

**BEFORE THE IMMIGRATION ADVISERS  
COMPLAINTS AND DISCIPLINARY TRIBUNAL**

Decision No: [2014] NZIACDT 26

Reference No: IACDT 041/15

**IN THE MATTER** of a referral under s 48 of  
the Immigration Advisers  
Licensing Act 2007

**BY** **The Registrar of  
Immigration Advisers**  
  
Registrar

**BETWEEN** **MBL**  
  
Complainant

**AND** **Jacinta Shadforth**  
  
Adviser

**THE NAME AND ANY INFORMATION IDENTIFYING THE COMPLAINANT IS  
NOT TO BE PUBLISHED**

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**DECISION**

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**REPRESENTATION:**

**Registrar:** Sarah Blick, lawyer, MBIE, Auckland.

**Complainant:** In person.

**Adviser:** In person.

Date Issued: 18 May 2016

## DECISION

### Introduction

- [1] The Registrar of the Immigration Advisers Authority referred this complaint to the Tribunal, but it is Mr MBL's complaint not an own motion complaint by the Registrar. The complaint relates to Ms Shadforth's emails and her internet posting.
- [2] The essential facts are uncomplicated. There are two significant emails, both sent by Ms Shadforth to Mr MBL. The context was that Ms Shadforth started representing Mr MBL's former client, and she was seeking information from Mr MBL. Ms Shadforth was not satisfied with what Mr MBL provided, and the two emails arose out of that conflict. Ms Shadforth sent a copy of the first email to Mr MBL's former client, the original going to Mr MBL. She sent the second email only to Mr MBL.
- [3] The first email expressed the view Mr MBL was unprofessional, and contained other criticisms. The second email disparaged Mr MBL.
- [4] Ms Shadforth says the emails were justified in the context of the issue she was addressing. The Tribunal has to decide whether the emails breached Ms Shadforth's obligation to be respectful and professional. That question turns on evaluating what is proper in correspondence of this kind under the relevant provisions in the Code of Conduct.
- [5] The internet posting has various elements, the most significant being that Ms Shadforth disclosed certain information she obtained about her professional relationship with a former client. It also criticised Mr MBL's practice.
- [6] Ms Shadforth says she was entitled to publish information regarding her professional relationship with her former client, because it was public information. She accepts she was unprofessional in her comments regarding Mr MBL's practice. However, she says the Tribunal cannot uphold the complaint as only the Registrar could bring a complaint about the internet posting.
- [7] The Tribunal is required to evaluate whether Ms Shadforth did breach her former client's right to confidentiality; and whether Mr MBL could bring this complaint.

## The Complaint

[8] The Registrar's statement of complaint put forward the following background as the basis for the complaint:

[8.1] The complainant, Mr MBL, and the adviser Ms Shadforth are both licensed immigration advisers.

[8.2] Client A was a former client of Mr MBL. In November 2013, Client A engaged Ms Shadforth to provide immigration services. After accepting the instructions, Ms Shadforth sent emails requesting Mr MBL to provide information relating to Client A.

[8.3] In these emails, Ms Shadforth impugned Mr MBL's professionalism and competence, and she sent copies of some of these emails to Client A.

[8.4] On February 27 2014, Ms Shadforth posted a comment on a website. This post:

[8.4.1] Impugned Mr MBL, and the company operating his practice (MBL Limited), for lack of professionalism, honesty and competence.

[8.4.2] It also identified a former client of Ms Shadforth (Client B), and may have revealed confidential information about Client B.

[9] The Registrar identified potential infringements of professional standards. The allegations are that potentially Ms Shadforth:

[9.1] Breached clauses 1.1(a) and 2.1(g) of the Licensed Immigration Advisers Code of Conduct 2010 (the 2010 Code), and clause 1 of the Licensed Immigration Advisers Code of Conduct 2014 (the 2014 Code). The breaches potentially occurred as:

[9.1.1] Client A engaged Ms Shadforth to provide immigration advice and services.

[9.1.2] In the course of her engagement, she sent emails to Mr MBL, and in some cases copied to Client A, which impugned the professionalism and competence of Mr MBL.

[9.2] Breached clause 1 of the 2014 Code. The breach potentially occurred as:

[9.2.1] Ms Shadforth posted a comment on a website on 27 February 2014, which impugned Mr MBL and his company MBL Limited, in that:

[9.2.1.1] they falsely claimed a 99 or 100 per cent success rate; and,

[9.2.1.2] consequently, they were liars.

[9.3] Breached clauses 1 and 4 of the 2014 Code. The breach potentially occurred as:

[9.3.1] Ms Shadforth posted a comment on a website on 27 February 2014, which identified Client B. Client B was Ms Shadforth's former client, and a former employee of MBL Limited. She said of Client B:

[9.3.1.1] Client B "had to leave because they became unlawful in NZ!"

[9.3.1.2] Ms Shadforth refused to do more work for her and that was "not about money at all. How could it be when we had worked for the past 4 years on the drip feed?"

[9.3.1.3] Client B's identity was disclosed, from the information that it was someone who had worked at MBL Limited, and whose visa recently expired. In addition, an internet search would disclose Client B's identity.

### **Jurisdiction**

[10] Initially the Registrar did not forward this complaint to the Tribunal; however, Mr MBL appealed successfully against that decision.

[11] The basis for deciding the appeal was that the Tribunal should hear the case, as there were arguable grounds. The Tribunal noted no issues were finally determined, and this complaint is heard and determined on the material now before the Tribunal.

[12] There is however, a jurisdictional issue considered and not resolved in the previous appeal that does require consideration. The Registrar identified that section 44(1) of the Immigration Advisers Licensing Act 2007 (the Act)

confines complaints to matters “concerning the provision of immigration advice”. “Immigration advice” is defined in section 7 of the Act, which includes:

... using, or purporting to use, knowledge of or experience in immigration to advise, direct, assist, or represent another person in regard to an immigration matter relating to New Zealand, whether directly or indirectly and whether or not for gain or reward ...

- [13] Some conduct that is often significant in terms of professional disciplinary matters may fall outside the course of providing immigration advice. For example, a licensed immigration adviser could be dishonest outside of their practice.
- [14] The Tribunal requested responses on the issue. The Registrar’s view is that the grounds of Mr MBL’s complaint fall within the broad definition of “immigration advice”, and accordingly are within the scope of section 44(1). However, her position is that she may herself bring complaints on an “own motion” complaint under section 46 of the Act. Section 46 is not limited by section 44(1), and engages any grounds under section 44(2) including the general grounds of dishonesty under section 44(2)(d), and lack of professionalism under the Codes of Conduct (section 44(2)(e)).
- [15] It is not necessary for me to reach a view on the scope of a section 46 complaint, as this is not a section 46 complaint. The grounds of this complaint must be within the scope of section 44(1) and accordingly concern “the provision of immigration advice”.
- [16] The Registrar’s view is the grounds of complaint are “concerning the provision of immigration advice”<sup>1</sup>. I understand the Registrar’s position is that the issues referenced to Client A relate to Ms Shadforth’s then current instructions. The issues relating to Client B concerned Ms Shadforth’s access to confidential information and matters arising from her earlier instructions from Client B. Accordingly, client relationships were the foundation for her conduct now in issue. I will consider the issue in relation to each of the grounds of complaint.
- [17] Ms Shadforth took the approach the Tribunal has no jurisdiction in relation to internet postings, as they did not concern the provision of immigration advice.
- [18] Mr MBL did not take any position on this issue.

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Section 44(1) of the Act.

## **The Responses to the Statement of Complaint**

### *Preliminary*

[19] Both Ms Shadforth and Mr MBL are self-represented. Their responses have been wide-ranging. I intend to address them only to the extent they bear on the issues the Tribunal must decide.

[20] In my view, the key facts that this complaint turn on are:

[20.1] what material information did Ms Shadforth set out in emails to Mr MBL, and what information did she copy to Client A?

[20.2] did Ms Shadforth have a client relationship with Client B?

[20.3] what information did Ms Shadforth publish in her internet postings?

[21] Having answered those questions, I must consider whether the dissemination by email or the publication on the website breached Ms Shadforth's professional standards, and if so whether Mr MBL was entitled to lodge the complaint. Of course, I must consider the matters Ms Shadforth raised in justification or excuse. I will consider Ms Shadforth's points in respect of each of the allegations.

[22] This Tribunal is not required to adjudicate on the merits of allegations and counter allegations. If a licensed immigration adviser is concerned about the conduct of another licensed immigration adviser, there are proper means to deal with that. The issue in this complaint is whether Ms Shadforth acted appropriately in the circumstances.

### *Mr MBL*

[23] Mr MBL supported the content of the statement of complaint. He sought to add additional information. However, it generally deals with whether Ms Shadforth's allegations are false and I do not need to determine that issue.

### *Ms Shadforth*

[24] Ms Shadforth accepted she sent two emails (dated 18 November 2013 and 3 February 2014), and sent a copy of the first email to Client A. She said only these two emails "contained the comments referred to", and that she did not send a copy of any other relevant email to Client A.

[25] Ms Shadforth sent the emails in the course of necessary communications in providing services to Client A. Derogatory comments in the emails were in response to Mr MBL's "own negative statements". Ms Shadforth said she accepted the comments in the emails would "in normal circumstances" be "unprofessional and disrespectful", but that was not so in this case due to the context.

- [26] Ms Shadforth said her publication of comments on the website relating to Mr MBL and MBL Ltd “breached appropriate thresholds of professionalism and respectfulness”, but the Tribunal has no jurisdiction, as her posting did not concern the provision of immigration advice. She also said the comments were honest and true.
- [27] Ms Shadforth accepted her website comments regarding Client B were unprofessional, but the information was not confidential so there are no grounds for complaint. She says she did not post on the internet in the course of providing immigration advice. Accordingly, she contends that the Tribunal has no jurisdiction.
- [28] In summary, Ms Shadforth’s position is that her email communications did not breach professional standards; she was justified in communicating in the manner she did; and that the Tribunal has no jurisdiction over the internet posting.

## **Discussion**

### *Procedure*

- [29] The Tribunal has heard this complaint on the papers in accordance with section 49 of the Act.

### *Preliminary*

- [30] The Tribunal determines facts on the balance of probabilities; however, the test must be applied with regard to the gravity of the finding: *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [55].
- [31] The Registrar’s statement of complaint assembled the relevant documentation, and it is not contentious in terms of the nature of the material. Ms Shadforth requested that the Registrar add to the material filed initially, which she did. Ms Shadforth did not challenge the genuineness of the documents, who received the emails, or the public nature of her internet posting.
- [32] Ms Shadforth accepted the relevant roles identified in the statement of complaint. Namely, Client A was her client and Mr MBL’s former client. Client B was her former client and MBL’s former employee.

### *The emails*

- [33] Ms Shadforth correctly identified that only two emails contain statements that raise issues regarding professional standards. The first is dated 18 November 2013, in my view two passages are relevant, namely:

I must advise that I find your conduct since [Client A] first requested a copy of his file, to be unprofessional in the extreme. ...

As you have not been a fully Licensed Adviser of any significant length of time (less than one year) I imagine that you are not at all familiar with what information is or is not unusual to request ...

[34] This, the first email, was sent to Mr MBL and a copy sent to Client A. The context was that in Ms Shadforth's opinion Mr MBL had failed to comply properly with a request from Client A to transfer his file to Ms Shadforth. I will assume Ms Shadforth had adequate reasons to pursue that matter.

[35] I make that assumption, because a licensed immigration adviser is obliged to make inquiries of another licensed immigration adviser where they have concerns relating to their current client. That is a duty owed to their client. In these circumstances, an adviser must necessarily identify issues of potential significance, and they may be serious. The Tribunal will not discourage or prevent licensed immigration advisers raising concerns plainly and directly. Obviously, there is no room for maliciously inventing potential misconduct to cause embarrassment and distress; but short of that, reasonable and forthright inquiries are entirely appropriate.

[36] I do not have sufficient information to know whether it was Ms Shadforth or Mr MBL who was ultimately correct regarding the supply of Mr MBL's file. That is not relevant; my concern is what Ms Shadforth did to pursue her concerns.

[37] In my view, I can take no exception to Ms Shadforth identifying what she believed Mr MBL's duties were, and why she thought he had not discharged them. For example, after the first passage in the preceding quote, Ms Shadforth said:

It is not appropriate to advise that a file copy will only be released direct to the newly appointed adviser. Nor is it appropriate to withhold any personal information requested by an individual you have represented. The information requested belongs to that individual. It is also not appropriate for you to engage in communication with an ex client after they have advised you that you no longer represent them. It is particularly inappropriate to belatedly 'confirm' discussion and so forth after the fact – specifically one week after being advised your services were terminated and only after receiving a request for information from the newly appointed adviser.

[38] The style Ms Shadforth used was inappropriate, in that the proper approach would have been to set out what she understood had occurred, say why it was inappropriate, and request an explanation. Instead, she implied breaches had occurred. However, in context and in the absence of evidence that Ms Shadforth maliciously invented the allegations, she was essentially seeking answers to proper issues she raised. Mr MBL should not have had difficulty responding in a measured manner.

- [39] However, to express the conclusion that Mr MBL was “unprofessional”, and suggest he was not familiar with his professional obligations due to lack of experience is a different matter. Had Ms Shadforth communicated with Mr MBL and said she had formed the view his conduct was unprofessional for reasonable reasons that would be unexceptional. However, it was a different matter to communicate to her client that Mr MBL was “unprofessional in the extreme”. It is also significant that Ms Shadforth referred to a lack of experience. The Registrar issued Mr MBL with a licence after being satisfied he did have knowledge of his professional obligations.
- [40] Accordingly, I am satisfied that Ms Shadforth’s email departed from what it should have been; namely a professional communication expressing her concerns through:
- [40.1] identifying what she thought was deficient in Mr MBL’s conduct;
- [40.2] identifying why that did not meet his professional obligations, including references to his obligation to perform his services with professionalism;
- [40.3] asking for an explanation and remedial action; and.
- [40.4] identifying what steps Ms Shadforth proposed to take.
- [41] Ms Shadforth improperly told Client A her colleague was unprofessional and unable to perform his professional duties through inexperience. It is a serious allegation requiring corresponding proof. Ms Shadforth made the allegations in an apparent fit of pique, not as a reasoned statement supported by reference to facts justifying the claim. Making the allegation and telling her client in those circumstances was disrespectful, and unprofessional.
- [42] On 3 February 2014, Ms Shadforth sent the second email to Mr MBL. She did not send a copy of the second email to Client A. It relates to the same dispute as the first email. I do not propose to set out the second email in full. Ms Shadforth obviously expressed the email in a manner intended to be contemptuous and disparaging of Mr MBL. She used personalised insults such as “your failure to grasp”, “I am not satisfied you have sufficient experience”, “you lack familiarity”, “you seem incapable”, and “you will learn”. Ms Shadforth wrote those contemptuous observations from the hubristic perspective that she was an expert in professional standards and referred to “jurisprudence”. The email served no significant purpose other than being contemptuous and insulting.

- [43] The question is whether the emails breached any of clauses 1.1(a) and 2.1(g) of the 2010 Code, or clause 1 of the 2014 Code.
- [44] The 2010 Code applies to the first email of 18 November 2013. Clause 1.1(a) requires a licensed immigration adviser to perform her services with respect and professionalism. Clause 2.1(g) requires a licensed immigration adviser to maintain respectful and professional relationships.
- [45] For the reasons discussed, I am satisfied that in sending her email of 18 November 2013 to Client A, Ms Shadforth acted with a lack of respect for Mr MBL, and was unprofessional.
- [46] The 2014 Code; which came into effect on 13 January 2014, applies to the second email of 3 February 2014. Clause 1 required Ms Shadforth to be professional and respectful. I find, for the reasons discussed, sending the second email to Mr MBL met neither of those obligations. It was disrespectful, and unprofessional for Ms Shadforth to send the contemptuous and disparaging email; its purpose and likely effect was not to communicate with regard to the relevant issue, but to cause distress.
- [47] Ms Shadforth sent the two emails in the course of her work for Client A. They concerned the provision of immigration advice to Client A, and were accordingly within the scope of section 44(1). Mr MBL was entitled to make the complaint under that provision. Accordingly, I uphold the complaint regarding the two emails.

*The website*

- [48] Ms Shadforth wrote her comments in a series of internet postings, which commence with the heading “Either Licensed Immigration agents are lying – or INZ are corrupt.” Ms Shadforth signed her post with her name, followed by the words “Licensed Immigration Adviser”, and her licence number.
- [49] The material parts of Ms Shadforth’s post were (verbatim):

I dont believe that there are as many Advisers making all the claims that the sensationalist reporting would have people believe. Mind you it amuses me how much hypocrisy is spread as well. Before [a website and MBL Ltd] got a Licensed Adviser, they were strictly anti-advisers. The newsletters repeatedly claimed that any Adviser claiming 99% or 100% success rate was a liar. I agree. Yet that is what is now promoted and falsely claimed as the [MBL Ltd] success rate. Funny isnt it?

The same companies referred to an ex employee (who had to leave I believe because they became unlawful in New Zealand!), was let down by the previous Adviser of 4 years (ME) refused to act without fees and had failed to advise properly etc. BUT ... turns out that was absolute rubbish. The reason we refused to do further work was not about money at all. How could it be when we had

worked for the past 4 years on drip feed? Failed to advise properly?  
I dont think so.

Funny how these people can make all these claims and statements  
which are gobbled up and regurgitated as fact without a shred of  
proof and without any attempt to get at the truth. Not what I  
consider professional.

Frankly I wouldnt recommend using an Immigration company that  
cant keep its staff on legal visas. That's just me though.

Jay Shadforth  
Licensed Immigration Adviser (200800094)

[50] On 3 March 2014, Ms Shadforth made another post saying her first post  
was "fact based and supported by evidence".

[51] Ms Shadforth questioned whether it was possible to identify Client B, but  
accepted she was her former client and that what she said was  
unprofessional. Ms Shadforth nonetheless says that the Tribunal should  
not uphold the grounds of complaint, as:

[51.1] what she said about Client B was not confidential; and

[51.2] the posting did not come within the scope of section 44(1), so the  
Tribunal has no jurisdiction based on Mr MBL's complaint.

[52] Ms Shadforth is right to concede the posting is unprofessional; it is in  
flagrant breach of clause 1 of the 2014 Code. The post disparages another  
licensed immigration adviser and what she said was likely to cause readers  
to believe that some licensed immigration advisers are dishonest, and not  
held to account by the Immigration Advisers Authority. It gives Mr MBL's  
practice As an example of dishonesty, and suggests persons engaging  
licensed immigration advisers should take care so they do not engage  
dishonest advisers, which is a real risk. Clause 1 of the 2014 Code  
required Ms Shadforth to be professional; denigrating her profession and  
its regulation publicly in this manner falls far short of the standards  
required.

[53] The other aspect of the post which is a breach of professional duties is the  
information she disclosed regarding her former client, Client B. Ms  
Shadforth's statements are intended to inform readers that:

[53.1] Client B had been in New Zealand unlawfully without a visa;

[53.2] Ms Shadforth represented Client B for 4 years;

[53.3] she refused to do further work for Client B;

[53.4] the reason for refusing to do further work was unrelated to fees, implying there was some other concern regarding the professional relationship; and,

[53.5] Client B had been unable to pay fees other than in small instalments.

[54] Ms Shadforth questions whether readers could identify Client B. If Ms Shadforth had confidentiality obligations, she was obliged to ensure she did not identify Client B. However, it is inescapable that the persons who would be most interested in Client B's personal circumstances were her colleagues, friends, and family and they would likely know she was a former employee of MBL Limited, and that her visa expired. It is probable that other people could have identified Client B. In support of her claim that Client B's circumstances were already public, Ms Shadforth provided information that shows an internet search may well have disclosed Client B's identity.

[55] Ms Shadforth says she was justified in disclosing the information as the details "were no longer confidential". She claimed that because Client B's personal circumstances were in the public domain, she was entitled to publish the information. She produced various documents that show significant aspects of Client B's circumstances were public, including aspects of her immigration affairs. The public information included references to a previous immigration adviser; however, Ms Shadforth concedes, "she [that is Ms Shadforth] was not identified by name in those articles"; it appears she was not otherwise identified in the articles either. Accordingly, the fact that Ms Shadforth acted for Client B was not public information.

[56] Clause 4 of the 2014 Code provides:

**Confidentiality**

4. A licensed immigration adviser must:
  - a. preserve the confidentiality of the client except in the following circumstances:
    - i. with the client's written consent, or
    - ii. if making a complaint to the Immigration Advisers Authority relating to another adviser or reporting an alleged offence under the Immigration Advisers Licensing Act 2007, or
    - iii. for the administration of the Immigration Advisers Licensing Act 2007, or
    - iv. as required by law, and

- b. require that any employees or other persons engaged by the adviser also preserve the confidentiality of the client.

[57] The obligation means what it says. Ms Shadforth had no right to disclose that:

[57.1] she represented Client B for four years;

[57.2] she refused to do further work for her; or,

[57.3] Client B paid fees in small instalments.

[58] Ms Shadforth also had no right to say she refused to do further work for Client B, or that she did so for reasons unrelated to fees. That was both confidential, and expressed in a way that invited speculation there was something untoward regarding Client B's conduct in the professional relationship.

[59] Ms Shadforth required her client's written consent to post that information on the internet.

[60] Ms Shadforth claims the Tribunal lacks jurisdiction, as the complaint relating to the website was not "concerning the provision of immigration advice". I do not agree. Ms Shadforth's conduct concerning the internet postings relates to her publishing information she was required to keep confidential about Client B. She obtained the confidential information while providing immigration advice to Client B and she was then under an enduring obligation to maintain confidentiality. Client B, or anyone else, was entitled to complain about Ms Shadforth breaching that obligation.

[61] Because Ms Shadforth obtained the information I have identified in the course of providing immigration advice to Client B, the breach of her enduring duty concerned the provision of immigration advice. Her obligation to uphold the confidentiality of her clients is ancillary to her providing immigration advice. If that were not so, as soon as a client relationship ended a former client could not complain about any subsequent conduct. A large portion of the complaints the Tribunal deals with do involve those obligations, such as the failure to refund fees, and return passports and documents. I agree with the Registrar's view that the expansive word "concerning" and the expansive definition of "immigration advice" in section 7 precludes a narrow view. Accordingly, section 44(1) includes breaches of duties after the adviser/client relationship ends.

[62] It is not necessary for me to reach a view as to whether, if they stood alone, the comments relating to MBL Ltd required an "own motion" complaint under section 46 of the Act. The information regarding Client B

does not require an own motion complaint. Whether or not the comments relating to MBL Ltd (and by implication Mr MBL) could be subject to a complaint by Mr MBL will make no difference to the outcome of this complaint.

[63] I find Ms Shadforth's postings breached her professional obligations, and the breaches are within the Tribunal's jurisdiction. The remaining elements of the postings give context to the breach of Client B's confidentiality and I will consider them to that extent. It is unnecessary to analyse each offending element of the post and determine whether it could separately found a complaint from Mr MBL. I find Ms Shadforth's motivation for breaching Client B's confidentiality was that it served her purpose in the course of an unprofessional enterprise that is without redeeming features. In particular, that the context of the disclosure of Client B's professional relationship with Ms Shadforth was:

[63.1] in a highly public manner, given she published it on the internet;

[63.2] she chose to post it in an obviously sensitive context; namely posts addressing the proposition that Immigration New Zealand or licensed immigration advisers are dishonest on a systemic basis;

[63.3] Ms Shadforth was fostering the claim of adviser dishonesty by providing what she claimed were examples of it;

[63.4] in aid of this lamentable enterprise, Ms Shadforth chose to breach her professional duties to Client B and make personal and unflattering disclosures about her.

[64] I do recognise that Client B had, apparently through pressing personal circumstances, chosen to make elements of her life that would usually be private a public matter. However, that gave Ms Shadforth no licence to decide to publish further information. The 2014 Code makes it clear that Ms Shadforth required written consent to do that. The circumstances could not have failed to put Ms Shadforth on alert that what she was posting put her professional integrity in issue.

[65] I find Ms Shadforth breached Clause 1 of the 2014 Code, as she unprofessionally and with a lack of respect published confidential information relating to Client B; and she breached clause 4 of the 2014 Code as she failed to preserve the confidentiality of Client B.

### **Decision**

[66] The Tribunal upholds the complaint pursuant to section 50 of the Act. Ms Shadforth breached the 2010 code and the 2014 Code in the respects

identified, and they are grounds for complaint pursuant to section 44(2) of the Act.

### **Submissions on Sanctions**

- [67] As the Tribunal has upheld the complaint, it may impose sanctions pursuant to section 51 of the Act.
- [68] The Authority and the complainant have the opportunity to provide submissions on appropriate sanctions, including potential orders for costs and compensation. Whether they do so or not, Ms Shadforth is entitled to make submissions and respond to any submissions from the other parties.
- [69] The Tribunal observes that Ms Shadforth's response to the complaint leaves a high level of concern. She appears to lack an understanding of her professional obligations and the standards of conduct required of her as a professional. It is notable that Ms Shadforth sought to justify plainly unacceptable emails, claiming the context justified them. She also said a disclosure of confidential information was acceptable as some of her former client's circumstances were public.
- [70] Subject to what the parties may say, the findings would not usually result in a cancellation or suspension of licence. However, the Tribunal would usually consider a requirement to undertake training when a licensed immigration adviser has displayed such a deficit in understanding their professional obligations, and conspicuously poor judgement. Ms Shadforth's lack of judgement is evident in both her original conduct and her subsequent failure to recognise why it is indefensible.
- [71] The Tribunal requests that the Registrar indicate whether she considers the Tribunal should require Ms Shadforth to enrol in and complete the Graduate Diploma in New Zealand Immigration Advice (Level 7), with, or without, other orders. The other parties too should consider responding to that issue.

### *Timetable*

- [72] The timetable for submissions will be as follows:
- [73] The Authority and the complainant are to make any submissions within 10 working days of the issue of this decision.
- [74] Ms Shadforth is to make any further submissions (whether or not the Authority or the complainant make submissions) within 15 working days of the issue of this decision.

[75] The Authority and the complainant may reply to any submissions made by Ms Shadforth within 5 working days of her filing and serving those submissions.

**Order Prohibiting Publication of the Complainant's Name or Identity**

[76] The subject of this complaint includes slurs against Mr MBL and the disclosure of confidential information relating to Client B. They are entitled to such protection as the Tribunal can provide to avoid further publication of the information. The protection provided will not be complete, but will limit what could otherwise be significant further publicity. Client A could also be embarrassed through publication of his identity, and he has not participated in the complaint.

[77] Accordingly, the Tribunal orders that the names of Client A, Client B, Mr MBL, and MBL Ltd, and any information that may identify any of them, will not be published.

[78] The Tribunal reserves leave for Client A, Client B, and Mr MBL, MBL Ltd, or the Registrar to apply to vary this order. The order does not prevent:

[79] Client A, Client B, MBL Ltd, and Mr MBL disclosing the decision to their professional advisers, or any authority they consider should have a copy of the decision; or,

[80] Ms Shadforth disclosing this decision to any barrister or solicitor of the High Court of New Zealand in its original form for the purpose of obtaining legal advice.

**DATED** at Wellington this 18<sup>th</sup> day of May 2016.

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**G D Pearson**  
**Chair**