

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

Decision No: [2012] NZIACDT 54

Reference No: IACDT 046/11

IN THE MATTER

of a referral under s 48 of the Immigration
Advisers Licensing Act 2007

BY

Immigration Advisers Authority

Authority

BETWEEN

Natalie Bullent

Complainant

AND

Glen William Standing

Adviser

DECISION

REPRESENTATION:

Complainant: In person

Adviser: In person

Date Issued: 30 August 2012

DECISION

Introduction

- [1] Ms Bullent engaged Mr Standing to provide immigration services.
- [2] She paid money to him in advance for professional fees.
- [3] This occurred before Mr Standing was a licensed immigration adviser, and he was not required to be licensed at that time.
- [4] When he became licensed he was obliged to put his client relationship on a proper footing.
- [5] It is not clear to what extent Mr Standing complied with the disclosure requirements of the Licensed Immigration Advisers Code of Conduct and other matters when he became licensed.
- [6] However, he was obliged to conduct himself as a licensed immigration adviser after he was licensed. That included holding the money paid in advance for services not delivered, and meeting the professional obligations to provide the serviced he had promised.
- [7] Mr Standing failed to deliver the promised services. That was the continuation of a dishonest enterprise in which he had solicited fees in advance, without intending to provide the services he promised. As a licensed immigration adviser, he failed to act with care, diligence, respect and professionalism in the delivery of the services he promised.
- [8] Mr Standing was obliged to deal with some of the fees paid in advance as client funds (trust funds), whereas in fact he has misappropriated the money and has not accounted for it.
- [9] The evidence supporting the complaint, and the potential conclusion that he was dishonest, was put to Mr Standing by the Tribunal. He has neither answered, nor explained, that evidence
- [10] The Tribunal has upheld the complaint. The evidence supporting the complaint requires that the Tribunal conclude the complaint was justified, including finding Mr Standing was dishonest and that he misappropriated money.

The Complaint and the Response

The complaint

- [11] In January 2008 Ms Bullent and her husband Mr Bullent engaged Mr Standing to assist them and their family to migrate to New Zealand. At the time Mr Standing was not a licensed immigration adviser, the licensing regime was only commencing, and he was not required to be licensed.
- [12] A company named Golden Sands Migration (NZ) Ltd, through which Mr Standing operated his immigration services practice entered into an agreement with Ms and Mr Bullent, dated 26 January 2008. The agreement identified Mr Standing as the Director for Immigration.
- [13] The agreement provided for a professional fee of £3,400, and it included approximately £1,595 on account of fees that would be disbursed to third parties on behalf of Ms and Mr Bullent.
- [14] The agreement stated that the fee would be paid in two instalments:
 - [14.1] First, 50 per cent of the professional fees, together with Immigration New Zealand's expression of interest and application fees;
 - [14.2] The balance of the professional fee, together with the Government migrant levy prior to an application for residence being lodged.

- [15] The agreement stated that all professional fees would be refunded if, after gaining skilled employment, a residence visa was not obtained.
- [16] Ms and Mr Bullent paid £2,100, as the first instalment of the fee in January 2008.
- [17] At this point, Ms and Mr Bullent delayed their relocation to New Zealand due to their circumstances.
- [18] Mr Standing became a licensed immigration adviser on 24 November 2008. By this time, he had provided no professional services of any substance to Ms and Mr Bullent.
- [19] After he was licensed, Mr Standing communicated with Ms and Mr Bullent on the basis he was acting for them and he was a licensed immigration adviser:
 - [19.1] On 14 May 2010, Mr Standing wrote to Ms and Mr Bullent and gave them notice of fee increases which Immigration New Zealand was implementing for lodging applications as from 31 May 2010. Mr Standing identified himself using his licensed immigration adviser number, and noted he was "Licensed by" the "Immigration Advisers Authority". There was other correspondence to and from Ms and Mr Bullent and Mr Standing's office.
 - [19.2] On 29 October 2010, Mr Standing wrote regarding the new Immigration Act 2009, and discussed whether existing forms could be used for a period after the new Act came into effect. He was, again, identified as a licensed immigration adviser, and his licence number was stated.
- [20] In an email to Mr Standing's office dated 2 November 2010, Ms Bullent indicated her family had reached the point where they were planning their move to New Zealand, and sought advice from Mr Standing's office.
- [21] There was correspondence from Mr Standing's office, including an email dated 17 December 2010 which was from Mr Standing personally; it appeared he was aware of their circumstances.
- [22] In December 2010 Ms and Mr Bullent decided to plan their move to New Zealand and began taking steps toward that end. They booked flights to New Zealand, to arrive on 24 June 2011, though the time was later rearranged and they arrived in New Zealand in August 2011.
- [23] There was ongoing communication with Mr Standing's office from December 2010 until Ms and Mr Bullent and their family travelled to New Zealand. However, Mr Standing's office ignored many emails and was slow to respond when they did reply. Telephone calls were answered, but Ms and Mr Bullent were told they would be called back, and that did not occur.
- [24] Ms and Mr Bullent were concerned that Mr Standing had failed to make the necessary arrangements for their move to New Zealand, but they were committed – having given up employment and rented out their home.
- [25] Mr Standing did not lodge any applications for residence or work visas. Ms and Mr Bullent had prepared an expression of interest, which would have been the initial step to gain a residence visa. However, Mr Standing had taken no steps at all to advance their immigration situation.
- [26] On 15 August 2011 Mr Standing had his licence cancelled by this Tribunal, and could no longer lawfully provide immigration services.
- [27] Mr Standing sent a letter dated 17 August to Ms and Mr Bullent, although it was a general letter to Mr Standing's clients, and not addressed to them personally. They received the letter by email in the course of their trip to New Zealand. Mr Standing said a company named Living New Zealand Ltd, through which he apparently conducted his practice at that time, had gone into liquidation. It was, he said, due to his licence being cancelled by this Tribunal.

- [28] He said he wished to continue providing immigration services in a limited capacity in conjunction with an unnamed licensed immigration adviser. It was not evident how this would be achieved lawfully.
- [29] Ms and Mr Bullent requested that their documents be returned, and they discovered that Mr Standing had taken no steps on their behalf to gain a residence permit. They complain that Mr Standing had represented that for the fee he received he would provide professional assistance, and what in fact occurred when they required his professional assistance was as follows:

“[Mr Standing’s practice] knew our exact dates when we were leaving the UK and nothing was said to us. We had given up our entire lives in the UK in the good faith that [Mr Standing’s practice] would help us with our visa and employment.

After arriving in New Zealand, we decided to ask for all our paperwork back after having no trust in [Mr Standing’s practice] anymore and to our horror found that all that was sent back was a form that I had filled in, my husband’s original educational certificates and something from the NZQA. We had paid £2,100 for this!

So we were stranded. A family of five with no job and a great loss of money.

It took my husband nearly six weeks to get a job and a work permit at extra cost. We had to have money sent to us borrowed from the UK to keep us afloat. Not to mention the emotional side of it all.

We believe that all the leads [relating to potential employment] that my husband gave to [Mr Standing’s practice] were never followed up and basically we have been completely and utterly taken for a ride by Glen Standing and [his practice].

We have been in touch with the liquidator who said that there was little chance of our money back but we believe Glen Standing has not adhered to his terms of business and has been dishonest throughout.”

The response

- [30] Mr Standing’s response to the complaint was an email dated 20 December 2011, addressed to the Authority. The email states:

“As per previous complaints, I do not hold the files for these applicants and therefore [I am] not in a position to comment in any great detail. However, I can state that to the best of my knowledge there was never [any] misleading information given nor was I ever incompetent or in breach of the code of conduct.”

Context and Scope of Evidence and Mr Standing Failing to Respond to Questions

Other complaints against Mr Standing

- [31] The Tribunal issued a Minute dated 31 July 2012, which identified the grounds of complaint, response, and the issues arising; and indicated conclusions that may be reached on the basis of the information held at that point by the Tribunal.
- [32] The Minute made it clear to the parties they could provide further information which would be considered by the Tribunal.
- [33] The Minute also requested further information from Mr Standing, and put him on notice that any response should take account of the fact he was facing multiple complaints, some of which had strikingly similar components.
- [34] The Minute explained to Mr Standing:
- [34.1] This Tribunal is an inquisitorial body, and is required to pursue issues raised by complaints, where necessary requesting further information and requiring persons with information to appear before the Tribunal.

- [34.2] This Tribunal was dealing with other complaints against Mr Standing, as his response indicated. Further, this complaint was not unique in presenting an allegation that substantial fees have been paid in advance, followed by a failure to deliver professional services, a failure to refund fees and a failure to account for client funds.
- [34.3] The approach this Tribunal will take is that it would not unnecessarily use evidence in one complaint to support another complaint. However, multiple complaints which involve strikingly similar features may be probative evidence when the Tribunal determines whether there was systematic dishonesty, incompetence, or a set of circumstances amounting to an innocent explanation. That of course would depend on finding patterns of repeat behaviour.
- [34.4] At that point, subject to further submissions, the Tribunal considered it was sufficient to put Mr Standing on notice that this complaint should be addressed in a context where he faced multiple complaints that include the features of:
- [34.4.1] Demanding and receiving fees in advance amounting to several thousands of dollars.
 - [34.4.2] Failing to deliver professional services either at all, or at a level meeting the minimum standards.
 - [34.4.3] Failing to account for client funds.
 - [34.4.4] Refusing to refund the fees paid in advance when he did not deliver the professional services he promised.
- [34.5] Accordingly, Mr Standing was invited to consider informing the Tribunal of any general circumstances that may have affected professional service delivery in his practice, and recognise that he cannot expect the Tribunal to approach this complaint as though it was an isolated lapse in the context of a practice that was otherwise meeting the minimum professional standards, if this is the Tribunal's finding when other complaints have been determined.
- [34.6] Further, if the Tribunal did find a series of complaints have established Mr Standing has repeatedly taken fees after misrepresentations, failed to account for client funds, failed to perform professional services, and not refunded fees when services have not been provided, that will potentially be regarded as material when determining the present complaint, subject to any submissions on the point.

Request for further information from Mr Standing

- [35] The Code (clause 3) requires Mr Standing to maintain complete client records for seven years, and confirm in writing the details of material discussions with clients. Accordingly, he should be in a position to present a fully documented record of the professional engagement which is subject to the complaint. He had not produced that material to the Authority or the Tribunal.
- [36] Pursuant to section 49(4)(a) the Tribunal requested Mr Standing to:
- [36.1] Provide a full and complete copy of his client records relating to his professional engagement with Ms and Mr Bullent.
 - [36.2] Explain and document how he dealt with the fees paid to him and how he took into account his apparent obligation to deal with the receipts in whole or in part as client funds held on trust and keep them in a separate bank account, in accordance with clause 4 of the Code.
 - [36.3] Respond to each of the issues raised by this complaint, with reference to his client record.

- [37] Mr Standing had indicated he does not have his client records, apparently as they are in the hands of the liquidator of Living New Zealand Ltd, the company through which he most recently conducted his practice.
- [38] The Code, which requires records to be kept and available, has the force of law (sections 37–39 and 44 of the Act). It is implausible that any responsible liquidator would impede Mr Standing from obtaining a copy of his client record to respond to a complaint, given the legal duties on Mr Standing.
- [39] Mr Standing had produced no evidence that he has attempted to produce the record.
- [40] Accordingly the Tribunal gave Mr Standing notice that if any person was withholding his client record, he should notify the Tribunal of the circumstances and the Tribunal would consider issuing a summons to that person, to secure the production of his client records.
- [41] Mr Standing was further put on notice that unless he demonstrated he has taken the steps available to secure the production of his client record, the Tribunal would potentially take the view that he has chosen to withhold his record, and reach conclusions adverse to him on that basis.
- [42] Mr Standing has not provided the information requested in the Minute, or responded to the other matters raised in the Minute.

The Effect of Mr Standing Not Being Licensed when the Engagement Commenced

- [43] The licensing regime under the Immigration Advisers Licensing Act 2007 came into force one year after it received the Royal assent, which was on 4 May 2007. The Act and the Authority operated as from 5 May 2008. There was a period of “grace” for a year after the Act came into force until it was compulsory for onshore advisers to hold a licence when providing immigration advice. Between 4 May 2008 and 4 May 2009, advisers could apply for licences.
- [44] The Licensed Immigration Advisers Code of Conduct 2008 had been developed and was published on 6 March 2008 (refer sections 37 and 38 of the Act).
- [45] Mr Standing obtained his licence on 24 November 2008.
- [46] At that point, Mr Standing held £2,100 which he had received on the basis of promising to provide professional services, and also money he received for the purpose of paying fees to Immigration New Zealand.
- [47] When Mr Standing became a licensed immigration adviser he accepted the privileges and responsibilities of being a licensed immigration adviser. He had a client relationship with Ms and Mr Bullent and held fees paid in advance. He was obliged to put that client relationship on a footing that complied with the Act and the Code, and meet the requirements in relation to client funds.

The Issues to be Determined

- [48] Mr Standing is bound by the Immigration Advisers Licensing Act 2007, and the Licensed Immigration Advisers Code of Conduct.
- [49] Clause 1 of the Code of Conduct requires:
 - [49.1] A licensed immigration adviser is to act with professionalism. In doing so, they must ensure that the terms of professional engagements are fair and appropriate.
 - [49.2] That a client engagement be established with an agreement that is in writing, and accepted in writing; and only after providing a copy of the Code to the client.

- [49.3] That a licensed immigration adviser discharge professional engagements with due care, diligence and respect. That requires them to ensure that their professional service delivery meets proper standards.
- [50] Clause 3 of the Code requires written records and communications, which ensure that clients are fully informed and that there is a record of the professional engagement and how it was discharged.
- [51] Clause 4 of the Code treats receipts, to the extent they are held on behalf of clients, as trust funds, and a licensed immigration adviser must bank them separately.
- [52] Clause 8 of the Code prohibits a licensed immigration adviser setting a fee that is not “fair and reasonable”.
- [53] Clause 9 requires that complaints procedures are disclosed.
- [54] Section 44 of the Act provides breaches of the Code, negligence, incompetence, dishonesty and misleading behaviour are all grounds for complaint.
- [55] The Tribunal is required to determine the complaint 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). The complaint includes elements which are at the highest end of the scale, including dishonesty. Accordingly, the findings will be made with regard to the effect on the standard of proof.

Decision

Preliminary

- [56] The Tribunal observes that the regime in the Act is one where individuals are licensed as immigration advisers and it is not possible for a corporate entity or a practice to be licensed. It follows that it is individual licensed immigration advisers who are the subject of complaints, and personally face disciplinary sanctions and orders for compensation.
- [57] The Tribunal will regard Mr Standing as personally responsible both for professional service delivery, and accounting for receipts in relation to this matter.

Putting the client relationship on a professional footing upon registration

- [58] When he became a licensed immigration adviser, Mr Standing should have ensured that his client relationship with Ms and Mr Bullent was on a proper basis.
- [59] The Tribunal gave Mr Standing notice that he should produce his records and demonstrate he was seeking to meet his professional obligations.
- [60] Mr Standing has not provided those records. However, I am not willing to make assumptions as to what the record contains. Here, the circumstances are not particularly clear. Mr Standing was not licensed when the client relationship commenced, so what compliance in that period was sufficient, and did not need to be repeated when he became licensed, is uncertain in the absence of seeing Mr Standing’s client record.
- [61] Accordingly, I make no finding that Mr Standing failed to comply with the Code in relation to having an appropriate written agreement and discharging the disclosure requirements at the time he was licensed.
- [62] However, the remainder of the complaint is established on the basis of the information supporting the complaint.

Failure to deliver services

- [63] The complaint alleges Mr Standing dishonestly procured fees as he did not intend to provide the services he promised. However, what Mr Standing did before he was licensed is not within the jurisdiction of this Tribunal. If there is material dishonesty, it must relate to the period after Mr Standing was licensed.
- [64] The Tribunal will not lightly conclude Mr Standing's actions were dishonest, as the Tribunal must be satisfied the grounds for a complaint are made out with regard to the gravity of that allegation.
- [65] I accept the evidence of Ms Bullent supporting the complaint. It is consistent with the record available. Mr Standing has not challenged it despite it being put to him.
- [66] Ms Bullent alleges that Mr Standing disregarded his professional obligations in relation to dealing with client funds, and provided little or no professional services after he was licensed. I am satisfied the evidence before the Tribunal establishes that claim.
- [67] Relevantly to the time after he was a licensed adviser he:
- [67.1] retained and failed to account for fees; and
- [67.2] did not provide the service he agreed to supply.
- [68] The question is whether the evidence justifies finding that this was part of a dishonest enterprise.
- [69] After he was licensed, Mr Standing was obliged to provide services to his clients with care, respect, diligence and professionalism. The standard of service delivery was far short of the requirements in the Code of Conduct, which in itself raises a question as to whether Mr Standing was intending to provide the services he promised.
- [70] As discussed below, in the course of this instruction Mr Standing has misappropriated client funds which he was obliged to hold on trust. While I could not accept one example of dishonesty proved another, I do accept this is a further indication that Mr Standing was not simply incompetent or lacked diligence. It adds some weight to the conclusion that Mr Standing embarked on a dishonest enterprise where he had no regard to his professional obligations or the harm he was causing to his clients. Part of his objective was to access funds, which he misappropriated.
- [71] I also give some weight to the series of complaints against Mr Standing which have been upheld by the Tribunal. The other potentially relevant complaints are published in the series of this Tribunal's decisions: [2012] IACDT 46 to 58, a number of which have characteristics similar to this complaint, including the aspects outlined above (para [34.4]).
- [72] I emphasise that I give weight to the evidence in the other complaints with caution, and only to the extent they truly have probative value in this complaint. I do accept there is probative value, as the other complaints, and this complaint, evidence a distinctive *modus operandi* (*R v Tukuafu* [2003] 1 NZLR 659 (CA)).
- [73] The key feature of these complaints is Mr Standing making whatever false representations were required to secure the payment of fees, regardless of the potential client's immigration prospects. The representations were tailored to fit Mr Standing's perceptions of what his prospective clients may believe, and take as assurance. In some cases, grossly extravagant promises were made in writing and provided to the Tribunal in support of complaints. That was followed in a number of cases, like the present case, with a minimal or inadequate delivery of the services promised.
- [74] Dishonestly procuring fees and failing to deliver the services promised is the recurring feature of the series of complaints. Mr Standing's failure to deliver professional services in the present case after he was licensed, and the fees procured by preceding dishonesty, is highly consistent with the other complaints.

- [75] Giving weight to all of the factors, I am sure the only proper finding is that Mr Standing was dishonest; he solicited funds without intending to provide the professional services promised. He in fact did not provide the services. He has not attempted to explain that failure. He misappropriated the fees paid in advance.
- [76] The material dishonesty while he was a licensed immigration adviser was to hold fees, not provide services or refund the fees, and then fail to account for the fees when called to do so.
- [77] This aspect of the complaint must be upheld. Mr Standing's behaviour was dishonest, and accordingly grounds for complaint under section 44(2)(d) of the Act. It was also in breach of the Code of Conduct (clause 1.1), which is grounds for complaint pursuant to section 44(2)(e) of the Act.

Failure to account for client funds

- [78] The evidence establishes that at least some of the money paid to Mr Standing was in respect of fees to be paid to Immigration New Zealand. These were client funds. Other unearned fees would also be client funds.
- [79] Accordingly, to a greater or lesser extent the fees Mr Standing received were client funds held on trust, and Mr Standing was required pursuant to clause 4 of the Code to bank them in a bank account that was separate and solely for that purpose. The funds in that bank account are not the property of Mr Standing or the company through which he operated his practice, and the account must contain only trust funds.
- [80] Where trust funds are received by a professional and not banked into the appropriate account, and then are not accounted for, the probable reason involves misappropriation of the funds. There is no discretion in relation to dealing with client funds.
- [81] I am satisfied Mr Standing dishonestly dealt with client funds. He has not accounted for the money he received to pay to Immigration New Zealand, despite repeated requests.
- [82] He has provided no explanation as to what he has done with any of the money, despite being requested to produce his records (Code clause 3), under the Tribunal's statutory powers and warned of the implications of the evidence before the Tribunal.
- [83] I am satisfied this aspect of the complaint must be upheld as a breach of the Code (clause 4), and it also involved a dishonest failure to account for funds. Section 44(2)(d) and (e) of the Act provide these circumstances are grounds for complaint.

Demanding and retaining excess fees

- [84] I am satisfied Mr Standing did not provide professional services that reflected the fees he demanded and retained. Mr Standing was put on notice by the Tribunal's Minute that the Tribunal may conclude:
 - [84.1] Clause 8 of the Code obliged him to set fees that were fair and reasonable.
 - [84.2] The fee was not fair and reasonable when his engagement terminated.
 - [84.3] Clause 3(d) of the Code required him to provide a refund of fees payable when his engagement ceased.
 - [84.4] The fees were repayable as they were not fair or reasonable, and he could no longer lawfully provide the professional services he agreed to supply.
 - [84.5] He breached the Code by failing to refund fees.
- [85] I am satisfied on the material before the Tribunal that Mr Standing was not entitled to retain any of the money he received, and he should have returned it in full.

- [86] Mr Standing failed to deliver the service he promised, and Ms Bullent and her family have been left in an invidious position. Further, Mr Standing was obliged to fully refund the professional fees pursuant to the agreement, in the event of him failing to obtain a residence visa. He has not done so, and cannot lawfully continue to provide the services required to achieve that.
- [87] I uphold the complaint in this respect also. Mr Standing's breach of the Code (clauses 8 and 3(d)) is a ground for complaint under section 44(2)(e) of the Act.

Submissions on Sanctions

Issues

- [88] As the complaint has been upheld, section 51 allows the Tribunal to impose sanctions. The section provides:

“Disciplinary sanctions

- (1) The sanctions that the Tribunal may impose are —
- (a) caution or censure:
 - (b) a requirement to undertake specified training or otherwise remedy any deficiency within a specified period:
 - (c) suspension of licence for the unexpired period of the licence, or until the person meets specified conditions:
 - (d) cancellation of licence:
 - (e) an order preventing the person from reapplying for a licence for a period not exceeding two years or until the person meets specified conditions:
 - (f) an order for the payment of a penalty not exceeding \$10,000:
 - (g) an order for the payment of all or any of the costs or expenses of the investigation, inquiry, or hearing, or any related prosecution:
 - (h) an order directing the licensed immigration adviser or former licensed immigration adviser to refund all or any part of fees or expenses paid by the complainant or another person to the licensed immigration adviser or former licensed immigration adviser:
 - (i) an order directing the licensed immigration adviser or former licensed immigration adviser to pay reasonable compensation to the complainant or other person.”

- [89] The Authority and Ms Bullent have the opportunity to provide submissions on the appropriate sanctions, including potential orders for costs, refund of fees and compensation. Whether they do so or not, Mr Standing is entitled to make submissions and respond to any submissions from the other parties.
- [90] Any application for an order for the payment of costs or expenses under section 51(1)(g) should be accompanied by a schedule particularising the amounts and basis for the claim.
- [91] The Tribunal will make any decision on the refund of fees based on the amount of fees identified in this decision, subject to any submissions from the parties.
- [92] It appears that the appropriate approach, if there is an order for the refund of fees, is that the amount paid should be converted to New Zealand dollars at the rate for the day it was paid, and an order made of a refund of that amount of New Zealand dollars.
- [93] That would be on the basis that the payment was intended to be for services in New Zealand and could be expected to be converted when paid. The parties may contend for some other basis.

Mr Standing's circumstances

- [94] This Tribunal is an inquisitorial body and is required to pursue issues raised by complaints, where necessary requesting further information and requiring persons with information to appear before the Tribunal.
- [95] This Tribunal is currently dealing with other complaints against Mr Standing, and has previously dealt with complaints against Mr Standing.
- [96] Mr Standing is not presently a licensed immigration adviser, as his licence was cancelled by this Tribunal and limitations placed on him seeking another licence.
- [97] Mr Standing has also informed the Tribunal that the company through which he most recently conducted his practice had gone into liquidation (Living New Zealand Ltd – now struck off, as liquidation has been completed).
- [98] In this and other complaints Mr Standing is alleged to have failed to meet financial obligations to clients. The Tribunal is aware of the liquidator's reports, and draws Mr Standing's attention to those reports which state:
 - [98.1] Mr Standing has been referred to the National Enforcement Unit in relation to suspected criminal offences, which apparently relate to Mr Standing's conduct and the absence of funds to pay creditors.
 - [98.2] The company had assets that could be realised of \$8,078, and liabilities and liquidation expenses of \$497,422. Creditors received no distribution from the liquidation.
 - [98.3] Overseas clients had paid \$635,769.49 in deposits for work that had not been completed.
- [99] The Tribunal is aware this company did not operate the entire time Mr Standing was operating his practice, and the fees received relate only to clients where work was incomplete. Accordingly, the fees received from overseas clients of \$635,769.49 are less than the total fees Mr Standing received.
- [100] Mr Standing is facing complaints before this Tribunal that he procured the payment of fees and failed to perform work; in many cases those fees were deposited into offshore bank accounts.
- [101] This information is sufficient to raise a concern that Mr Standing has received a substantial body of fees which have not been accounted for.
- [102] Accordingly, the Tribunal puts Mr Standing on notice that if he claims he does not have the means to pay penalties, and compensation:
 - [102.1] He is expected to explain to the Tribunal the circumstances identified in the liquidator's reports.
 - [102.2] He should consider making arrangements for a chartered accountant to prepare a source and application of funds statement in relation to his practice, and producing that to the Tribunal.
 - [102.3] He will be expected to fully explain his personal financial circumstances, including providing a statement of assets and liabilities.
- [103] If Mr Standing does not respond, the Tribunal may proceed on the basis that Mr Standing has the means to meet financial sanctions that fully reflect the findings against him.

Timetable

[104] The timetable for submissions will be as follows:

[104.1] The Authority and Ms Bullent are to make any submissions within 10 working days of the issue of this decision.

[104.2] Mr Standing is to make any further submissions (whether or not the Authority or Ms Bullent make submissions) within 15 working days of the issue of this decision.

[105] Any party may apply to extend the timetable. If Mr Standing seeks to have time to have the assistance of a chartered accountant, he should provide a written statement from that person identifying the work they are undertaking and the likely time required to complete it.

[106] The parties are notified that this decision will be published with the names of the parties after five working days, unless any party applies for orders not to publish any aspect.

DATED at WELLINGTON this 30th day of August 2012.

G D Pearson
Chair