

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

Decision No: [2013] NZIACDT 62

Reference No: IACDT 024/13

**IN THE MATTER**

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

**BY**

**The Registrar of Immigration Advisers**

Registrar

**BETWEEN**

**TSO**

Complainant

**AND**

**Mohammed Hassan**

Adviser

**THE COMPLAINANT'S NAME IS NOT TO BE PUBLISHED**

---

**DECISION**  
IMPOSITION OF DISCIPLINARY SANCTIONS

---

**REPRESENTATION:**

**Registrar:** In person.

**Complainant:** In person.

**Adviser:** In person.

Date Issued: 18 September 2013

## DECISION

### Introduction

- [1] The Tribunal upheld the complaint in this matter in a decision dated 16 August 2013.
- [2] Pursuant to section 50 of the Act, the complaint was upheld as Mr Hassan failed to initiate the professional relationship in accordance with the Code of Conduct, then reported orally rather than in writing.
- [3] As the Tribunal upheld the complaint, section 51 of the Immigration Advisers Licensing Act 2007 ("the Act") allows the Tribunal to impose sanctions.
- [4] The parties were invited to provide submissions on the appropriate sanctions.

### The parties' positions on sanctions

- [5] The complainant responded with matters that were relevant to the decision relating to upholding the complaint rather than the imposition of sanctions.
- [6] She challenged some of the facts on which the decision was based. However, they are not now relevant. The Tribunal has made its decision on the material that was before it, and sanctions will be based on those findings.
- [7] Mr Hassan took the same approach as the complainant, and challenged the Tribunal's findings. He rejected the reasoning of the Tribunal, and said that he was not required to adhere to the Code of Conduct which is:

"only for fee paying clients who are truly your clients. Family and friends are not clients but just a family"

- [8] Mr Hassan said if he were to comply with the Code it would be culturally inappropriate and look rude. Despite the decision upholding the complaint, he asked the Tribunal to "clear me from these irregularities."
- [9] He went on to say he would not repeat his conduct.

### Discussion

- [10] Mr Hassan's response is concerning. He makes it clear that he does not understand the effect of the Code and the universal application when he undertakes immigration work.
- [11] However, I am mindful that he has undertaken to change his practices.
- [12] Mr Hassan's claim that he was conforming to cultural norms and would have been rude if he complied with the Code of Conduct is self-serving and unimpressive. The reality is that his client firmly asserts Mr Hassan was neither related nor a family member, and she was a victim of him behaving dishonestly and exploiting her. While those allegations have not been upheld, there is no merit in the suggestion that Mr Hassan was being culturally sensitive. His client expected him to behave professionally, as the Code requires. Mr Hassan gets no support whatsoever from his client for his claim.
- [13] If there is a relationship between an adviser and a client or potential client that makes conforming with the Code of Conduct problematic, then the adviser must refer that client or potential client to another adviser. The Code is not optional, it has the force of law, and if a professional chooses to disregard it, they can expect to face the consequences of the disciplinary process.
- [14] Mr Hassan ignored the essential elements of the Code of Conduct required to establish a professional relationship and the proper reporting procedure.

- [15] Given Mr Hassan's willingness to correct the deficiencies in his practice, I am satisfied that the sanctions should focus on ensuring that Mr Hassan gains a full understanding of the relevant standards of practice. Appropriate training is available, and Mr Hassan will have the opportunity of completing it.
- [16] The relevant training covers essential matters, which every licensed immigration adviser must understand and apply. Mr Hassan will have a period of 18 months to complete the training successfully, and if he does not do so, his licence will be cancelled pursuant to section 51(4) of the Act.
- [17] It is also appropriate to impose a financial penalty, which should be significant, as there was a wholly unjustified decision on Mr Hassan's part to ignore the requirements of the Code of Conduct.
- [18] Mr Hassan is cautioned that he is required to conform with the Code of Conduct in relation to all of his professional work. He should immediately ensure that all the immigration services and advice he provides are within client relationships that conform to the Code of Conduct. He must approach existing clients where necessary, and ensure all relationships fully conform.
- [19] He should engage with the Authority in relation to any difficulties that arise.
- [20] The Tribunal notifies Mr Hassan that were the Registrar to find any ongoing non-compliance, the consequences may be severe.

#### **Order**

- [21] Mr Hassan is censured, and also cautioned in the terms previously stated.
- [22] He is ordered to pay a financial penalty of \$2,500.
- [23] He is required to undertake the following training within 18 months of the issue of this decision:
  - [23.1] He is to complete successfully Modules 1, 2 and 10 of the Bay of Plenty Polytechnic course: *Continuing Professional Development in New Zealand Immigration Advice*.

Or alternatively:

  - [23.2] He is to meet the requirements to be issued a Graduate Certificate in New Zealand Immigration Advice Level 7.
- [24] Leave is reserved to Mr Hassan to apply for an amendment to the order relating to training if there are changes in the courses directed, or the range of courses available.

**DATED** at WELLINGTON this 18<sup>th</sup> day of September 2013

---

**G D Pearson**  
Chairperson