

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

Decision No: [2013] NZIACDT 41

Reference No: IACDT 027/11

**IN THE MATTER**

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

**BY**

**Immigration Advisers Authority**

Authority

**Between**

**Amabelle Dablo**

Complainant

**AND**

**Alyssa Lopez Tan**

Adviser

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**DECISION**  
(APPLICATION FOR NAME SUPPRESSION)

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**REPRESENTATION:**

**Complainant:** In person

**Adviser:** R Nand, Patel Nand Legal, Lawyers, Auckland

Date Issued: 26 June 2013

## DECISION

### The application

- [1] This complaint was upheld in a decision dated 20 May 2013.
- [2] In a decision dated 13 June 2013 another complaint against Ms Tan was upheld. The decision on sanctions for the two complaints will be addressed at the same time, the time for submissions to be filed in relation to the other complaint has not yet expired.
- [3] Ms Tan has applied to have her name suppressed in relation to this complaint. This decision determines that application.
- [4] The application for name suppression was made out of time, however it will be addressed on its merits.

### Grounds

- [5] Ms Tan advanced a number of grounds which can be categorised as:
  - [5.1] The complaint was a “one-off lapse”.
  - [5.2] Ms Tan was acting on a voluntary basis without expecting payment.
  - [5.3] The findings did not involve dishonesty or other more serious lapses from professional standards.
  - [5.4] There has been a personal impact on Ms Tan as a result of the complaint, and she is no longer practising as a licensed immigration adviser.
  - [5.5] Ms Tan is willing to make amends as best she can.
  - [5.6] The consequences of publication would be disproportionate.
- [6] There is also a specific ground that the complainant suggested that Ms Tan and a professional colleague were life partners, and that was not correct.

### Discussion

- [7] Ms Tan’s claim that the matter was “one-off” incident is not correct. She has been found to have engaged in serious misconduct in relation to the other complaint, in particular:
  - [7.1] Failing to enter into a proper client engagement process, and then not delivering professional services in accordance with the Code;
  - [7.2] Withholding a communication from Immigration New Zealand from her client for the purpose of extracting fees she was not entitled to demand, and withholding professional services for the same purpose; and
  - [7.3] Being a party to the unlawful provision of immigration services by Mr Mehta.
- [8] The complainant suggested that Ms Tan and Mr Mehta were life partners. The decision upholding the complaint makes it clear that was no more than an assumption on her part, and finds that was not the case. It is evident this was no more than confusion, it is not damaging to Ms Tan’s reputation and character as she claims.
- [9] While the circumstances of the present complaint were not at the highest end of the spectrum, the grounds established were far from trivial. The decision makes it clear what the level of culpability was. The other factors are mitigating, but nonetheless leave the reality that Ms Tan has been responsible for a serious lapse from professional standards in relation to this complaint.

- [10] Virtually every professional person, and to some extent their family will suffer embarrassment and discomfort from publication of professional lapses. That in itself cannot be sufficient to determine publication is inappropriate.
- [11] There is no specific statutory direction concerning the power to direct either publication or suppression. Directions to limit or prohibit publication are a matter within the scope of the Tribunal's power to regulate its own procedure (section 49(1)). However, for a professional disciplinary body in contemporary New Zealand to operate without its decisions being available to the public would be a truly exceptional situation.
- [12] The Court of Appeal in *R v Liddell* [1995] 1 NZLR 538 at 546 per Cooke P said, in relation to the question of name suppression:

[T]he starting point must always be the importance in a democracy of freedom of speech, open judicial proceedings, and the right of the media to report the latter fairly and accurately as 'surrogates of the public'.

- [13] While the *Liddell* case dealt with a criminal conviction and attendant publication issues, the principles apply to a professional disciplinary body. The function of a professional disciplinary body is concerned with accountability of members of the profession to the public. Public confidence in a disciplinary body achieving fair outcomes, and accountability, is not well served by a process that is not open, and there is nothing in the Act indicating that it does create such a process. For the Tribunal to operate without being open and publicly accountable would not be in the interests of either the public or the profession.
- [14] Publication of the Tribunal's decisions will follow as a matter of course. There can be cases where decisions are published, and identities are withheld. However, it is necessary to establish that it is appropriate to derogate from open justice, at least to that extent.

#### *Decision*

- [15] I am satisfied this case falls far short of the threshold for withholding Ms Tan's identity from publication. The case is a routine one, where the decision should be published in the usual way.
- [16] Ms Tan's application to suppress her name is declined.

**DATED** at WELLINGTON this 26<sup>th</sup> day of June 2013

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**G D Pearson**  
Chairperson