claimant paid Dr. Ehikwe the sum of \$500, and that the claimant understood this to be payment for services rendered in relation to the refugee claim. I note that

Dr. Ehiwke's subsequent explanation contradicts what he stated at the hearing regarding said payment and the issuance of the receipt. At the hearing Dr. Ehikwe stated: "He paid and made the donation of \$500 dollar and we gave it to him."

[41] I further note that the authenticity of the receipt was not questioned at the hearing by Dr. Ehikwe; in fact, he confirmed that a receipt had been issued to the claimant. Moreover, that receipt is in the same form and the handwriting is strikingly similar to two receipts presented by another claimant in file TA5-11822.

[42] I find no evidence of collusion on the part of these two claimants.

[43] Despite Dr. Ehikwe's characterization of these payments as a donation, I agree with the Member's ruling that this arrangement involved a fee. The claimant understood this to be payment for services rendered in relation to her refugee claim. The receipt issued by Dr. Ehikwe's firm does not indicate it was issued for a donation.

[44] In conclusion, I find that this claimant paid a sum of money to Dr. Ehikwe or his firm and that this payment was a fee for Dr. Ehikwe's services in relation to a proceeding before the Board.

TA5-10217 – 7 June 2006

[45] In RPD case file no. TA5-10217, heard by Member Veda Rangan on 7 June 2006, the claimant stated on the record, in front of Dr. Ehikwe, that he had paid Dr. Ehikwe \$1,000 to help him with his claim before the Board. The transcript of these proceedings reads in part as follows (with emphases added):

Presiding Member: Sir, would you please stand up, raise your right hand? Do you solemnly affirm that the evidence to be given by you shall be the truth, the whole truth and nothing but the truth.

Claimant: yes.

...

Presiding Member: Sir, Dr. Ehikwe is your counsel?

Claimant: Yes, ma'am.

Presiding Member: And how much did you pay him?

Claimant: A thousand dollars.

Presiding Member: Thousand dollars. And what did you pay the thousand dollars for?

Claimant: Just to help me fill out the application.

Presiding Member: For the hearing? Your counsel here, the gentleman here is not allowed to receive any fee because he is not a member of a council (sic). Sir, I would like you to leave the room please?

Counsel: Okay.

Presiding Member: Thank you. I am just going off the record until he goes out. We are back on the record. Sir, Dr. Ehikwe and people, consultants like him have to belong to a certain group, an association and that association authorizes them to come before the IRB representing the claimants. If they don't have a membership in that group then they cannot represent – take money and represent you, they are not allowed to take money but they are allowed to come and represent you pro bono, which means for free.

In your particular case you told me that you have paid a thousand dollars to help you with your claim before the IRB. Am I right in that, sir?

Claimant: Yes.

[46] The Board's record includes a "Notice of Representation Without a Fee" signed by Dr. Ehikwe and a partial transcript of the proceedings with the relevant exchange.

[47] Dr. Ehikwe provided the following response to this allegation in his letter of January 4, 2007 (reproduced with omissions):

His uncle, the owner of K & J Auto Collision in Pickering introduced him [i.e., the claimant] to me. The uncle of TA5-10217 has been a long time business customer of our. Sometimes, he sends money through his nephew, TA5-10217 to us for payment of truck rental. Such money has nothing to do with Immigration fees and if TA5-12017 misconstrued such money given to him for us, as payment for his Refugee case, is very unfortunate and a misconception on his part.

TA5-10217 was a confused witness and was found not to be credible by the panel of the Board. TA5-10217 could not say what date or time he made the payment and which worker received the money. TA5-10217 did not produce any receipt as evidence of his payment and the totality of his evidence was unbelievable. I am urging the Refugee Board not to take any action against my uncontradicted evidence.

[48] I find that the claimant did not appear to be confused about the amount he said he paid to Dr. Ehikwe and that payment was for services with respect to his matter before the Board. While the claimant did not provide a receipt for the payment, he was not asked to do so. In turn, Dr. Ehikwe provided no record to substantiate that the payment was for a truck rental. I note that Dr. Ehikwe did not speak up at the hearing to correct the alleged misinformation which was given in his presence.

[49] In conclusion, I find that this claimant paid a sum of money to Dr. Ehikwe or his firm and that this payment was a fee for Dr. Ehikwe's services in relation to a proceeding before the Board.

TA5-11822 – 18 July 2006

[50] In RPD case file no. TA5-11822, heard by Member Suparna Ghosh on 18 July 2006, the claimant stated on the record that that she had paid Dr. Ehikwe \$2,500 of the \$5,000 he had asked for to represent her at the hearing of her claim. She presented three receipts confirming payment of \$1,400 to International Investigation Agency. She alleges she was told by Dr. Ehikwe to sign a form stating that she was not paying him.

[51] The claimant also alleges that Dr. Ehikwe counselled her to submit a claim based on persecution by reason of her sexual orientation as a lesbian. The claimant later withdrew that

story as being untrue and submitted a new narrative to her Personal Information Form (PIF) in which she stated in part:

My previous Counsel Julius Ehikwe (Int'l Investigations) coached me into telling Immigration that I was a "lesbian" running from persecution. However, my new Counsel ... advised me that it is both illegal and dishonest to mislead the Immigration. Therefore, I wished to tell the truth.

...

When I seek Immigration with the help of Julius Ehikwe, he convinced me that I should submit a refugee claim that I was persecuted for being a "lesbian". Furthermore, he advised me to join lesbian group and to be photographed with women to make my story look legitimate.

I was quite uncomfortable with the advice of Ehikwe and seek counselling ... referred me to ... for further advice. ... advised me that it is illegal and wrong to mislead the Immigration Authority. He also advised me that I will be asked to testify under oath before the Board to the information that was written in the PIF.

Upon ... advised, I decided to come clean and explain the facts the way it happened. Here is my story. ...

[52] The transcript of the hearing held on July 18, 2006 before Member Ghosh reads in part as follows (with emphases added):

Member: Ma'am, would you like to swear on a Holy Book of your choice, which you should have brought with you, otherwise I'll have you affirm?

Claimant: I'll do affirm, Ma'am.

Member: Please stand, and please raise your right hand.

Do you affirm the evidence to be given by you shall be the truth, and the whole truth.

Claimant: I do so affirm that everything that I shall give shall be the truth, and the whole truth.

...

BY REFUGEE PROTECTION OFFICER TO CLAIMANT:

Q: How did you first come to have contact with Mr. Ahiquay (sic)?

A: By a friend I meet at church.

...

Q: And when you went to him what did you ask from him; what did you want him to do for you?

A: I told him that I would like to ask him if – I would like to straighten out my – I want to get my – stay here, and I told him about my mother’s sickness, and so forth.

Q: Okay, so you told him that you wanted legal status in Canada?

A: Yeah.

...

Q: Okay, and what did he suggest to you?

A: He told me that, you know, if you’re going to write the story they will not – they will not believe you. They would say because you want to stay here, so you have to do a refugee – a refugee claim.

...

Q: Whose idea was it to say that you’re a lesbian?

A: He told me – he told me to say that I am a lesbian because it will get me through that (inaudible).

Q: Okay. So he – I want to make sure I understand what you’re saying. My Ahiquay said to you, “If you tell them you’re a lesbian you’ll get into Canada”; is that what he said to you?

A: Well yes, because he said at that time, “I want to get you – going through the process I would want to go to – he said I have to go through refugee.

Q: Okay, and he – how much did he charge you?

A: He said, "I want \$5,000 dollars".

Member: How much, \$5,000.?

Claimant: Five-thousand dollars, he said that's what the fee, but I paid him – but I gave him \$2,400.

Q: Okay, and did he give you any receipts?

A: Yeah, I have receipts.

Q: Do you have them with you?

A: Yes.

...

Q: Can we see the receipts?

...

BY REFUGEE PROTECTION OFFICER TO CLAIMANT cont'd:

Q: Okay, so you've given me three receipts; can you tell me who wrote out these receipts?

A: I think it was his secretary at his office.

...

Q: Now he – he had you sign a – did he have you sign a paper where you said you were not paying him fees?

A: Yes.

Q: And what did he tell you about this paper?

A: He told me that it – he told me that, you know, -- yes, he said – he said, "You know, these people don't – they (inaudible) don't pay me", so I have to sign.

...

Q: Okay, did he tell you – now you were paying him money, but you signed a paper that says you weren't paying him money; did you question him about that?

A: No, I was afraid, I didn't say anything. I was so scared I didn't say anything.

...

Q: Okay, and when did you decide that you no longer wanted to work with him?

A: I never feel comfort – from the beginning I started I didn't feel comfortable with hi (sic), from the very start I did not feel comfortable, but I was afraid of the (inaudible).

...

Q: Okay, so when did you decide to stop working with him; when did you decide to stop working with him?

A: I decided to stop working with him about from in October.

Q: Okay, and what happened in October to change your mind about working with him?

A: I was still worried and I don't know where to turn, and I meet ... a church lady from ... Church (phonetic).

Q: Okay.

A: And I begun to tell her my story.

Q: Right.

A: And she introduced me to ...

[53] The Board's record includes the following documents: a "Notice of Representation Without a Fee" form signed by Dr. Ehikwe, copies of three receipts issued to the claimant by International Investigation Agency, the original PIF narrative submitted by Dr. Ehikwe, a portion of the revised PIF narrative dated November 29, 2005, and a partial transcript of the proceedings with the relevant exchange.

[54] Dr. Ehikwe provided the following response to this allegation in his letter of January 4, 2007 (reproduced in part):

RPD file no. TA5-11822 came to our office for immigration help with a friend who was known to us. It is true that the former client signed “No Fee Counsel Form” keeping in mind that the work is free. This particular client was a Jamaican Government official and she read clearly what she was signing. This client is a manufacturer of cases to suit her situations. Nobody assisted her to tell any story. This Refugee claimant went to CIC Etobicoke and had a private interview with Canada Immigration officer and she chose to tell a story about her sexual orientation and problem. She had an ample opportunity to tell the whole truth to the Immigration officer, but she decided to lie. The document to support the interview with the Immigration officer at Etobicoke CIC is hereby enclosed as exhibit A5.

In every situation, this applicant would manufacture a new story. The applicant applied for visitor’s visa, she told a different story, she met me as a no-fee counsel, she told a different story, she went to Etobicoke CIC, she had her own story to tell and she met a new immigration counsel, she manufactured a new story. The narrative attached in the Board’s document is a complete make up of this Refugee applicant and nobody advised her to choose what she wrote or what she narrated at Etobicoke Immigration. Nobody received any money officially from this Refugee applicant. The receipts she produced have no connection with our business and they have no legal backing. The applicant was unable to identify who she paid the money to and who issued those said receipts. I was overseas when the said receipts were issued and I have enclosed the used tickets as documentary evidence marked as exhibit A6. At a time, the Refugee applicant said she paid to one man and our accountant is a woman and does not issue that type of receipts. The evidence of this applicant TA5-11822 is highly tainted with errors. ...

[55] I find that the receipts presented by this claimant are in the same form and the handwriting on two of them is strikingly similar to that on the receipt presented by another claimant in file TA5-01547. The authenticity of that receipt was not questioned by Dr. Ehikwe at the hearing of that claim; in fact, he confirmed that a receipt had been issued to that claimant.

[56] The only question on this issue is whether the money paid constituted a fee or a “donation” to the firm. I find that it was a fee for Dr. Ehikwe’s services. I find that the claimant paid over sums of money to Dr. Ehikwe or his firm for services provided in putting forward a claim to the Board.

[57] With respect to the allegation of counselling the claimant to submit a false story as the basis for her refugee claim, I note Dr. Ehiwke's argument that the claimant is, in effect, untrustworthy because she has proffered different versions of her story and that she alone, prior to his involvement with her, chose to proffer an untrue story to CIC. The evidence shows, however, that at the time of the claimant's interview (Inperson Refugee Intake) at CIC Etobicoke, as indicated by the Record of Examination, the claimant had already engaged Dr. Ehiwke as her counsel (see exhibit E, p.18). I further note that the same story was advanced in the Personal Information Form prepared and submitted to the IRB by Dr. Ehiwke's office.

[58] I find on a balance of probabilities, based on the available evidence, that Dr. Ehiwke did counsel the claimant in this case to proffer a false story to support a refugee claim. I prefer the claimant's explanation of the circumstances in which the misrepresentation occurred which I find to be more plausible than Dr. Ehiwke's outright denial. I note that Dr. Ehiwke made other outright denials in this case and that his credibility is tainted: he said the receipts the claimant presented to the IRB were not issued by his firm when, in all likelihood, they were, thus undermining his declaration that he was not charging a fee.

TA5-01676

[59] In RPD case file no. TA5-01676 the claimant launched a complaint with the Toronto Police alleging that Dr. Ehiwke demanded \$5,000 to represent him before the Board. He alleged that he paid Dr. Ehiwke \$1,700 in installments, as evidenced by six numbered receipts. He also alleged that Dr. Ehiwke arranged for a fraudulent medical note for the claimant in order to have his hearing postponed. The History and Synopsis in the Occurrence Report of the Criminal Investigative Bureau, Toronto Police Service states in part:

The reportee ... came to Canada as a tourist in 2003. In Jan 2005 the reportee applied for refugee status. He got a card from a friend also applying for refugee status. The reportee contacted Dr. Julius EHIKWE for his legal counsel. The business card of Dr. Julius states the following:

International Investigation agency.
BA, MA, PhD, ADR Law (University of Windsor),
Commissioner for oaths, LLM Scholar (Fairfax).
Investigativeagency@rogers.com

...

On January 15 2005 [the reportee] went to the office of Dr. Julius to hire him to be his legal representative in his application for refugee and permanent status. Dr. Julius told [the complainant] that he would require \$ 5000.00 to do all the above. Payment would be in \$ 500.00 installments, but an agreement was reached where [the reportee] would pay in \$ 200 -300 installments when he would have the money.

...

On June 9/ 05 [the reportee] was scheduled for a hearing. At Dr. Julius's office, he told [the complainant] that the judge that day "was not a friend of his" and so he would postpone the hearing. Dr. Julius then took [the reportee] to the Pape Medical Centre at 1081 Pape Ave. There he saw Dr. ... who gave [the complainant] a note saying he was sick with a fever and needed 4 days rest. The hearing was then postponed to Oct 25/05. [The reportee] advised that he was not sick and willing to attend that hearing.

... A signed statement was taken by the author pages 70-75. [The reportee] advises that he is unsure if he is willing to attend court as he fears for his life. [The reportee] has paid out \$ 1700.00 so far in the following installments with receipts as follows:

- Jan 18/05 \$ 200.00 receipt # 1140
- Feb 08/05 \$ 200.00 # 1202
- April 19/05 \$ 200.00 #13330
- May 27/05 \$ 600.00 # 1399
- June 9/05 \$ 200.00 # 1431
- June 25/05 \$300.00 # 1164

[60] The Board's record includes: an Occurrence Report (#761521) from the Criminal Investigate Bureau, Toronto Police Service, a "Notice of Representation Without a Fee" form signed by Dr. Ehikwe, and a note from Pape Medical Centre dated June 9, 2005.

[61] Dr. Ehikwe provided the following response to this allegation in his letter of March 13, 2007 (reproduced in part):

I deny the frivolous allegation made by this tourist/former refugee claimant that he was asked to pay the sum of five thousand dollars to pursue a refugee case for him. The claimant is an educate Filipino who can read and write. He signed “Notice of Representation without a fee”, thereby contradicting what he signed as “No Fee”. The claimant did not show the Board or the police any invoice indicating an offer and acceptance for the stated amount or any amount. The same claimant has not proved that the amount he said he paid was for processing his refugee case, taking cognizance of the fact that he signed “No Fee”.

...

I did not assist or procure any fraudulent medical note for this refugee claimant. The claimant reported to us that he was ill and could not be present at the hearing. He was then advised to see a medical doctor, as only word of mouth will not be an excuse for his absence from the hearing. This he did voluntarily and freely. I believe that a competent doctor checked him without any body representing him from our office. Whatever transpired between the claimant and his doctor remains private, confidential and best known to them.

[62] In a submission dated 27 August 2007, Dr. Ehikwe states that the IRB has “indicted” him of the offence of fraud and argues that he should be presumed innocent until proven guilty and points out that the matter is still under police investigation.

[63] I find that the claimant initiated this complaint with the Toronto Police and provided them with details of payments made to Dr. Ehikwe’s firm and particulars of receipts issued for those payments. The claimant’s allegation in this regard is consistent with other such allegations received by the Board from several other persons independently and which have been established to my satisfaction.

[64] In conclusion, I find that this claimant paid sums of money to Dr. Ehikwe or his firm and that these payments were a fee for Dr. Ehikwe’s services in relation to a proceeding before the Board.

[65] With respect to the allegation of Dr. Ehikwe arranging for the claimant to procure a false medical note, I find that allegation made by the claimant to the police is not substantiated by any other evidence. The copy of the medical note appears genuine and there is no other evidence to indicate that either the doctor involved was acting unethically or that Dr. Ehiwke was materially involved in obtaining a fraudulent medical certificate. Since the medical note specifies that the claimant had a fever – not just complained of feeling unwell – the doctor would have to have been directly (rather than unwittingly) involved in perpetrating a fraud. There is no evidence of this, barring the untested statements made by the claimant to the police. The claimant did not attend a hearing at the IRB on the pretext of being ill, and has never made a direct complaint to the IRB about Dr. Ehikwe or the physician in question. Under the circumstances, I find that this allegation has not been satisfactorily established.

Further Findings and Analysis

[66] In addition to the above findings I have made with respect to the six specific cases outlined above, I also considered the following factors in determining the issues before the Board:

[67] The cumulative impact of statements made by at least five clients independently, that they paid Dr. Ehikwe for his services, and that they understood these payments to be compensation for representing or assisting them with their proceedings before the Board.

[68] I note that John A. Yogis' *Canadian Law Dictionary* defines "fee" as "a reward or recompense for services rendered". *Black's Law Dictionary* (6th ed.) gives as one of its meanings:

A recompense for an official or professional service or a charge or emolument or compensation for a particular act or service

[69] Dr. Ehikwe's characterization of these transactions as "donations," rather than fees, is not persuasive absent any cogent business records to counter his clients' understanding that the payments were compensation for his services.

[70] The high volume of cases, approximately 100 since April 2004, that Dr. Ehikwe has appeared on at the Board, allegedly for no fee, is indicative of operating a business.

[71] In addition to the specific responses Dr. Ehiwke has made regarding the specific cases above , he has further argued in his submission dated 27 August 2007 that he has not committed any offence and that:

The allegations made against me by failed refugee claimants are frivolous and politically motivated. I respect the rule of law. The Refugee Board has taken absolute cognizance of the fact that the political party change that I made from Liberal party to Conservative party in 2005 has been the genesis of this victimization.

...

It is also rumouring that the Refugee Board in Toronto is trying to indict me of criminal offence and proceed with a deportation even though I am a Canadian citizen.

[72] I find the Dr. Ehikwe's assertion that the IRB is bringing forth these allegations because of his membership in a major political party in Canada and that the IRB is trying to indict him of a criminal offence and deport him to be devoid of any foundation in fact. Dr. Ehikwe provided no evidence to support his claim that these proceedings are politically motivated or that persons at the Board or within the government are conspiring against him.

[73] Dr. Ehikwe attached to his submission several appendices (see Exhibit G) which included:

- a Liberal Party of Canada (Ontario) membership card
- several documents concerning Chris Jon Shwaba (his IRB decision, a Federal Court decision, a Citizenship and Immigration Canada (CIC) letter, and a print-out of CIC client applications screen status)
- a telex from the United Nations Centre for Human Settlements dated 18 May 1995
- a copy of a GST rebate cheque made out to International Investigation Agency Corp

- 3 copies of on Ontario plate registration for a vehicle
- a purchase agreement for a vehicle
- a copy of a commercial vehicle operators registration certificate
- a letter from His Royal Highness OBI GODWIN NZEMEKE, the Obi of Ejeme Kingdom

[74] I find that all of these attachments are not relevant and do not directly address the allegations at hand.

Decision

[75] Given the evidence I find that Dr. Julius Ehikwe has represented and assisted the above referenced claimants and appellant in the six specific cases for a fee, contrary to the *Regulations*. Moreover, in doing so, he misrepresented his status before the Board as a *pro bono* counsel. I further find, based on the evidence, that Dr. Julius Ehikwe counselled a claimant to submit a false story as the basis for her refugee claim. These actions have impugned the integrity of the IRB process and also had the potential to jeopardize the individuals he misled concerning his standing to assist them with their proceedings before the Board.

Sanctions

[76] While provincial law societies and the CSIC are in place to deal with complaints and misconduct regarding legal counsel and member consultants that they regulate, an individual like Dr. Ehikwe, belonging to no professional organization, must be dealt with by the tribunal itself, when his conduct is such that the integrity of the Board's process and the proper administration of justice are jeopardized.

[77] In determining an appropriate sanction, having regard to the seriousness of Dr. Ehikwe's misconduct, I have reviewed the IAD decisions in *Rezaei*¹⁰ and in *Varano*.¹¹ I have considered factors such as whether the conduct of counsel was deliberate, as opposed to inadvertent, but negligent; the nature and gravity of the harm to the Board's process; the nature and gravity of the harm to any other person; whether counsel's past conduct shows a history of harm done to the Board's process; whether counsel is likely to abide by the standards of conduct the Board expects of counsel; and whether counsel is remorseful.

[78] Although invited to do so, Dr. Ehikwe did not provide any submission on the issue of possible sanctions. This is not surprising given that he strenuously denied any wrongdoing on his part.

[79] I have determined that Dr. Ehikwe's conduct, in light of its nature and scope, raises very serious matters. In addition to appearing at the Board on at least six occasions in contravention of the Regulations, he repeatedly misrepresented his status as a *pro bono* counsel by signing declarations indicating that he was not accepting a fee for his services. He also counselled a claimant to submit a false story as the basis of her claim for refugee protection.

[80] Since there is no evidence that Dr. Ehikwe misunderstood the regulation or made an inadvertent mistake in these cases, his actions were therefore deliberate and, given their repeated nature, demonstrated a blatant disregard of the Board's process. They showed a general lack of respect for, and understanding of, the functioning of an independent adjudicative tribunal. In addition to undermining the integrity of the Board's process, his conduct was potentially harmful to the persons he represented. His outright denials of any wrongdoing and labelling his clients as liars are not indicative of remorse on his part. His actions do not inspire confidence that he would act with integrity, honesty and forthrightness in his dealings with the Board in the future.

¹⁰ *In the Matter of Rezaei, Iraj*, Wiebe, June 27, 2002.

¹¹ *Varano v. Canada (Minister of Citizenship and Immigration)*, [2002] I.A.D.D. No. 697 and No. 1954.

[81] Having regard to all these factors, I consider an appropriate remedy to be a three-year prohibition from appearing as counsel before any Division of the IRB and representing, advising or consulting with any person regarding any proceeding concerning that person before the IRB, effective immediately.

[82] Furthermore, prior to again representing anyone before the IRB, whether Dr. Ehikwe chooses to qualify as an authorized representative capable of charging a fee for his services, or whether he agrees to represent persons on a *pro bono* basis, Dr. Ehikwe must provide proof to the IRB of successful completion of a professional ethics course. This should benefit Dr. Ehikwe and the IRB, as well as members of the public who would consider seeking Dr. Ehikwe's assistance in matters before the Board.

[83] Additionally, I believe that it would be of benefit to Dr. Ehikwe to enroll in and complete training for immigration consultants before representing anyone, either for a fee or *pro bono* in immigration and refugee matters. Much of such training available includes training in ethics.

[84] In considering the remedy, I was mindful of the fact that Dr. Ehikwe alleges that he does not need to charge a fee to people whom he assists. Consequently, these sanctions will not impose economic hardship on him. In any event, since he is not a member or a provincial law society or CSIC, Dr. Ehikwe is not entitled to charge a fee for any services provided to persons who have proceedings before the Board, and therefore this decision does not affect his ability to earn a livelihood.

[85] Dr. Ehikwe further alleges that he assists people with their immigration and refugee matters because he has a marked personal altruistic desire to help the refugee/new immigrant community with whom he has a special affinity. In assessing the harm to Dr. Ehikwe, I considered the fact that he will still be able to express his altruism and humanity and share his expertise by donating his time and energy to one or more of the many charities or NGOs who service refugees or new immigrants to Canada.

Order

[86] Upon issuance of this decision I direct the Regional Registrars of the IRB to notify any persons who are represented by Dr. Ehikwe in proceedings before the Board that he is prohibited from appearing as counsel before any Division of the IRB and representing, advising or consulting with any person regarding any proceeding concerning that person before the Board, for a three-year period from the date of this decision. Furthermore, I direct the Regional Registrars of the IRB to note that prior to representing anyone before the IRB in the future in any capacity, Dr. Ehikwe must provide proof to the IRB of successful completion of a professional ethics course.

(signed)

“Lois D. Figg”

Lois D. Figg

December 17, 2007

Date