

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

Decision No: [2014] NZIACDT 8

Reference No: IACDT 052/12

**IN THE MATTER**

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

**BY**

**The Registrar of Immigration Advisers**

Registrar

**BETWEEN**

**NE**

Complainant

**AND**

**LBC**

Adviser

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**DECISION**

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**REPRESENTATION:**

**Registrar:** In person

**Complainant:** In person

**Adviser:** In person

Date Issued: 5 February 2014

**DECISION**

- [1] The Registrar filed a Statement of Complaint. It identified the complaint was referred to the Tribunal in respect of two applications for residence visas filed on behalf of the complainant's brother.
- [2] The Statement of Complaint explained that after further review the Registrar has reached the view that the evidence could not support the complaint.
- [3] The grounds of complaint, and the reasons they could not be supported were:
- [3.1] A lawyer, not the adviser, filed the first residence application. Accordingly, the adviser was not responsible for any deficiencies in the form of the application.
- [3.2] The adviser did not delay in the interval until filing the second application. He could not provide assistance until he was licensed, and the record showed he addressed the matter promptly when he was licensed, and had the information he needed.
- [3.3] The difficulty with the second application was a lack of current medical certificates. The adviser identified the issue at the time, and had a written acknowledgement he advised his client not to file the application without current certificates. That met the requirements of the Code of Conduct, and otherwise met professional standards.
- [3.4] The adviser offered a refund of part of the fees and his client refused the offer. There were no grounds to establish fees the adviser received were refundable.
- [4] The adviser lodged a Statement of Reply supporting the position that the facts did not support the complaint.
- [5] The complainant lodged a Statement of Reply. His position was:
- [5.1] He accepted another person lodged the first application, but thought the adviser should be responsible as he was "operating under" that person.
- [5.2] He said the adviser held a licence at the time of the second application.
- [6] The Tribunal does not have jurisdiction over persons who are not licensed. Any complaint lies against the lawyer who apparently had responsibility for filing the application. The Tribunal makes no finding that there was any deficiency resulting in the lawyer filing the application in the form it was, but regardless it cannot be a ground of complaint against the adviser.
- [7] The adviser held a licence when he filed the second application; the complaint cannot succeed as he fulfilled his professional duties in relation to it.
- [8] The Tribunal is satisfied the Registrar's position regarding the evidence is correct and dismisses the complaint pursuant to section 50(a).

**DATED** at WELLINGTON this 5<sup>th</sup> day of February 2014

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**G D Pearson**  
Chair