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Dear Sir/Madam,

The 2014 Independent Review of the Office of the Migration Agents Registration Authority written by Dr. Christopher N. Kendall in a Final Report on September 2014 formed the basis of the current Migration Amendment (Regulation of Migration Agents) Bill 2017 and Migration Agents Registration Application Charge Amendment (Rates of Charge) Bill 2017 in its second reading basically prioritising the proposal to:

- remove legal practitioners from regulation by the Migration Agents Registration Authority (MARA)

As the Kendall Report of 2014 forms the basis of this Bill, is in my view, as a practicing registered migration agent for over 18 years, appears to be a clear 'Conflict of Interest' on the part of Dr. Kendall's involvement, which, if passed, will allow anti-competitive practices and further weaken the already vulnerable immigrants' ability to acquire an affordable migration services and their ability to file a complaint against erring practicing lawyers who are also registered migration agents, if legislated for the following reasons:

- a) In my view, the report was 'embarrassingly rushed' to meet a biased agenda against registered migration agents.
- b) From my understanding the author himself is a 'practicing lawyer' and therefore could benefit, if the Bill is passed.
- c) From my understanding the author of the report, in his capacity as President in 2012 and was then Vice-President in 2014 when the report was commissioned, represented other member lawyers of a Law Society in WA, and for that matter throughout Australia, who would likewise only benefit, if this Bill is passed.
- d) Doubt is cast on the independence of the review as it was 'fully funded' by the Department of Immigration and Border Protection and information in the report was skewed towards an argument in favour to remove legal practitioners from regulation by the Migration Agents Registration Authority (MARA) when the opposite argument, is far more compelling in that;

- e) The report 'critically did not include a comprehensive comparison' dating back from 1992 to present, the frequency and severity of complaints made against lawyer/agents as opposed to complaints regarding only sole trader registered migration agents that do not have law degrees or legal backgrounds.
- f) In my view the report intentionally neglected to do conduct and lacked a thorough factual narrative into the statistics of the frequency and severity of complaints against lawyer/agents to frame an argument that 'lawyer-agents need less oversight than other practitioners', when anecdotally, it points to the opposite.
- g) In my view the report, being skewed in this manner, needs to be further scrutinized by the committee to determine the extent of the more serious offences instigated by lawyer/agents and how that the Australian public will be less protected and worse off by exempting lawyers from registration with OMARA.
- h) A consequence of this BILL, presented in this manner, will eventually allow lawyers in Australia to monopolise the migration advice profession, 'suffocate and prevent completion' by more effective and efficient registered migration agents who practice as sole traders.
- i) This BILL, if passed, in my view, will contribute towards a less competitive market for the migration advice profession and Australian consumers may quickly find themselves having reduced access and be less protected by paying much more higher fees for advice that could have been effectively provided, processed and serviced by registered migration agents who have a 'sound knowledge' of the Migration Act of 1958.
- j) Anecdotally, as expressed to me on many occasions by many former departmental case officers that "I totally agree with you Jose, that visa applicants receive poor advice; poor service and a poor outcome when dealing with lawyers who have no idea about the workings of the DIBP..."
- k) Usually, the OMARA mechanism, allows for a more timely complaint resolutions, if a lawyer/agent is complained about. The OMARA, theoretically, will then have the power to refer the matter further to the respective Law Society for further action if that particular registered migration agent was also a practicing lawyer.
- l) Tragically, however, as an example of how easily this mechanism could appear to have failed was the matter involving the late David Bitel in 2016 when, the lawyer representing the alleged rape victims was quoted as saying... "Bitel's victims could be forgiven for thinking that the legal profession was cheering a lawyer-rapist on from the sidelines." Lawyer Mark Tarrant. (Newspaper Article attached to this submission)

- m) Following on from this 'unsavoury incident' a post by Michael Arch on Monday, 26 September 2016 covered many glaring questions about the ability of OMARA and Law Society in NSW in intervening in a more timely manner against such behaviour and to this day those concerns have not been answered satisfactorily and yet this Bill is being presented to the Parliament to remove legal practitioners from regulation by the Migration Agents Registration Authority (MARA). (Post Article attached to this submission)
- n) Ironically, in an earlier and more damaging event in 1999 involving yet another solicitor/agent, Neil Barlow, Mr. Bitel was involved in quoting in a 7:30 Report during a Kerry O'Brien presentation: - DAVID BITEL: "I'm amazed that you've told me that the Law Society won't speak to you. I would have thought that wherever a Law firm goes under -- and they do from time to time -- the Law Society's public relations department should at least come on line and assure the community that the Law Society is in control". (TV transcripts and Newspaper Article attached to this submission)
- o) Would the Law Societies argue, inappropriately in my view, that because they have 'such a high standard of education and legal knowledge' they shouldn't be under the scrutiny of other authorities and regulatory bodies such as the ATO or ASIC when in fact just in New South Wales alone, the frequency and severity of complaints against lawyers themselves are not only numerous and serious, but disturbingly, increasing year on to year, as evidenced in their latest PROFESSIONAL STANDARDS 2016 ANNUAL REPORT. (2016 Report attached to this submission)

The resources and funding made available to this report to highlight how legal practitioners are somehow overly burdened by two registrations seem to me a gross waste of time and valuable government funds. As professionals, we acknowledge that we have multiple legislations and bodies that we need to answer to and if we decide to pursue, say a specialized field, such as migration advice and assistance then that individual needs to be registered with the OMARA.

For instance as a company or sole trader, don't we need to comply with additional other standards and bodies such as ASIC, ATO and even Local Councils for DA as examples.

Having OMARA to regulate and police registered migration agents is no different to having the burden of the regulatory operations of say ASIC for lawyers and for that matter registered migration agents, alike. If lawyers do not want to have another authority looking over their shoulders then they should not provide immigration advice or assistance. It's actually, that simple.

For instance if a Legal Firm was going to enter into the field of insurance or finance professions or industries, by analogy, would that mean that because the legal fraternity has regulations and 'higher standards of professional conduct', would it be wise to deregulate

and move some or all of the complaints resolution mechanisms away from Australian Securities and Investments Commission, Auditing and Assurance Standards Board, Australian Accounting Standards Board, Australian Financial Security Authority, Australian Prudential Regulation Authority, Australian Transaction Reports and Analysis Centre, Financial Reporting Council, off to the OLCS? This of course would be absurd.

OMARA, in my view, should have gathered and presented, since 1992, the evidence and statistics which would have enabled legislators to introduce propose clear evidence based changes as to lawyer/agents past and current complaints, instead of stumbling ahead and assist in introducing changes which will separate the Legal profession from the Migration Agents' body.

Past complaints about 'registered migration agents' circulating amongst politicians, political parties, departmental officers, in my view, never established the 'registered migration agents' educational, career or legal background. Registered migration agents were just clumped into one category. What is desperately needed is a more detailed report of each individual complaint against past registered migration agents, their background to establish whether they were just registered migration agents or had they obtained a legal background when they were registered and when the complaint was filed against them.

This now appears an 'internal arrangement between the department of immigration, certain political agendas and legal bodies around Australia being biased towards, what I have always suspected, were smaller numbers of past erring registered migration agents'.

- The legal profession represents less than 33% of the total body of registered migration agents and separating the legal profession from the vast majority of registered migration agents as well as moving the protection of customers/consumers to the legal reporting bodies in each respective states would only prove confusing and highly problematic for the clients who have been badly treated or have had unprofessional behaviour perpetrated against them.

The report does not consider or set out how the removal of legal practitioners from regulation by the Migration Agents Registration Authority (MARA) will introduce more competition within the migration profession and the best interest for the protection of 'vulnerable consumers'. Perhaps the report's real intentions were to provide the more than 75,000 registered legal professionals across Australia easier access to the migration advice profession, without any further oversight?

Considering the size of the Legal bodies and the number of complaints they are currently assessing each year, this could prove a convoluted process for complaining applicants who would then they have to work out where to lodge a complaint. Again, as an example in NSW the OLCS receives in excess of 2,500 complaints annually.

Imagine what would happen if migration complaints were handled by the Legal Services Commissioner, adding more cases on top of an already clogged congested legal complaints system with complaints instances increasing on an annual basis as that outlined in the PROFESSIONAL STANDARDS 2016 ANNUAL REPORT for NSW?

By keeping all practitioners who provide migration advice or assistance under the scrutiny of OMARA, theoretically, there would be a more expedient, centralised, ONE-STOP-SHOP mechanism to identify erring registered migration agents and hopefully, appropriate further reporting of their activities be passed on to all other authorities for additional investigation, if and when required, if they were also lawyers or accountants or real estate agents practicing as migration agents.

As OMARA taglines depict its function as, Ethical profession / Empowered consumer / Engaged stakeholders, allowing lawyers to not register with the OMARA will surely weaken this strong strategic position it holds over anyone providing advice or assistance in relation to immigration for Australia.

In fact, in my personal view, OMARA'S protective blanket be taken a step further to have anyone giving advice or assistance to migrate to Australia be registered with the OMARA including individuals outside the Commonwealth of Australia as has occurred in New Zealand and for that matter identify 'fringe dwellers' such as 'Education Agents and Job Agencies and the like and address their level of involvement in the 'migration advise profession'.

At the very least, some form of warning can then be placed on their particular registration page that is held by the OMARA to protect the general consuming public from suspected unprofessional behaviour from any registered migration agent.

Thank you and remain.

Yours faithfully,

**Jose Aniceto Respall** JP (Qual.)  
Registered Migration Agent No. 9901644

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## Death of lawyer David Bitel denies justice for rape victims

**Nick O'Malley** SEPTEMBER 25 2016 **The Sydney Morning Herald NSW**

After years of allegations and investigation – and a gruelling committal hearing – the story of David Bitel, a prominent Sydney lawyer and human rights advocate accused of raping his own clients as they turned to him for help in his office, ended last Friday morning in a bland Downing Centre courtroom.

A judge found Bitel's pending trial had "abated on the death of the accused". There was talk of attaching a death certificate to a file. The judge moved on to another case.

The brief bloodless language of the courtroom hardly reflects the long, bleak complexity of the case.

At the time of his death from cancer in August, Bitel was facing 21 charges relating to the sexual assault of six of his clients. Three of the charges were for "sexual intercourse procured by non-violent threat", nine for "assault with an act of indecency" and nine more for "sexual intercourse without consent".

To those who had summoned the courage to detail the crimes they said Bitel had committed against them this was a case of justice delayed and then denied, even though in a committal hearing the court found there was sufficient evidence for a jury to convict.

To the whistle blowers who made repeated complaints about Bitel to every legal authority they could think of over a number of years, it looked as though some elements of the legal profession had – at least tacitly – protected Bitel for so long that cancer took him before he could either clear his name or face prosecution.

One of them, lawyer Mark Tarrant, observes bitterly that in his view Bitel has taken international law designed to protect the vulnerable and used it as a weapon against them.

Bitel had scaled the heights of his profession. Over the course of his career he served as president of the Refugee Council of Australia, chairman of the Australian Refugee Foundation and the Refugee Advice and Casework Service, the secretary general of the International Commission of Jurists (Australian Section) and a judicial member of the Equal Opportunity Division of the NSW Administrative Decisions Tribunal. He was on the Law Society of NSW's Human Rights Committee.

In an article celebrating him in the society's journal he boasts of being known as "the father of Bangladeshi Australians".

In a video interview produced this year by a website for expatriate Bangladeshis, [bddiaspora.com](http://bddiaspora.com), Bitel is introduced as the "Westerner" who has become closest to the expatriate community in Australia.

In it Bitel speaks with startling clarity of his cancer and details how he became known for his success in having Australia recognise that persecution of homosexuality in Bangladesh was a cause for being accepted as a refugee.

"I actually acted for the first gay Bangladeshi in the world to be approved as a refugee in 1991, here in Australia ... on the basis of sexuality.

Bitel's victims could be forgiven for thinking that the legal profession was cheering a lawyer-rapist on from the sidelines.

Lawyer Mark Tarrant

"That particular case was the first case in the world and it had some ramifications," he tells the interviewer. One of those ramifications, he says, is copycats – people claiming to be homosexual to secure permanent residency.

Bitel's career and reputation grew through the 1990s and 2000s and he was to become the lead partner at the Sydney firm Parish Patience. But also over that period allegations about his behaviour began to surface and swirl through legal circles.

In 2002 a client of Tarrant's confided that David Bitel had told him it was easy for Bangladeshis to secure permanent residency in Australia by falsely claiming to be facing persecution for being homosexual. Tarrant was disturbed by the story. It suggested a high-profile colleague was breaking the law.

In 2004 Tarrant heard another story about Bitel, this time from a New Zealand lawyer who Fairfax Media has interviewed. He told Tarrant he had come across claims Bitel had committed chilling crimes while in Dhaka, Bangladesh, a city he often visited for work. Tarrant recommended he contact the Australian Federal Police. After writing to the AFP, the lawyer says, New Zealand police interviewed Bitel but nothing came of it.

Fast forward to around 2007. One day Tarrant has lunch with another immigration lawyer, Brett Slater, who says one of his clients, a Nepalese man, tearfully told him he had been sexually assaulted by Bitel in his office. The client, whose name has been suppressed by a court order, eventually returned to Nepal after his bid for residency failed.

The following year Tarrant made his own work trip to Dhaka and heard further rumours about Bitel's behaviour. He made a side trip to Kathmandu in an effort to find the Nepalese victim.

On April 30, 2008, the two met in the outdoor area of a tourist hotel called the Yak and Yeti. The man again wept as he told Tarrant of Bitel's alleged assault and confirmed he wanted to pursue the matter.

According to a statement which the lawyers later took to police, in 1995 Bitel led the man into his Sydney office and locked the door behind him.

"He quickly came very close to me, got down low, and opened the zip of my pants."

Mr Bitel began performing oral sex.

"I was stunned, I was wondering why he was doing this. I had never seen anything like this before in my life ... I was afraid ... I did not want him to do it ... I was crying. Tears were running down my face."

The statement goes on to outline how the man backed away and the assault ended. In the following weeks Bitel made an application to the Refugee Review Tribunal on his behalf, falsely stating that he was a homosexual and faced persecution. He then instructed the man to give false evidence at his hearing.

Back in Australia Tarrant and Slater came across a second Bitel client who told a similar story. He also cannot be named for legal reasons. In 2009 the second victim told Fairfax Media that Bitel told him during a meeting in his office that he could get him permanent residency if he said he was gay.

At a second meeting Bitel was more blunt, the man told Fairfax Media. "If you sleep with me you will get permanent residency," he said, blocking the door to his office. Bitel then grabbed his penis through his trousers before opening his fly and saying, "Can I give you a head job?" The man says he pushed him away and left.

Meanwhile, concerned Bitel might pose a risk to other clients, Tarrant and Slater took their material to the police, who began an investigation. Slater gathered their evidence and presented it to the Law Society of NSW, the NSW Legal Services Commissioner, which handles complaints about lawyers in this state, and the Office of the Migration Agents Registration Authority, another federal government body.

To the dismay of the two men Bitel was allowed to continue practising, while the police investigation proceeded slowly. Detectives asked Fairfax Media not to publish its information at the time for fear of disrupting their work. Slater and Tarrant understand that during the course of the investigation another Bitel client walked into a police station to level charges.

Also in 2009 Fairfax Media interviewed another of Bitel's former clients, Pedro Rojas, whose allegations never became part of legal proceedings. Rojas went on to become a student at Macquarie University and eventually a university lecturer in his native Venezuela, but in 1992 he had been just another young man hoping Bitel could secure him a life in Australia.

On about the fourth time they met, according to Rojas, Bitel threw an open manila envelope full of photographs onto the desk between them. Some spilled out and Rojas recalls being chilled.

"A few pictures came out from the envelope. I didn't touch them, I just saw a few pictures on the desk of a few boys, young kids on a boat and in a bedroom," Rojas told Fairfax Media.

"He mentioned Thailand, Bangladesh and India. He said he goes often [on trips] and he do all these things ... He was on a bed and there were a few boys on the bed."

Rojas said he was shocked and confused. "I was applying to stay in Australia. I was thinking, should I report this and then lose my residency?"



Rojas said Bitel locked the door and told him, "If you don't want to pay for your case then you should do as I say." Bitel tried to grab him, Rojas pushed him away and fled. To this day he has never met the two lawyers who gathered evidence against Bitel, nor heard any other details about the case.

Finally in 2012 Bitel was charged. But Tarrant and Slater are disappointed that until the day he died, Bitel remained registered to practise in NSW.

"Bitel's victims could be forgiven for thinking that the legal profession was cheering a lawyer-rapist on from the sidelines," says Tarrant.

He notes that despite the raft of charges laid in December 2012 the Law Council of Australia allowed his firm to sponsor a cocktail party for delegates of its immigration law conference at NSW Parliament House in March 2014.

Bitel was included in the 2014-15 Best Australian Lawyers list, a brand owned by a New York company and published each year by The Australian Financial Review, which is also published by Fairfax Media. Those on the list were nominated by their peers.

Two months after his arrest Bitel was a guest at a fundraiser at the University of NSW for ActionAid Australia, a charity that has helped vulnerable Bangladeshi children. Tarrant was also a guest, but left in disgust when he saw Bitel was present.

As recently as Thursday evening at a conference for the International Bar Association in Washington, DC, a toast was held for David Bitel, who, it was said, had had a "troubled" few years. There was no mention of his alleged victims.

Asked by Fairfax Media if it had failed to take action against Bitel, the Office of the Legal Services Commissioner declined to comment. Via a statement, the Office of the Migration Agents Registration Authority rejected the suggestion that any complaints had not been acted upon properly.

"Any allegation that relates to sexual assault is a matter for police investigation. Criminal charges take precedence over registration matters," it said. "OMARA does not have the power to suspend an agent while an investigation is ongoing and before specific findings have been made."

A spokeswoman for ActionAid said the fundraiser which Bitel attended was arranged by an independent fundraising arm.

The Law Council said via a spokesman that Bitel's firm "Parish Patience was a minor sponsor of the 2014 Immigration Law Conference, where the firm sponsored the opening reception.

"Given concerns over the accusations against Mr Bitel, Parish Patience's request for sponsorship was referred to the Chair of the Professional Ethics Committee prior to the event.

"The firm's sponsorship request was accepted as the allegations were against an individual from the firm, rather than the firm itself.

"The Law Council regrets any distress that may have been caused due to the firm's sponsorship." The Council is reviewing its sponsorship procedures.

After speaking with Fairfax Media in 2009 Rojas sent an email which read in part, "I feel bad for not speaking at that time when the incident happened, but when you are a foreigner trying to succeed, one's mind ignores the damages due to thinking that he had the power back then to get rid of you by cancelling your visa.

"Those pictures that flew out of the envelope onto his desk, I have never forgotten them. It's like it was yesterday. That was worse than when he tried to grab me and locked the door."

<https://migrationalliance.com.au/immigration-daily-news/entry/2016-09-omara-fails-to-act-in-serious-case-offers-poor-excuses.html>

Posted by Michael Arch on Monday, 26 September 2016 in General

## **OMARA Fails to Act In Serious Case, Offers Poor Excuses!!!**

There was a very disturbing story over the weekend in the Sydney Morning Herald concerning the alleged misconduct of a high-profile Sydney migration lawyer who recently died, Mr David Bitel.

The story was reported by Nick O'Malley and ran under the headline: "Death of lawyer David Bitel denies justice for rape victims".

According to the story, Mr Bitel was, at one time, the president of the Refugee Council of Australia, chairman of the Australian Refugee Foundation and the Refugee Advice and Casework Service and the lead partner at the well-known Sydney law firm Parish Patience Immigration Lawyers.

The story goes on to say that at the time of his death in August of this year from cancer, Mr Bitel was facing 21 charges relating to the alleged sexual assault of 6 of his clients. The charges against Mr Bitel were brought in 2012. Again, according to the story in the Herald, three of the charges were for "sexual assault procured by non-violent threat", nine were for "assault with an act of indecency", and the remaining nine charges were for "sexual intercourse without consent".

The story reports that two Sydney migration lawyers, Mark Tarrant and Brett Slater, were told by former clients of Mr Bitel that he had allegedly assaulted them in his offices. Additionally, the story recounts that clients had alleged that Mr Bitel had instructed them to give false evidence before the Refugee Review Tribunal, allegedly made representations to a client that he could get the client permanent residency in Australia if the client were to state that he was homosexual, and had allegedly said to a client that the client would get permanent residency if he were to agree to "sleep with" Mr Bitel.

Lawyers Tarrant and Slater reported the allegations that they had received from Mr Bitel's former clients to the police, the Law Society of NSW, the NSW Legal Services Commissioner and the Office of the Migration Agents Registration Authority.

Although the charges were brought against Mr Bitel in 2012, and a court found after a contested committal hearing that there was sufficient evidence for a jury to convict, the prosecution had not gone to trial by the time of Mr Bitel's death in August 2016. There is no explanation in the news article about why the charges had not gone to hearing for such a long time after the charges had been filed.

The article goes on to report that the Office of the NSW Legal Services Commissioner refused to comment on questions from Fairfax Media asking if it had "failed to take action" against Mr Bitel.

As for the OMARA, the Herald article states that OMARA rejected suggestions that any complaints had not been acted upon properly (the Herald article does not say whether the OMARA had sought to cancel or suspend Mr Bitel's registration as a migration agent during the period from 2012, when the charges were filed, until his death. A statement from the OMARA is quoted in the news article which says that:

"Any allegation that relates to sexual assault is a matter for police investigation.....OMARA does not have the power to suspend an agent while an investigation is ongoing and before specific findings have been made"

However, the statement from OMARA does not take into account that under section 290 of the *Migration Act*, the OMARA has a *mandatory duty* to refuse an application for renewal of an agent's registration if the applicant is not a fit and proper person to give immigration assistance or not a person of integrity. Also, section 209 provides that in considering whether a person is fit and proper or a person of integrity, OMARA is *required to consider* not just whether an applicant has been convicted of a criminal offence, but also any criminal proceedings that the applicant is or has been subject to and that is relevant to the application (whether those proceedings have been adjudicated or not).

So, the apparent result in this case was that Mr Bitel was apparently allowed to continue being a registered migration agent for *several years* after these very grave charges of sexual assault and rape had been taken against him.

And apparently, based on the OMARA's statement to the Herald, the OMARA thought there was nothing they could do about it in the form of disciplinary action.

Really? **Really?** OMARA says it didn't have legal authority to sanction a migration lawyer/agent who was accused of literally raping his clients in his office even after the charges were bound over for trial?

Where is OMARA's duty of care? Where is OMARA's obligation to protect the public? Asleep at the switch? Sure sounds like it. Incredible and unjustifiable!!!

The comments of migration lawyer Mark Tarrant, who surely along with Brett Slater is one of the heroes of this story, where he is quoted in the Herald piece as saying: "Bitel's victims could be forgiven for thinking that the legal profession was cheering a lawyer-rapist from the sidelines" certainly seem like they are right on the mark.

And why on earth would they think that? Not only did OMARA apparently do nothing, but incredibly enough, Mr Bitel was included in the 2014 – 2015 Best Australian Lawyers List (*after* the charges had been filed against him)!! And apparently, as recently as last week, according to the Herald article, Mr Bitel's career was toasted at an event of the International Bar Association in Washington, D.C., with reference reportedly only made to Mr Bitel's having had a "troubled few years" and no reference being made to his alleged victims.

You just cannot make this stuff up, or believe it, can you?

Hopefully, OMARA and the oversight authorities that supervise the legal profession will take a lesson from this case, and this article, and take steps to assure that they will vigilantly investigate and pursue serious allegations of this kind in the future, in a more timely manner!!!

Your take? The comments section is there for you!



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*Last modified on Monday, 26 September 2016*

[https://migrationalliance.com.au/images/easyblog\\_avatar/5915\\_michaelFormal.jpg](https://migrationalliance.com.au/images/easyblog_avatar/5915_michaelFormal.jpg)

<http://www.abc.net.au/7.30/stories/s46668.htm>

**Transcript**  
**25/8/1999**

**Law firm closure leaves migrant hopefuls at a loss**

KERRY O'BRIEN: Thousands of hopeful migrants have had their futures cast into doubt following the closure of Australia's biggest immigration law firm. Barlow & Company -- which had offices in Sydney and Melbourne -- has suddenly closed its doors after 20 years -- its principal lawyer, Neil Barlow, declaring himself bankrupt. Of the firm's 3,000 clients, many stand to lose thousands of dollars in up-front fees. But as Jacinta Tynan reports, neither the Migration Agents Authority nor the Law Society has the power to investigate.

VOX POP CLIENT: Oh. What's going on?

JACINTA TYNAN: There was a steady stream of clients at Barlow & Company's Sydney and Melbourne offices last week. Standard practice for Australia's largest immigration agent. But this time, when clients turned up for their appointments they crossed paths with removalists, shipping out their files.

SURESH PATHAK, CLIENT: And that's what I came in the holiday-time and I got shocked, nobody here and normally lots of people around.

JACINTA TYNAN: Just days before, staff at Barlow & Company were telling clients they would be closing for an inventory and back in business this week. In fact, the firm's principal, Neil Barlow, had already filed for personal bankruptcy, the day after he deregistered himself as a migration agent. Did they tell you that there was any problem, did you know the firm was in trouble?

PHUNG DINH, CLIENT: No, they don't tell anything until I hear from the news.

DR CHARLES SINCLAIR, FORMER EMPLOYEE: A notice was put up saying that an inventory was being carried out. I don't know how you carry out an inventory in a law office. But the switchboard was also told that no calls were to be put through to us and that they could call back on 20 August, by which time of course, we'd all departed.

JACINTA TYNAN: Charles Sinclair worked as a migration agent at Barlow & Company for the past 15 months, lured by the firm's reputation for successful immigration cases. But lately, he says, he became concerned about the firm's business practices. Clients were made to pay fees

upfront, on the promise of a refund if the case was unsuccessful. Charles Sinclair believes those funds were being withdrawn before the work was complete.

DR CHARLES SINCLAIR: There's nothing wrong with this. It was his firm, he was a sole practitioner. But there should be provisions to ensure that there are funds available for clients if a firm fails.

JACINTA TYNAN: Was Barlow & Company under investigation by the authority?

RAY BROWN, MIGRATION AGENTS REGISTRATION AUTHORITY: I can't say he was under investigation, but there were complaints that were before us and we were looking into those complaints. We're reviewing those complaints.

We're still going down the path -- investigation's probably the wrong word -- but we're going down the path of looking at those, seeking more information about those complaints that were before us.

JACINTA TYNAN: The Migration Agents Registration Authority has limited powers to investigate agents or audit their books. Since Neil Barlow deregistered himself as an agent, he's no longer accountable to the authority and all efforts by the 7:30 Report to contact him have failed. Will these clients get their money back?

RAY BROWN: Some client also get their money back, those clients that have had funds in Barlow's trust accounts. There may be other clients -- and I'm not is aware of this for sure -- but maybe other clients that have paid Barlow in advance, where they've paid the money but the work hasn't been done, those clients are not going to get their money back.

DR CHARLES SINCLAIR: I think that the clients have really been short-changed. They have paid monies to have a contract executed. They've paid for a whole lot of work which will never be done and I feel very sorry for these clients, because they have no redress at all now.

JACINTA TYNAN: Angela Dias's brother has spent over \$5,000 with Barlow & Company applying to migrate from Pakistan to join his mother and two sisters in Australia. Now she fears that money has gone to waste.

ANGELA DIAS: Just shock, I think. It was very, very depressing for him, and I spoke to my other brother and he said he was very upset with the whole thing and sort of just felt all that money that he spent on them has just gone down the drain. You know, he's got nothing.

JACINTA TYNAN: This may place several of the clients' applications in

jeopardy?

DAVID BITEL, REFUGEE COUNCIL OF AUSTRALIA: Oh, I'm terrified that that's exactly what will happen. That there will be clients who either because they don't appreciate the seriousness of lodging within time limits, or who may have given instructions with the expectation that applications would be lodged and may have completed all the documentation, but because the hiatus associated with the transfer, those files and applications will be overlooked.

JACINTA TYNAN: The Immigration Department says because of the "human impact" of the collapse of Barlow & Company, it will grant special concessions to the firm's former clients by extending the deadlines for processing visas. But there's little that can be done to prevent this happening again. Just two weeks ago, Neil Barlow was advertising in the ethnic press, trading on his expertise as a lawyer to attract clients.

Even though the majority of his staff were solicitors, the NSW Law Society won't investigate the closure of Barlow & Company, because it was principally a migration agent and therefore, outside its jurisdiction. The Law Society declined to be interviewed.

DR CHARLES SINCLAIR: I think the Law Society has an utter hide, the way they've carried on in this case. They have a responsibility to clients. They have a responsibility to solicitors. There's no doubt at all in my mind, that Mr Barlow was a solicitor.

JACINTA TYNAN: Should the Law Society take some sort of responsibility in this?

DAVID BITEL: I'm amazed that you've told me that the Law Society won't speak to you. I would have thought that wherever a Law firm goes under -- and they do from time to time -- the Law Society's public relations department should at least come on line and assure the community that the Law Society is in control.

JACINTA TYNAN: The only option now for the 3,000 clients is to find another migration agent or process the applications themselves. But for many, the collapse of Barlow & Company is the final blow in long immigration battles.

DR CHARLES SINCLAIR: These people don't have a lot of money, they've been through hell. For them to now have to argue a case with the Department of Immigration on their own, is really asking a lot.

JACINTA TYNAN: Are you going to take up your brother's case with another lawyer?



SURESH PATHAK: Me, no, because I cannot trust any more lawyers.

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## Australia's biggest migration agent closes doors

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Reporter: Rafael Epstein

COMPERE: Australia's biggest migration agent has gone belly up, owing millions of dollars to thousands of people trying to obtain residency, and owing money to staff as well. The Principal Director of Barlow and Company, Neil Barlow, has declared himself bankrupt for the second time.

The Law Society and regulatory authorities are calculating just who will take on the suddenly deserted clients, and whether or not they'll receive the thousands of dollars in application fees that they lodged with the company.

Rafael Epstein reports.

RAFAEL EPSTEIN: Stepping out of the elevator at the Sydney offices of Barlow and Company I'm greeted by two plush leather sofas, just like any other inner city law firm. The difference is the lights are off and the main door to the office is bolted. There's no-one to answer the questions of more than 3000 now former clients, all of whom are desperate to stay in Australia.

This week when PM phoned these offices, we were given a variety of excuses. The office was closed for a mere file inventory. Nothing's wrong, we were told, we're just closed for a winter break. The simple brutal truth is that Barlow and Company's no win no pay style of handling immigration cases has bankrupted the company and driven the firm's principal, Neil Barlow, to declare himself medically unfit to continue as an immigration lawyer and migration agent.

One of the migration agents that worked in the Sydney office says clients and staff are owed more than a million dollars.

UNIDENTIFIED: Bear in mind that half of these people are overseas, and most of them speak very little English.

RAFAEL EPSTEIN: Yes.

UNIDENTIFIED: Now, you know, you picture some poor person in Cambodia receiving a file which says Barlow's sick and he's had to cease practise. They wouldn't know what to do.

RAFAEL EPSTEIN: No. What about the money that these people have paid to the firm for the immigration costs.

UNIDENTIFIED: That's all been taken. That's all been taken. Most people would expect - the contract, people paid up front, and they expected the case to be completed and they'd get a visa.

RAFAEL EPSTEIN: So, are you owed any money? Do you know if all the people who were employed by the company received the money they were due?

UNIDENTIFIED: No, they didn't. In Sydney office we didn't receive - although I wasn't, I mean, I wasn't entitled to it but the people didn't receive long service leave or redundancy.

RAFAEL EPSTEIN: Where does this leave the client's themselves?

UNIDENTIFIED: Up the creek without a paddle.

RAFAEL EPSTEIN: How do you think they'll respond?

UNIDENTIFIED: I don't know. I mean, I think there'd be a lot of anger. Em, there'll be a lot of complete mistrust of the legal profession. See, in my opinion what should have happened was that the Law Society should have appointed an administrator to the practice to either trade it out and sell the practice, 'cause it's a very profitable practice ...

RAFAEL EPSTEIN: Sure.

UNIDENTIFIED: ... it's bringing in over \$30,000 a week.

RAFAEL EPSTEIN: How do you think those clients will feel, knowing that a lot of the money they've given to the firm might not come back to them?

UNIDENTIFIED: Well, nobody's going to get anything. They're going to be completely - they're going to feel completely duded.

RAFAEL EPSTEIN: How does that make you feel as someone who worked as a migration agent, trying to help people come to the country?

UNIDENTIFIED: Well, I feel absolutely dismayed with the whole thing, as do my colleagues. I mean what we were hoping was to try to keep the practice going, or at least try and sell it. Now, Barlow did try to sell the practice. He couldn't get anyone to take it over 'cause he wanted the debt taken over.

RAFAEL EPSTEIN: The Law Society says because Barlow and Company is principally a migration agent there was little they could do though they're confident Neil Barlow is doing all he can to pay his debts.

The other concern is the client's files. They're still locked up in the now defunct offices. Ray Brown, the National President of the Migration Institute which regulates migration agents, says most clients don't even know they no longer have someone working on their file, even though some have to meet administrative and legal deadlines within days.

RAY BROWN: We're hoping the banks ... well, indicating that they might ... or a bankers, they're intimating that they might hold the files initially, but we made the offer and there's discussions still going on and we're hopeful that the files will be released to us in the course of this week and we'll be able to get them in the process of being returned to the individuals within the course of this week.

RAFAEL EPSTEIN: So if the creditors don't release those files, those clients are really going to be left in the lurch unless they read a newspaper article or hear something on the radio.

RAY BROWN: That's right. That's why I'm encouraging, you know, if you put anything out to make that point clear.

COMPERE: Ray Brown, from the Migration Institute, talking to Rafael Epstein. And among the victims of that crash, as you'll have gathered, are the staff. Yet another group of workers left without redundancy and long service leave entitlements.