

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

Decision No: [2015] NZIACDT 90

Reference No: IACDT 007/15

**IN THE MATTER**

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

**BY**

**The Registrar of Immigration Advisers**

Registrar

**BETWEEN**

**Jinrui Miao**

Complainant

**AND**

**Liang Huo**

Adviser

---

**DECISION**  
UPHOLDING COMPLAINT AND SANCTIONS

---

**REPRESENTATION:**

**Registrar:** Ms C Pendleton, lawyer, Ministry of Business, Innovation and Employment, Auckland.

**Complainant:** In person

**Adviser:** Mr M Kan, Michael Kan Law, lawyers, Auckland.

Date Issued: 6 October 2015

## DECISION

### The complaint

- [1] Mr Kan admitted the complaint in part; in particular, that he:
- [1.1] Allowed his wife to provide some immigration advice; and
  - [1.2] He communicated with a client using his wife's telephone using a messaging service without identifying himself.
- [2] The background to the two matters was that Mr Huo's wife works with him in his practice. However, she did not provide immigration services, her work related to education consultancy.
- [3] The incidents relating to the messaging service occurred in the course of education related communications, when his wife asked him to respond to minor immigration queries. The other incident involved other communications that extended to immigration matters; Mr Huo accepted he was responsible for managing his practice to ensure that did not happen.
- [4] The Tribunal dealt with the complaint at an oral hearing, and Mr Huo and the Registrar were the only parties in attendance. The Registrar accepted that given additional evidence Mr Huo the Tribunal could hear the complaint on the papers. Mr Huo's admission only left one issue, namely whether he or his wife sent the communications on the messaging service. I accept the evidence from Mr Huo he sent the immigration advice, it is unsurprising given that the events occurred in Mr Huo's home and he was the person with the expertise to answer the questions.
- [5] The Statement of Complaint has two grounds:
- [5.1] Allowing an unlicensed person to provide immigration advice breached the duties in clause 1 of the Licensed Immigration Advisers Code of Conduct 2014, including the duty of professionalism, and the duty to comply with immigration legislation. The relevant legislation is the prohibition on persons, other than licensed or exempt persons, providing immigration advice.
  - [5.2] The failure to identify himself through the message service also breached the duties in clause 1 of the Licensed Immigration Advisers Code of Conduct 2014, including the duties of respect and professionalism.
- [6] Based on Mr Huo's admissions, I uphold the complaint on the grounds set out in the preceding paragraph.

### Sanctions

- [7] Mr Huo was very contrite, and this complaint has caused him a great deal of concern. He was a newly licensed immigration adviser when the events occurred, and he freely acknowledges the significance of the matters, and is determined he will ensure boundaries between his practice and his wife's services to mutual clients are maintained.
- [8] The complaint does not allege there was any incorrect or inappropriate advice provided. Where an unlicensed person provides immigration advice unlawfully, the issue is inevitably serious. The legislation effects the prohibition by making it a criminal offence for an unlicensed person who is not exempt to do so. However, it is necessary to keep perspective as to the gravity. Where the breach involves intentional breaches, the offending exploits clients, there is a lack of contrition or insight; proportionate sanctions must follow. I am satisfied this is a case of an inexperienced adviser who made minor errors of judgement where the errors trigger serious consequences. In this case, Mr Huo's client did not suffer; and he has both admitted his error and resolved never to be in this situation again.
- [9] I am satisfied the situation is properly addressed by, a caution, censure and a financial penalty of \$1,500; that balances the modest level of culpability, mitigating factors, and the gravity of any breach in this area.

**Decision**

[10] The Tribunal upholds the complaint pursuant to section 50 of the Act, Mr Huo breached the 2014 Code in the respects identified; and otherwise it dismisses the complaint.

[11] Mr Huo is:

[11.1] Censured, and

[11.2] Cautioned that he must take the utmost care to ensure that he understands the scope of the prohibition on persons who are neither licensed nor exempt from giving immigration advice, and that he applies the proper boundaries in his practice.

[12] The Tribunal orders Mr Huo to pay a penalty of \$1,500.

**DATED** at WELLINGTON this 6<sup>th</sup> day of October 2015.

---

**G D Pearson**  
Chairperson