

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

Decision No: [2012] NZIACDT 82

Reference No: IACDT 028/10

IN THE MATTER

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

BY

Immigration Advisers Authority
Authority

BETWEEN

Hui Wang
Complainant

AND

Roy (Liqing) Xue
Adviser

DECISION
IMPOSITION OF DISCIPLINARY SANCTIONS

REPRESENTATION:

Adviser: In person

Complainant: In person

Date Issued: 18 October 2012

DECISION

Introduction

- [1] A decision issued on 29 June 2012 upheld this complaint in part.
- [2] Mr Wang engaged Mr Xue, a licensed immigration adviser, to apply for a new work permit. His existing work permit was about to expire.
- [3] Mr Wang complained Mr Xue did not comply with the requirements of the Licensed Immigration Advisers Code of Conduct in multiple respects. The Tribunal dismissed most grounds of complaint.
- [4] The only aspect of the complaint upheld was the failure to comply with the Code of Conduct in relation to a written agreement to commence the professional relationship.
- [5] The Tribunal was satisfied that while there was non-compliance, it was not wilful. Mr Xue had prepared a written agreement, and shown it to Mr Wang. However, it was in English and Mr Wang was not confident in that language. Mr Xue should have been more insistent that his client did affirm the agreement in writing.
- [6] Mr Xue has throughout been entirely frank about what occurred, accepted his error, and undertaken that the circumstances will not arise again.

The Parties' Positions on Sanctions

- [7] None of the parties has made submissions on sanctions.

Decision

- [8] I am satisfied that the proper course is to take no further action, following the complaint being upheld. That course is open under section 50(b) of the Act.
- [9] The failure was at a low level, as Mr Xue did present a written agreement, and Mr Wang indicated he understood it, and accepted it. The failure was not to record that in writing.
- [10] Mr Xue has been responsible and co-operative in dealing with the complaint, and accepting his professional obligations.
- [11] It is neither necessary nor appropriate to impose a sanction in these circumstances.
- [12] This decision does not diminish the importance of compliance with the requirement to have a written agreement. Rather, that in the unusual circumstances where there was a written agreement presented, and it was understood and accepted orally, the non-compliance was slight. Further, the reason for the non-compliance was the client's lack of comfort with the English language.

DATED at WELLINGTON this 18th day of October 2012

G D Pearson
Chair