

Canada Deports Yan Wang for Her Role in the Sunny Wang Immigration Fraud Scheme

Canada's Immigration and Refugee Board ordered that Ms. Yan Wang be deported from Canada on the basis that her immigration application was based on false information.

The Board held that Ms. Wang acknowledged that she was employed by Xun "Sunny" Wang's company New Can Consultants to provide various services in the Calgary area. According to Ms. Wang, from mid-2010 through mid-2012 Sunny Wang paid her to find addresses where letters for New Can clients could be received, to forward those letters to the New Can office, and to pick up New Can clients from the Calgary airport, take them to the Canadian Immigration Centre office in downtown Calgary, and take them back to the airport.

The Board further held that Ms. Wang acknowledged that Sunny Wang asked her to get two new phone numbers in her own name which would be used by New Can employees. She acknowledged in her testimony that she had intercepted mail at various addresses, scanned those letters, and sent them to Sunny Wang. This was confirmed by evidence in Sunny Wang's Agreed Statement of Facts; for example, copies of certain emails Ms. Wang sent to him saying that specific, named clients had received particular types of Canadian Immigration correspondence.

The Board therefore found that Ms. Wang knew the essential contents and subject matter of those Canadian Immigration letters, which clients they were for, and the addresses to which those letters had been sent. She also knew that the clients did not actually reside at those addresses. The Board concluded that Ms. Wang's activities were part of a pattern of criminal activity planned and organized by Sunny Wang and his associates has not been seriously disputed.

The Board noted that the BC Provincial Court had already found Ms. Yang's involvement in the arrangement of false addresses and phone numbers, the directing of Canadian Immigration correspondence, and the clients' flights to Calgary to attend immigration interviews, were all intended to mislead immigration officials about the clients' residency so that they could acquire or maintain immigration status without actually fulfilling the requirements. This amounted to fraud, which are indictable offences under sections 127 and 128(a) of the Act and under section 380(1) of the *Criminal Code*, respectively.

The fraudulent scheme required the coordination of the activities of various New Can employees' in different cities to ensure that the right documents were processed and that clients showed up at the right time — and with the right information — for their Canadian Immigration interviews. Doing so brought Xun Wang, and to a lesser degree his employees like Ms. Wang, significant financial gain. Based on the above reasons, Canada ordered Ms. Yan Wang be deported to China.

This judgment was released on June 28, 2019, but not published on legal search platforms until June 2020. "Yan Wang" does not register on a google search regarding her role with "Sunny Wang". At Canadian Fraud News we provide the public with notice of fraudulent conduct that has not been published on the internet. The full decision of Yan Wang's role in the Sunny Wang and New Can Consultant fraud can be read [here](#).

Immigration and Refugee Board of Canada (Immigration Division)

Wang ats Canada (Minister of Public Safety), 2019 CarswellNat 9925

2019 CarswellNat 9925, 2019 CarswellNat 9926

The Minister of Public Safety and Emergency Preparedness and Yan WANG (Person Concerned)

Geoff Rempel Member

Heard: May 8, 2019
Judgment: June 28, 2019
Docket: B8-00726

Counsel: B. Harsanyi, for Person Concerned
M. Cooke, for Minister

Subject: Immigration

Geoff Rempel Member:

INTRODUCTION

1 This admissibility hearing was held with respect to Ms. Yan Wang (“Ms. Wang”). The Minister of Public Safety and Emergency Preparedness (“the Minister”) alleges¹ that Ms. Wang is a permanent resident who is inadmissible to Canada on grounds of organized criminality, pursuant to paragraph 37(1)(a) of the *Immigration and Refugee Protection Act* (“IRPA” or “the Act”), which reads as follows:

37. (1) A permanent resident or a foreign national is inadmissible on grounds of organized criminality for

(a) being a member of an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part of such a pattern.

2 The Minister clarified at the admissibility hearing that in this case the Minister is not alleging membership in an organization, but rather that Ms. Wang engaged in activity that was part of a pattern of criminal activity planned and organized by Xun “Sunny” Wang and associates in furtherance of the commission in Canada of offences including misrepresentation and **fraud**, which are indictable offences under sections 127 and 128(a) of the Act and under section 380(1) of the *Criminal Code*, respectively.

BACKGROUND

3 In 2015, Xun “Sunny” Wang pled guilty in BC Provincial Court to fifteen separate offences, including indictable offences.² According to an agreed statement of facts in that proceeding, between 2006 and 2014 he and his corporations engaged in illegal immigration consulting for profit, as well as misrepresentation, forgery and **fraud**, all directed towards overcoming the legal residency obligations for permanent residency and citizenship.³ “The essence of the **fraud** was...to make it appear that clients who lived in China were in Canada, so that they met the residency requirements for permanent resident card renewal or citizenship.”⁴ Approximately 1200 clients paid about \$10,000,000 for the fraudulent services.

4 Of most pertinence to Ms. Wang’s case was the use of fraudulent addresses and phone numbers, described as follows in Xun Wang’s agreed statement of facts:

Another component of the **fraud** was to misrepresent clients as having Canadian addresses and phone numbers, when they actually lived in China. Client applications and correspondence to CIC⁵ used these addresses and phone numbers. This allowed [Xun] Wang and his associates to receive and respond to communications from CIC to the clients.⁶

”The individuals who found and maintained these addresses and received mail and phone calls on behalf of the clients had their expenses covered by [Xun] Wang and were paid by [Xun] Wang’s companies for their services.”⁷ Ms. Wang is listed in the agreed statement of facts as the provider of six addresses and four phone numbers.⁸

5 The Minister and Ms. Wang both agree that Ms. Wang is a permanent resident of Canada and not a Canadian citizen⁹. At the admissibility hearing, Ms. Wang testified. The Minister submitted Exhibit C1 as documentary evidence; Ms. Wang submitted Exhibit P1.

STANDARD OF PROOF

6 Pursuant to section 33 of the Act, the standard of proof for a paragraph 37(1)(a) allegation is “reasonable grounds to believe”. The “reasonable grounds to believe” standard has been confirmed by the Supreme Court of Canada as requiring something more than mere suspicion, but less than the standard applicable in civil matters of proof on the balance of probabilities.¹⁰ Reasonable grounds to believe exist where there is an objective basis for the belief which is based on compelling and credible information. This standard applies to questions of fact.

ANALYSIS

7 According to Xun Wang’s agreed statement of facts in BC Provincial Court,

Most of the addresses used in the applications were provided by individuals who were also responsible for acting as an intermediary between [Xun] Wang and his consultants and CIC, including mail forwarding, flight pick ups and drop offs, hotel arrangements and translation services.....At any given time, each address was therefore associated with a specific individual whose task was to facilitate the use of the address in the **frauds**. The same system was used for the phone numbers.¹¹

8 From the same document,

When clients who were “living” at one of the addresses were successful in their applications, CIC would advise the applicants by letter of the appointment date when they should pick up their permanent residence cards or write their citizenship test. These letters were sent to the fraudulent addresses used in the applications.

The person responsible for the address advised [Xun] Wang when the letters arrived and the letters themselves were often scanned and e-mailed to [Xun] Wang.¹²

9 Ms. Wang acknowledges that she was employed by Xun Wang’s company New Can Consultants to provide various services in the Calgary area.¹³ According to Ms. Wang, from mid-2010 through mid-2012 Xun Wang paid her to find addresses where CIC letters for New Can clients could be received, to forward those letters to the New Can office, and to pick up New Can clients from the Calgary airport, take them to the CIC office in downtown Calgary, and take them back to the airport. She also says that Xun Wang asked her to get two new phone numbers in her own name, which would be used by New Can employees. She acknowledged in her testimony that she had intercepted mail at various addresses, scanned those letters, and sent them to Xun Wang. This is confirmed by evidence in Xun Wang’s agreed statement of facts; for example, copies of certain emails Ms. Wang sent to him saying that specific, named clients had received particular types of CIC correspondence.¹⁴ Thus, Ms. Wang knew the essential contents and subject matter of those CIC letters, which clients they were for, and the addresses to which those letters had been sent. She also knew that the clients did not actually reside at those addresses.

10 That Ms. Wang’s activities were part of a pattern of criminal activity planned and organized by Xun Wang and his associates has not been seriously disputed. As described above and as established in BC Provincial Court, the arrangement of false addresses and phone numbers, the directing of CIC correspondence, and the clients’ flights to Calgary to attend CIC interviews, were all intended to mislead immigration officials about the clients’ residency so that they could acquire or maintain immigration status without actually fulfilling the requirements. This amounted to misrepresentation and **fraud**, which are indictable offences under sections 127 and 128(a) of the Act and under section 380(1) of the *Criminal Code*, respectively. The fraudulent scheme required the coordination of the activities of various New Can employees’ in different cities to ensure that the right documents were processed and that clients showed up at the right time — and with the right information — for their CIC interviews. Doing so brought Xun Wang, and to a lesser degree his employees like Ms. Wang, significant financial gain.

11 This is in contrast to the circumstances described in the Federal Court’s *Saif* decision¹⁵ cited by Ms. Wang. Although Mr. Saif (and one other person) also engaged in a scheme whereby Canadian permanent residents were

afforded addresses of convenience and other documentation to fraudulently establish their Canadian residency, in that case the Federal Court found that the Minister had not established the existence of a criminal organization, which requires three or more persons as well as the existence of “common organizational characteristics such as ‘identity, leadership, a loose hierarchy and a basic organizational structure.’”¹⁶ The Federal Court rejected the contention that Mr. Saif’s clients were part of the criminal organization. These facts distinguish *Saif* from Ms. Wang’s case. As shown in the agreed statement of facts, Xun Wang’s New Can immigration consulting business possessed all the common organizational characteristics that were missing in *Saif*. The New Can organization comprised Xun Wang, his subordinate immigration consultants, and other employees like Ms. Wang.

12 Ms. Wang argues that she did not know that her actions were part of anything illegal, and that she did not know anyone in the organization other than Xun Wang himself. Ms. Wang has stated “I was not doing anything illegal in my mind.”¹⁷ She has stated that she did not know that providing addresses and phone numbers as part of her job duties was against the law.¹⁸ She argues that the Minister has not established that she knew about the immigration **fraud**. Ms. Wang has provided a legal opinion citing requirements in Canadian criminal prosecutions with respect to the knowledge an accused must be shown to have to be found guilty of a criminal organization offence under the *Criminal Code*, and argues that the same principles apply in her admissibility hearing. She argues that the fact she was never arrested or charged with any criminal offence shows that she did nothing illegal and was not part of any criminal organization.

13 I am not persuaded by Ms. Wang’s arguments. Paragraph 37(1)(a) of the Act does not require membership in an organization, but also holds inadmissible those who engage “in activity that is part of such a pattern.” Ms. Wang’s activities on behalf of Xun Wang and New Can, in which she engaged for her own financial gain, were clearly an integral part of the pattern of criminal activity of Xun Wang and his New Can associates. Although the pattern of criminal activity must have been planned and organized by a number of persons, there is no requirement for all participants to know all the other participants’ identities or activities. Ms. Wang knew of the existence of Xun Wang’s organization. She had used New Can’s services herself for her own immigration processes,¹⁹ and testified that she believed the cell phones she obtained in her name were for other employees’ use. Xun Wang’s emails to her also referred to other employees²⁰. She knew that the organization was involved in falsely reporting clients’ addresses for CIC permanent resident card applications, as she arranged the false addresses and also received, opened, read, and summarized for Xun Wang various letters CIC sent to clients at those addresses. She knew that certain clients were associated with certain addresses, and she knew in at least several cases that they were not actually living there²¹ (because her own home address was one of the addresses, she knew the occupants of some others, one of them was apparently a business rather than a residence, and because she picked up and dropped off clients at the Calgary airport, which would not be necessary if they lived at the Calgary addresses). So she knew that CIC was being deceived as to the clients’ home addresses. As a permanent resident herself, subject to the same residency requirements as the New Can clients, she cannot credibly claim ignorance of the significance of these CIC communications or of the use of false home addresses on the clients’ behalf. In terms of her knowledge, what is relevant is not whether she knew the organization’s activities were illegal (ignorance of the law is not an excuse), but her knowledge of the organization’s existence and of its pattern of activities, knowledge which she in fact possessed.

14 That Ms. Wang has not been charged with any criminal offence is not determinative of whether she is inadmissible. Admissibility hearings and criminal prosecutions have different objects, different standards of proof, different rules of evidence, and different rules of procedure. Contrary to Ms. Wang’s submission, persons can be found inadmissible in Canada although they have not been subject to criminal prosecution.²²

15 I also wish to note that Ms. Wang’s testimony at the admissibility hearing was not completely truthful, and that she attempted to minimize her true level of involvement in the fraudulent New Can scheme. For example, she testified that Xun Wang provided the translators clients used in their CIC interviews; Ms. Wang said she never found anyone to translate for clients, did not know who the translators were, had no interactions with the translators, did not know their names or faces, and gave them no instructions. She claimed that she did not pay the translators, but that Xun Wang would notify her to give cash to the clients who would pay the translator themselves. Ms. Wang could provide no reasonable explanation for such an unnecessarily convoluted payment arrangement, in which paying clients would be expected to handle cash payments to translators they had already paid New Can to arrange. In any case, Ms. Wang’s testimony on this point is inconsistent with her own signed affidavit, in which she stated “on a few occasions I would find the client a translator if they required one.”²³ She provided similarly incoherent testimony about the the new cell phone numbers she had registered in her own name and why she had written to Xun Wang that her first cell phone

number should be used “to minimize risks.”²⁴ It does not make sense that Ms. Wang would be concerned about clients contacting her on those other numbers, as she claimed, if she had sent the related cell phones to New Can as she testified.

16 Xun Wang’s emails also indicate that Ms. Wang knew more than she has admitted. For example, in one email he stated that she was “aware of the current adjustment with PR [permanent resident] card policy”²⁵. In another, he spoke of another New Can employee in Calgary: “Chen, Tian has too much pressure by himself, will eventually make the same mistake sooner or later.”²⁶ In yet another, Xun Wang gave Ms. Wang instructions for assisting clients arriving in Calgary, telling her to drive them around a specific address (presumably their false “home” address), to tell the client the name of a well-known local mall (for his backstory of having opened a food court), to lend him her cell phone so he would have a local number if CIC wanted him to make a phone call, and also mentioned that the client’s daughter had already been coached.²⁷ Ms. Wang provided no reasonable explanation for these communications, denied knowing what Xun Wang was talking about when he referred to the new policy and to Mr. Chen’s mistake, and said she felt she needed to do what Xun Wang arranged her to do, not knowing it was fraudulent. The more likely explanation is that Ms. Wang did know more about the **fraud** scheme than she has admitted.

CONCLUSION

17 There are reasonable grounds to believe that Ms. Wang engaged in activity that was part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment. She is therefore inadmissible pursuant to paragraph 37(1)(a) of the Act.

ORDER

18 I am required, pursuant to paragraphs 45(d) of the IRPA and 229(1)(e) of the *Immigration and Refugee Protection Regulations*, to issue a deportation order against Ms. Wang. The deportation order is attached to these reasons.

Footnotes

¹ Exhibit C1, at pp. 4-5.

² Ibid, at pp. 20-28.

³ Ibid.

⁴ Ibid, at p. 25.

⁵ “CIC” refers to Citizenship and Immigration Canada (now Immigration, Refugees, and Citizenship Canada or IRCC”).

⁶ Exhibit C1, at p. 26.

⁷ Ibid, at p. 27.

⁸ Ibid, at p. 39.

⁹ Exhibit P1, at p. 2; Exhibit C1, at pp. 12-14.

¹⁰ *Mugesera v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40.

- 11 Exhibit C1, at p. 38.
- 12 Ibid, at. p. 40.
- 13 Exhibit C1, at p. 15-16; Exhibit P1, at p. 2-3.
- 14 Exhibit C1, at pp. 42, 98, and 131.
- 15 *Saif v. Canada (Minister of Citizenship and Immigration)*, [2016 FC 437](#).
- 16 *Saif*, supra, at paras. 2, 15, and 17.
- 17 Exhibit P1, at p. 3.
- 18 Ibid, at. p. 4.
- 19 Ibid, at. p. 2.
- 20 Exhibit C1, at. p. 125.
- 21 Exhibit C1, at. p. 114; Exhibit P1, at p. 3.
- 22 Not just pursuant to paragraph 37(1)(a) of the Act, but also paragraphs 36(1)(c), 36(2)(d), and 37(1)(b), for example.
- 23 Exhibit. P1, at p. 4.
- 24 Exhibit C1, at p. 64.
- 25 Ibid, at p. 133.
- 26 Ibid, at p. 87.
- 27 Ibid, at p. 112.