Federal Court Cour fédérale

Date: 20180406

Docket: IMM-3584-17

Citation: 2018 FC 368

Ottawa, Ontario, April 6, 2018

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

HAOCHEN WANG

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of a decision by an Immigration Officer at the Consulate General of Canada in Hong Kong refusing his application for permanent residence due to misrepresentation pursuant to s 40(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("IRPA").

[2] For the reasons that follow, I have determined that this application is dismissed as the Officer reasonably found that the Applicant misrepresented his travel history.

Background

[3] The Applicant is a citizen of People's Republic of China ("PRC"). On October 22, 2015 he applied for a permanent resident visa to Canada under the category of provincial nominee for Prince Edward Island. As part of that application he completed Supplementary Information – Your Travels, Form 5562. This required him to list all trips he had taken outside his country of origin or of residence in the last 10 years. The document instructed that he was to "Include all trips: tourism, business, training, etc". The Applicant listed four trips, to Singapore, Tokyo, and twice to Canada. In Schedule A - Background/Declaration he indicated that he had also resided in the United Arab Emirates ("UAE"), Saudi Arabia and the United Kingdom ("UK"). Given this, by letter of July 14, 2016, the Immigration Section of the Consulate requested that the Applicant provide a police certificate from each country where he had resided for six months or more and to provide an original police clearance certificate from the UAE. The Applicant responded by letter of July 25, 2016 indicating that he had only visited the UAE for work and had not stayed there for over six months. As a result, he did not meet the requirements that would enable him to obtain a police clearance certificate for that country. As the Applicant provided no documentation to support his explanation, by letter of October 20, 2016, an officer at the Immigration Section of the Consulate advised the Applicant that police certificates for Bangladesh and Saudi Arabia and original notarized copies of all pages of his PRC passport showing his UAE visa, UAE exit/entry stamps, and final Saudi Arabia exit stamp were required.

[4] By letter received by the Consulate on December 20, 2016, the Applicant provided a notarized copy of his PRC public affairs passport. This satisfied the officer that the Applicant had not resided in the UAE and, therefore, that he need not provide a police certificate from that country. However, the passport indicated numerous trips which had not been declared in the Applicant's travel history Form 5562.

[5] On January 3, 2017 the Consulate sent the Applicant a procedural fairness letter ("Fairness Letter"). This indicated, based on the exit and entry stamps contained in the PRC public affairs passport, that the Applicant had failed to provide truthful information concerning his tourism, business, training trips etc in the last 10 years as required by his completed Form 5562. The omissions included trips to Bahrain, Niger, Chad, France, Algeria, Cameroon and Iraq. The Fairness Letter advised:

> Please note that if it is found that you have engaged in misrepresentation in submitting your application, you may be found inadmissible under section 40(1)(a) of the Immigration and Refugee Protection Act. A finding of such inadmissibility would render you inadmissible to Canada for a period of five years according to section 40(2)(a) and according to section 40(3), you would not be eligible to apply for permanent resident status during the period of inadmissibility.

[6] The letter also addressed the requested Bangladeshi police certificate, and, gave the Applicant an opportunity to respond to the concerns raised.

[7] The Applicant responded to the Fairness Letter on January 18, 2017. This included his statement that "However, due to misunderstanding, I mistakenly thought "all trips, tourism, business, training" as listed in IMM5562 refers to private exit and entry records in my private

passport, instead of both my private and public affairs passport. After all, immigration is personal and irrelevant to my employer…". The Applicant submitted an updated Form 5562 listing his travel history as captured by both of his passports.

Decision Under Review

[8] By letter dated June 17, 2017 an officer advised the Applicant that his application for permanent residence in Canada had been assessed and it had been determined that he did not qualify for the issuance of a permanent residence visa. The officer referenced ss 40(1)(a), 40(2)(a) and 40(3) of the IRPA and stated that the Applicant misrepresented or withheld material facts, being his personal history with respect to his travel history. The officer explained that the Applicant did not declare a complete and truthful travel history in his application forms. Further, while in response to the Fairness Letter the Applicant had stated that he had not declared the travels as they were not private travels but rather were employment-related and on a public affairs passport, this was not a reasonable explanation and that Form 5562 clearly indicated "Include all trips: tourism, business, training, etc". The Applicant's response was not reasonable or sufficient to overcome the officer's concerns. The officer concluded that, on a balance of probabilities, he or she was satisfied that the Applicant directly or indirectly misrepresented or withheld material information related to his personal history, relevant to the processing of the immigration application. The misrepresentation or withholding of these material facts induced or could have induced errors in the administration of the IRPA as the Applicant could have been issued an immigrant visa without having provided truthful and complete information to enable the Consulate to properly assess his admissibility. As a result, the Applicant was inadmissible to Canada for a period of five years and his application was refused.

[9] It is well established that the Global Case Management System ("GCMS") entries form a part of an officer's reasons (*Gebrewldi v Canada (Citizenship and Immigration)*, 2017 FC 621 at para 29; *Pushparasa v Canada (Citizenship and Immigration)*, 2015 FC 828 at para 15; *Khowaja v Canada (Citizenship and Immigration)*, 2013 FC 823 at para 3). In this case, the GCMS notes set out the background information described above. They also record that the officer did not find the Applicant's explanation offered in response to the Fairness Letter to be satisfactory and was not satisfied that the Applicant was able to reasonably explain how he could have misunderstood the clear wording of Form 5562 as the trips he made on his PRC public affairs passport were supposedly all business trips. Nor was the officer satisfied that the Applicant had not intentionally omitted his travel history. Further, if the Consulate had not asked the Applicant to submit reliable evidence to prove his residential history, the Applicant would never have submitted the copies of the pages of his PRC public affairs passport and the Consulate would not have been aware of the travels he made using it. The officer found that the misrepresentation was material and could have induced an error in the administration of the IRPA because the Consulate would not have realized that the Applicant is inadmissible pursuant to s 15(1) for having submitted untruthful information in support of his immigration application and would have been led to believe that the Consulate had conducted a thorough assessment of the Applicant's background and issued a visa based on untruthful information.

[10] The officer's finding was upheld on a file review by a second officer. This added that the Applicant was responsible for the completeness and truthfulness of his application and the Applicant had an authorized representative since submitting the application. The reviewing officer was satisfied the Applicant was provided procedural fairness and an opportunity to

respond and therefore found, on a balance of probabilities, that the Applicant had misrepresented the material fact of his travel history on the application form. This information was material because it was relevant to the admissibility assessment of the Applicant and could have induced an error in the administration of the IRPA and the issuance of a visa without all information necessary to make the admissibility assessment. The reviewing officer refused the application under s 40, which carried a 5 year ban (the assessing and reviewing officers are collectively referred to hereinafter as the "Officer").

Issues and Standard of Review

[11] In my view, the sole issue in this matter is whether the Officer's decision was reasonable.

[12] An officer's decision under s 40(1)(a) of the IRPA is to be reviewed under the reasonableness standard as this involves findings of mixed fact and law (*Ge v Canada (Citizenship and Immigration)*, 2017 FC 594 at para 14; *Jiang v Canada (Citizenship and Immigration)*, 2011 FC 942 at para 19 ("*Jiang*"); *Zhamila v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 88 at para 13; *Patel v Canada (Citizenship and Immigration)*, 2017 FC 401 at para 14 ("*Patel*"), citing *Rahman v Canada (Citizenship and Immigration)*, 2016 FC 793 at para 6). When judicially reviewing a decision for reasonableness, the Court will consider the existence of justification, transparency and intelligibility within the decision-making process as well as whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

Analysis

[13] Section 40(1)(a) of the IRPA states that a permanent resident or a foreign national is inadmissible for misrepresentation for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of the IRPA.

[14] To find an applicant inadmissible under s 40(1)(a), an officer must be satisfied that (i) there has been a direct or indirect misrepresentation by the applicant; (ii) the misrepresentation concerns material facts relating to a relevant matter; and (iii) the misrepresentation induces or could induce an error in the administration of the IRPA (*Kazzi v Canada (Citizenship and Immigration)*, 2017 FC 153 at para 32 ("*Kazzi*"); *Geng v Canada (Public Safety and Emergency Preparedness)*, 2017 FC 1155 at para 22).

[15] I have previously summarized the general principles concerning misrepresentation in *Goburdhun v Canada (Citizenship and Immigration)*, 2013 FC 971 at para 28. For the purposes of this application they include that s 40 is to be given a broad interpretation in order to promote its underlying purpose (*Khan v Canada (Citizenship and Immigration)*, 2008 FC 512 at para 25 ("*Khan*")), its objective being to deter misrepresentation and maintain the integrity of the immigration process. To accomplish this, the onus is placed on the applicant to ensure the completeness and accuracy of their application (*Oloumi v Canada (Citizenship and Immigration)*, 2012 FC 428 at para 23 ("*Oloumi*"); *Jiang* at para 35; *Wang v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1059 at paras 55-56 ("*Wang*")).

[16] In this regard an applicant has a duty of candour to provide complete, honest and truthful information in every manner when applying for entry into Canada (*Bodine v Canada (Citizenship and Immigration)*, 2008 FC 848 at paras 41-42 ("*Bodine*"); *Baro v Canada (Citizenship and Immigration)*, 2007 FC 1299 at para 15 ("*Baro*"); *Haque v Canada (Citizenship and Immigration)*, 2011 FC 315 at para 11 ("*Haque*")). Section 40 is intentionally broadly worded and applied and encompasses even misrepresentations made by another party, including an immigration consultant, without the knowledge of the applicant (*Jiang* at para 35; *Wang* at paras 55-56).

[17] The exception to s 40 is narrow and applies only to truly extraordinary circumstances where an applicant honestly and reasonably believed that they were not misrepresenting a material fact and knowledge of the misrepresentation was beyond the applicant's control (*Masoud v Canada (Citizenship and Immigration)*, 2012 FC 422 at paras 33-37 ("*Masoud*"); *Goudarzi v Canada (Citizenship and Immigration)*, 2012 FC 425 at para 40 ("*Goudarzi*")). That is, the applicant was subjectively unaware that he or she was withholding information (*Medel v Canada (Minister of Employment and Immigration)*, [1990] 2 FC 345 (FCA) ("*Medel*"); *Canada (Citizenship and Immigration) v Singh Sidhu*, 2018 FC 306 at para 55 ("*Singh Sidhu*")).

[18] In determining whether a misrepresentation is material, regard must be had for the wording of the provision and its underlying purpose (*Oloumi* at para 22). It is necessary, in each case, to look at the surrounding circumstances to decide whether the withholding of information constitutes a misrepresentation (*Baro* at para 17; *Bodine* at paras 41-42; *Singh Sidhu* at paras 59-

61). Further, a misrepresentation need not be decisive or determinative. It is material if it is important enough to affect the process (*Oloumi* at para 25).

[19] Nor can an applicant take advantage of the fact that the misrepresentation is caught by the immigration authorities before the final assessment of the application. The materiality analysis is not limited to a particular point in time in the processing of the application (*Haque* at paras 12, 17; *Khan* at paras 25, 27, 29; *Shahin v Canada (Citizenship and Immigration)*, 2012 FC 423 at para 29 ("*Shahin*")).

[20] In this matter, the Applicant submits that there is a clear exception to the rule against misrepresentation which applies when the applicant can show they honestly and reasonably believed they were not withholding material information (*Baro* at para 15) and that officers are required, by way of the Immigration, Refugees and Citizenship Canada OP 1, Procedure Manual, to be aware that honest errors and misunderstandings sometimes occur. However, the Officer failed to mention the considerable jurisprudence and policy guidelines relating to the innocent error exception. The Applicant submits that failure to conduct a meaningful analysis of the innocent error exception is an error that renders the decision unreasonable (*Berlin v Canada (Citizenship and Immigration)*, 2011 FC 1117 at paras 19-22 ("*Berlin*")).

[21] I would first note that in *Oloumi* Justice Tremblay-Lamer addressed *Baro*, upon which the Applicant relies in this case, wherein Justice O'Reilly stated that an exception to the duty of candour arises where applicants can show that they honestly and reasonably believed that they

were not withholding material information, referencing *Medel* in support of that proposition.

Justice Tremblay-Lamer stated:

> [35] Despite being frequently cited, the "exception" referred to in this passage has received limited application. Its originating case, *Medel*, above, involved an unusual set of facts: the applicant was being sponsored by her husband, but unbeknownst to her the husband withdrew his sponsorship. Canadian officials then misled the applicant by asking her to return the visa because they claimed it contained an error. They implied it would be returned to her, corrected. The applicant had English-speaking relatives inspect the visa and, after they assured her that nothing was wrong with it, she used it to enter Canada. The Immigration Appeal Board found her to be a person described in section 27(1)(e) of the former *Immigration Act*, 1976, SC 1976-77, c 52 [now RSC 1985, c I-2)], i.e. that she had been "granted landing… by reason of any fraudulent or improper means". This finding was set aside by the Federal Court of Appeal because the applicant had "reasonably believed" that she was not withholding information relevant to her admission.
>
> [36] When considered within its factual context, therefore, the exception in *Medel* is relatively narrow. As Justice MacKay noted while distinguishing the case before him in *Mohammed v Canada (Minister of Citizenship & Immigration)*, [1997] 3 FC 299:
>
> > 41 The present circumstances may also be distinguished from those in Medel on the basis that the information which the applicant failed to disclose was not information regarding which he was truly subjectively unaware. The applicant in the present case was not unaware that he was married. **Nor was it information, as in Medel, the knowledge of which was beyond his control**. This was not information which had been concealed from him or about which he had been misled by Embassy officials. The applicant's alleged ignorance regarding the requirement to report such a material change in his marital status and his inability to communicate this information to an immigration officer upon arrival does not, in my opinion, constitute "subjective unawareness" of the material information as contemplated in Medel. (Emphasis added)

> Furthermore, I emphasize that a determinative factor in the *Medel* case was that the applicant had *reasonably believed* that she was not withholding information from Canadian authorities. In contrast, in the case before this Court the applicants did not act reasonably—the principal applicant failed to review his application to ensure its accuracy.
>
> [Emphasis in original.]

[22] Further, this Court has held that in keeping with the duty of candour, when making an application the applicant is required to ensure that the documents are complete and accurate. It is only in exceptional cases where an applicant can demonstrate that they honestly and reasonably believed that they were not withholding material information, where the knowledge of which was beyond their control, that an applicant may be able to take advantage of an exception to the application of s 40(1)(a) (*Goudarzi* at para 40; also see *Masoud* at para 33).

[23] In my view, it is clear from the Officer's reasons that he or she considered whether there was a misrepresentation and whether or not it arose from an honest mistake. The Officer referred to the Applicant's explanation that he mistakenly thought all trips, tourism, business, training as listed in Form 5562 referred only to private exit and entry records in his private passport, instead of both his private and public affairs passport. The Officer quoted the Applicant's statement that "After all, immigration is personal and irrelevant to my employer…". The Officer did not find this explanation to be satisfactory and was not satisfied that the Applicant was able to reasonably explain how he could have misunderstood the clear wording of Form 5562 as the trips he made on his PRC public affairs passport were supposedly all business trips. The GCMS notes indicate that the Officer was not satisfied that the Applicant had not intentionally omitted his travel history and that if the Applicant had not been asked to submit

reliable evidence to prove his residential history, the Applicant would never have submitted the copies of the pages of his PRC public affairs passport and the Consulate would not have been aware of the travels he made using it.

[24] While the Officer did not use the exact phrase "innocent error exception", the record clearly demonstrates the Officer engaged with the Applicant's claim of misunderstanding the question regarding his travel history. To require the Officer to specifically cite jurisprudence or policy material concerning innocent mistakes would favour form over substance. Here, the Officer was simply not convinced that the Applicant's alleged error in reading the application question and deciding to withhold significant portions of his travel history was an innocent mistake. There is no duty on an officer to accept every explanation provided in response to a fairness letter when assessing misrepresentation (*Sinnachamy v Canada (Citizenship and Immigration)*, 2012 FC 1092 at para 17). Nor do I accept the Applicant's contention that because the Officer did not accept the Applicant's explanation, he or she was making a negative credibility finding which, in turn, required the Officer to send a second procedural fairness letter informing the Applicant of this. The Officer was not making a credibility finding, he or she simply did not accept the offered explanation. Procedural fairness did not require the Officer to advise the Applicant that his explanation had not been accepted and to afford him a further opportunity to comment. The Fairness Letter served to put him on notice of the issue, including the possibility that the resulting explanation would not be accepted (see *Alalami v Canada (Citizenship and Immigration)*, 2018 FC 328 at para 13).

[25] In any event, the exception arises only where an applicant establishes that they honestly and reasonably believed that they were not withholding material information. In this matter the question in the application was unambiguous. The Applicant was required to list "all trips…taken outside your country of origin or of residence in the past ten years…This includes all trips: tourism, business, training, etc". The Applicant was aware that he held two passports and was aware that he had made numerous undeclared trips to other countries. Thus, this is not a situation such as *Jean-Jacques v Canada (Minister of Citizenship and Immigration)*, 2005 FC 104, where the applicant was unaware of the existence of the information; here, the Applicant knew he had made the trips in question. Nor was it a circumstance such as *Medel* where the knowledge was beyond his control or had been concealed from him. Accordingly, because the Applicant failed to demonstrate that he honestly and reasonably believed that he was not withholding material information, the narrow exception was considered but did not apply (*Baro* at para 18; *Oloumi* at paras 36, 39; *Mohammed v Canada*, [1997] 3 FC 299).

[26] In that regard, the Applicant submits that in assessing potential misrepresentation intent is a relevant factor that must be considered. The Applicant erroneously believed the form was asking for his personal travel history rather than both his personal and business travels. He was immediately forthcoming in responding to the error and subsequently provided a detailed travel history. When considering this alongside the Applicant's status as a well-established businessman with an extensive positive travel history, there was no intent or need to mislead. Rather, this was an innocent error.

[27] However, as noted above, the Officer did not accept the Applicant's explanation that he did not intend to omit the information. The Applicant was also not subjectively unaware of his travel history. Further, in his response to the Fairness Letter, the Applicant stated that he considered immigration as personal and irrelevant to his employer, which suggests the Applicant considered and decided what was relevant to his Form 5562. As stated by Justice Mosely in *AA v Canada (Citizenship and Immigration)*, 2017 FC 1066 ("*AA*"), the discretion to determine whether a misrepresentation or omission does or does not constitute material facts relating to a relevant matter that induces or could induce an error in the administration of the IRPA rests with the officer. It is not open to an applicant to decide what is or is not material (*AA* at para 39).

[28] The Applicant adds it is unreasonable to conclude he attempted to deliberately mislead the authorities because he voluntarily provided extra information to the Officer. When the Officer requested full copies of the UAE visas, stamps, and final Saudi Arabia exit stamp, the Applicant provided his full public affairs passport, which included the as-yet undeclared trips. The Applicant also voluntarily disclosed evidence of his work in Iraq in his application for permanent residence, which was one of the countries he initially omitted. Here, some of the information the Applicant innocently did not disclose about his work in Iraq was otherwise available to the Officer and could have been confirmed by examining the application, which is analogous to the situation in *Berlin* at paras 19-20 (*Brooks v Canada (Minister of Manpower & Immigration)*, [1974] 1 SCR 850 at 858).

[29] However, the Applicant did not immediately and voluntarily provide the missing information. This was done only after the Officer requested police certificates for Bangladesh

and Saudi Arabia and copies of all pages of his PRC passport showing his UAE visa and exit stamps which, it turned out, were contained in the public affairs passport that had not been previously disclosed. At that stage, the Applicant had little option but to disclose all of the previous travels as the Officer was then aware of the existence of the public affairs passport.

[30] Nor, in my view, is this situation analogous to *Berlin*. In that case, reference was made to *Koo v Canada (Citizenship and Immigration)*, 2008 FC 931 ("*Koo*"), which involved withholding of information that was otherwise available to the visa officer in departmental records. There, the issue was whether both of the applicant's names had been disclosed. The record demonstrated that an extensive number of supporting documents were submitted in the applicant's previous name and were available from the supporting documentation submitted with the initial application (*Koo* at paras 22-29). Moreover, in *Berlin* the applicant omitted two children from his visa application because he did not believe them to be dependents but had disclosed their existence in an earlier application for refugee status, his Personal Information Form and in documents submitted with his spousal application. There, the decision under review did not assess the fact that the omitted information was available in the respondent's files and was included in some of the material submitted with the application then under consideration.

[31] Those circumstances are not similar to those faced by the Officer in this case. While the Applicant asserts the Officer already possessed some of the misrepresented information, only the four trips listed in Form 5562 were disclosed. It is true that his application did make reference to prior residence in the UK, UAE and Saudi Arabia. It was this that caused the Officer to ask for further information. The Applicant submits that had the Officer looked carefully he or she would

have seen that the Applicant also disclosed that he lived in Iraq. Upon review of the record, this appears to be a reference to the Applicant's narrative in which he notes past employment, including as a site manager in Saudi Kayan which, counsel assures me, is a well know oil field in Iraq, although Iraq is not identified in the document.

[32] More specifically, however, the revised Form 5562 lists 78 trips, being 74 more than the 4 trips that the Applicant disclosed. And, in addition to his declared four trips to Singapore, Japan and Canada, the Applicant travelled to Kazakhstan, Cambodia, the UK, Saudi Arabia, Iraq, Turkey, Bahrain, Niger, Chad, Cameroon and France. The Applicant concedes that travel to most of these countries is not information available to the Officer elsewhere in the record. Thus, as this undisclosed travel history cannot be found in the record, this is not a circumstance similar to *Berlin*.

[33] Moreover and as noted above, an applicant may not take advantage of the fact that the misrepresentation is caught by the immigration authorities before the final assessment of the application (*Haque* at paras 12, 17; *Khan* at paras 25, 27, 29; *Shahin* at para 29). Accordingly, the fact that the Applicant eventually submitted his public affairs passport does not cure the misrepresentation which is determined at the time of the false statement (*Kazzi* at paras 37, 39).

[34] This leaves the question of whether the misrepresentation was material.

[35] The Applicant submits the Officer's reasoning is circular and that the Officer failed to explain how the Applicant's actions could have induced an error in the administration of the

IRPA, or, how the misrepresentation could have affected the process undertaken or the final decision. Non-material errors do not meet the threshold for s 40 of the IRPA and failing to conduct the proper analysis for materiality is a reviewable error (*Koo* at para 38). In this case, the Applicant did not spend six months or more at any of the countries he omitted and therefore did not require police clearance certificates from any of them. Given that the Officer did not consider the materiality of the misrepresentation, it is unclear what additional investigations could have been conducted using a full account of the Applicant's travel history.

[36] As noted above, misrepresentation does not need not be decisive or determinative to the application to be material, a misrepresentation is material if the misrepresentation is important enough to affect the process (*Oloumi* at para 25; *Patel* at para 64). Determining whether a misrepresentation is material requires regard for the wording of the provision and its underlying purpose which is to avoid inducing errors in administrating the IRPA (*Oloumi* at para 22).

[37] In the refusal letter the Officer stated that the misrepresentation or withholding of the material facts induced or could have induced errors in the administration of the IRPA as the Applicant could have been issued an immigrant visa without having provided truthful and complete information to enable the Consulate to properly assess his admissibility. In the GCMS notes the Officer found that the misrepresentation could have induced an error in the administration of the IRPA because the Consulate would not have realized that the Applicant is inadmissible pursuant to s 15(1) for having submitted untruthful information in support of his immigration application and would have been led to believe that the Consulate had conducted a thorough assessment of the Applicant's background and issued a visa based on untruthful

information. This was echoed more clearly by the reviewing officer, who was satisfied the Applicant misrepresented the material fact of his travel history on the application form. This information was material because it was relevant to the admissibility assessment of the Applicant and could have induced an error in the administration of the IRPA and the issuance of a visa without all information necessary to make the admissibility assessment.

[38] As the Officer explicitly stated that the Applicant's travel history was relevant to the admissibility assessment and failing to provide a complete background could have induced an error in administering the IRPA, I do not agree with the Applicant that the Officer failed to explain how the Applicant's actions could have induced an error in the administration of the IRPA or how the misrepresentation could have affected the process undertaken.

[39] The Applicant was required to make full disclosure and it is the role of the officer who examines the application to decide what is relevant, not the Applicant (*Singh v Canada*, 2015 FC 377 at para 32). Here the revised Form 5562 listed 78 trips, the vast majority of which are described as for business purposes, and only 4 of which were originally listed. They included trips to more than 10 countries that were not in any way mentioned in any of the Applicant's initial application documents. I do not agree with the Applicant's submission that, because he did not spend six months or more in any of the countries omitted from his application, the omission was not material as he was not required to submit police clearance certificates for the missing countries. The Officer's admissibility analysis is not restricted to obtaining police clearance certificates. Further, the decision of what further inquiries would be appropriate lies

with the Officer, not the Applicant, and admissibility concerns could be influenced by some of the undisclosed countries of travel.

[40] In this regard, I note that Citizenship and Immigration Canada ENF 2/OP 18, Evaluating Inadmissibility at s 10.5 states that erroneous determinations of a person satisfying the requirements for permanent residence status are clearly errors in the administration of the IRPA. Officers are required to be satisfied that a person meets the requirements and is not inadmissible. To make these determinations, officers decide what procedures, including investigations, interviews and verification, are required. Some procedures are required by law, others are administrative. Of note, the policy manual gives an example of misrepresentation that could also induce an error in the administration of the IRPA as being where an applicant states that he was in one country when, in fact, he was in another. This would cause an officer to proceed with a background check based on the wrong information and would have induced an error in the administration of the IRPA.

[41] In my view, it was clearly open to the Officer to conclude as he or she did that the misrepresentation, the failure to disclose all of the countries that the Applicant visited, could have induced an error in the administration of the IRPA because the Consulate would have been led to believe a thorough assessment of the Applicant's background had been conducted and issued a visa on that basis. That is, the issuance of a visa without all information necessary to make the admissibility assessment. As noted in *Oloumi*, a misrepresentation is material if important enough to affect the process. The Applicant omitting his complete travel history affected the process of determining his admissibility.

[42] Nor is this a circumstance such as *Chhetry v Canada (Citizenship and Immigration)*, 2016 FC 513, relied on by the Applicant, as information provided in response to the Fairness Letter was not overlooked or not considered.

[43] Given the foregoing, in my view the Officer's decision fell within a range of possible, acceptable outcomes which are defensible in respect of the facts and law and was therefore reasonable.

JUDGMENT IN IMM-3584-17

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. There shall be no order as to costs.

3. No question of general importance for certification was proposed or arises.

"Cecily Y. Strickland"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3584-17
STYLE OF CAUSE:	HAOCHEN WANG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MARCH 26, 2018
JUDGMENT AND REASONS:	STRICKLAND J.
DATED:	APRIL 6, 2018

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