BEFORE THE IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

Decision No: [2016] NZIACDT27

Reference No: IACDT 036/15

IN THE MATTER	of a referral under s 48 of the Immigration Advisers Licensing Act 2007
BY	**The Registrar of Immigration Advisers** Registrar
BETWEEN	**Edwin Balatbat** Complainant
AND	**Lindsay Charles Sparks** Adviser

DECISION

REPRESENTATION:

Registrar: Ms G Kelly, lawyer, MBIE, Auckland.

Complainant: Mr M Smith, barrister, Wellington, on instructions from Lane Neave, solicitors, Christchurch.

Adviser: Ms R Burgess, Lexington Legal Ltd, Lawyers, Christchurch.

Date Issued: 25 May 2016

DECISION

Preliminary

[1] Mr Sparks is a licensed immigration adviser practising at Christchurch. The complainant approached an agency in the Philippines where he lives; the agency had a relationship with Mr Sparks. Mr Sparks agreed to assist the complainant with gaining a visa to work in New Zealand, in conjunction with finding a suitable position of employment.

[2] Mr Sparks entered into an agreement to provide the services. However, neither Mr Sparks nor any other licensed immigration adviser was involved in the process until a complete set of documents arrived from the Philippines, ready to lodge with Immigration New Zealand. Mr Sparks reviewed the documents, certified he had assisted the complainant with recording the information on the application, and filed the papers with Immigration New Zealand.

[3] The regulation of licensed immigration advisers is unusual; there is a prohibition on unlicensed persons providing immigration services. Some persons, such as practising New Zealand lawyers are exempt from the prohibition. The prohibition has extraterritorial effect and severe criminal sanctions enforce it. Accordingly, licensed immigration advisers cannot use unlicensed personnel under their supervision or direction to provide immigration services. Given the criminal sanctions, the prohibition is a very important issue for licensed immigration advisers.

[4] The Registrar alleged that Mr Sparks potentially breached his professional obligations in that:

[4.1] he negligently failed to prevent unlicensed persons providing immigration services;

[4.2] alternatively, he was not negligent as to the conduct of the people he worked with. He chose not to personally establish the client relationship and deliver delivered services, and failed to act with professionalism.

[4.3] he engaged in dishonest and misleading behaviour. He knowingly misled his client regarding the work he would perform, and Immigration New Zealand as to who performed the work.

[5] Mr Sparks provided evidence of what occurred. He accepted he first personally engaged with the complainant’s instructions when he received a complete set of documents from the Philippines. He accepted he did not

personally undertake the process of initiating the professional engagement with the complainant. However, he contended that was appropriate and claimed it did not breach any of his professional obligations. Essentially his view was that the complainant suffered no harm and he was ready to assist him if any problems emerged.

[6] The Tribunal is required to apply the provisions regulating licensed immigration advisers to how Mr Sparks delivered his professional services in this case; and evaluate his honesty in relation to how he dealt with his client and Immigration New Zealand.

The Complaint

[7] The Registrar filed a Statement of Complaint. It set out a factual narrative and identified two potential grounds for complaint. The main elements of the factual background in the Statement of Complaint were as follows:

[7.1] In February 2012, the complainant engaged Mr Sparks and his company Business Immigration Limited (BIL) to assist him to obtain a work visa for New Zealand. The complainant lived in the Philippines and was located there at that time.

[7.2] Mr Sparks did not have any direct contact with the complainant. Instead, he engaged with his client through Sacred Heart International Ltd (SHI). SHI was a "recruitment agent" in the Philippines and Mr Sparks authorised SHI to act and hold itself out as his agent.

[7.3] On 24 March 2012, SHI arranged for the complainant to sign a written immigration consulting agreement, between him and BIL. It included an agreement that Mr Sparks would be the complainant's licensed immigration adviser.

[7.4] On or about 12 April 2012, an unlicensed employee of BIL interviewed the complainant. On 17 April 2012, Mr Sparks sent the complainant a job offer to SHI and an invoice for US$1,580 including US$250 for Immigration New Zealand's fee to lodge a work visa.

[7.5] SHI told the complainant the total fee for the services of BIL and SHI would be PHP350,000 (approximately NZ$10,000). SHI directed the complainant to AG Finance and encouraged him to borrow PHP200,000 at high interest rates to pay the fees.

[7.6] At some point in May 2012, SHI sent the complainant's application form and supporting documents to Mr Sparks. On 14 May 2012, Mr

Sparks lodged the application and supporting documentation with Immigration New Zealand. His services relating to the work visa application were limited to checking and submitting the documents to Immigration New Zealand.

[7.7] Immigration New Zealand approved the work visa application. In total, Mr Sparks charged the complainant US$3,400 for his services, of which at least US$1,100 related to the work visa application.

[8] The Registrar identified grounds for complaint. They are:

[8.1] *Negligence* – The allegation under this head had a primary ground and an alternative. The primary ground was that Mr Sparks negligently failed to take care to ensure he took personal responsibility for his client relationship, and unlicensed persons advised his client. Alternatively, he breached a range of provisions in the Licensed Immigration Advisers Code of Conduct 2010 (the 2010 Code) as he failed to initiate the client relationship in accordance with the 2010 Code, breached his duty to ensure only licensed or exempt persons delivered services, and failed to act with care and professionalism in various respects.

[8.2] *Dishonest and misleading behaviour* – Under this head, the Registrar also provided primary and alternative allegations. The first was that Mr Sparks misrepresented to Immigration New Zealand he had not provided immigration advice when he had done so. Alternatively, he may have misrepresented to the complainant he would provide immigration advice when he had not done so.

Procedure

[9] The Tribunal hears complaints on the papers under section 49 of the Immigration Advisers Licensing Act 2007 (the Act), but may in its discretion request information or request that persons appear before the Tribunal. It also has powers to summons witnesses. In this case, Mr Sparks challenged elements of the factual allegations and accordingly, the Tribunal determined it should hold an oral hearing to ensure that Mr Sparks had the opportunity to present his defence to the complaint, fully and effectively.

[10] This complaint is one of twelve complaints with some similar elements. While the Tribunal, unless and until there are grounds for a different approach, will not have regard to evidence in one complaint in support of another; it proposed to hear all the complaints simultaneously. However, it accepted a request from Mr Sparks' counsel that it hears only one complaint initially. The

Tribunal made it clear the remaining complaints would then be determined on their own merits. Directions indicated that if the Tribunal upholds this complaint the other complaints would all be set down for hearing some six weeks after the initial decision.

[11] As noted, section 49 of the Act provides the foundation for the hearing is "on the papers", but persons can appear on request or on summons under the powers in the Schedule to the Act. Accordingly, the Tribunal directed that the documents on the Tribunal's record would form part of the record, and it was not necessary to produce that material through witnesses. The Registrar and the complainant elected not to call evidence. They rely on the papers to establish the foundation for the complaint.

[12] Mr Sparks through his counsel was critical of the complainant not giving evidence. In an interlocutory decision of 29 March 2016, the Tribunal set out why the complainant not giving evidence did not disadvantage Mr Sparks. The Tribunal is only concerned with Mr Sparks' professional duties given his circumstances at the material times. If Mr Sparks is the only witness to those matters then the issue is determined on his evidence. That is what has occurred. The factual findings rely on the relevant documentation and Mr Spark's sworn evidence about what happened. Mr Sparks also called evidence from his unlicensed colleagues Mr Garlick and Mr Gibson; who work with BIL.

[13] The oral part of the hearing proceeded in the conventional way with Mr Sparks and Messrs Garlick and Gibson giving evidence and being subject to cross-examination.

Discussion

The standard of proof

[14] The Tribunal determines facts on the balance of probabilities. However, the test must be applied with regard to the gravity of the potential finding: *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [55].

[15] Given the allegations of dishonesty, the gravity is at the high end. Accordingly, I make findings on the basis I am sure of the findings.

What happened?

How BIL operates

[16] The documents provide a record of most of the material events, and the evidence from Messrs Sparks, Garlick, and Gibson is consistent with that record. This is not a complaint where there is any fundamental credibility determination regarding the material events.

[17] BIL is a Christchurch based business. Materially for this complaint, its activities include recruiting Philippines[1] workers for positions in New Zealand. Mr Sparks is a licensed immigration adviser, and the only one involved in the material events. Other New Zealand based persons provide contractual services to BIL. Messrs Garlick and Gibson provide services in that way. Their role is to find an employment position for potential migrants.

[18] The Philippines has a history of its nationals suffering exploitation when working offshore. Accordingly, Philippines law mandates that where a foreign company wishes to recruit more than 5 workers from the Philippines, they must be accredited to a licensed Philippines agency. The Philippine Overseas Employment Administration (POEA) rules and regulations mandate safeguards for the recruitment of workers from the Philippines. SIL is licensed in the Philippines under the POEA rules, and BIL is accredited to SIL[2]. Accordingly, when BIL worked on placing Philippines workers in New Zealand SIL was actively engaged in the process. Any worker leaving for New Zealand to take up employment here had to have certification under the POEA rules before leaving the Philippines.

[19] Accordingly, the initial step of the process is for potential migrant workers to approach SIL in the Philippines, and supply CVs. SIL would forward these to BIL. After reviewing the written material, BIL would conduct a screening interview using a Skype internet connection. Usually a contractor such as Mr Garlick or Mr Gibson would be party to that interview, and SIL would have their representative attending with the prospective worker in the Philippines.

[20] Mr Sparks would then review the information to determine whether the prospective worker was likely to qualify for a work visa to come to New Zealand. If that assessment was positive, then the worker would engage BIL and it would actively seek employment opportunities. If an opportunity were promising, BIL would arrange a Skype interview with the prospective employer. Mr Sparks would not usually participate; one of the unlicensed contractors would represent BIL.

[21] If the interview was successful and the employer offered employment, the worker would require a work permit. Mr Sparks would not personally engage with the worker. SIL and the worker would prepare the application for a work visa and Mr Sparks' contribution to this process was to provide SIL with a checklist. It was a one-page document with a list of the material required. The list simply referred to documents using descriptions such as "Passport", "Visa application form", "Passport size photos x 4", and the like. The documents would arrive from the Philippines and Mr Sparks would review them, he said,

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1 Recruitment is not exclusively from the Philippines, but that is the relevant country for present purposes.

2 BIL also worked with other agents, but only SIL was involved in this complaint.

"for accuracy and completeness". Mr Sparks would lodge the documentation with Immigration New Zealand after addressing any concerns, and an unlicensed contractor would meet the worker on arrival in New Zealand.

The first ground of complaint – failure to complete client engagement processes and deliver services

Preliminary

[22] The first ground of complaint is in the alternative, that Mr Sparks either negligently failed to take personal responsibility for his professional relationship with the complainant; or he deliberately breached his duties under the 2010 Code to initiate his client relationship, deliver services, and ensure only licensed persons provided immigration services.

[23] To address the evidence relating to these grounds of complaint, it is necessary first to consider the unusual regulatory environment relating to licensed immigration advisers, particularly in relation to using unqualified staff or contractors.

[24] In many areas of professional and licensed practice, extensive use is made of people who do not hold the professional qualifications required of the person primarily responsible for providing the service. In some cases, those persons hold different and complementary qualifications, such as lawyers and legal executives; surgeons, nurses, and anaesthetists; pilots, and first officers. Unqualified people successfully provide very important skills in many areas of professional service delivery. Often, people without formal qualifications provide essential services under delegation from the qualified person who is responsible for the work.

[25] If there was no legislative direction, a licensed immigration adviser could conduct their practice using unqualified people and the case would not be easily made out that they had acted unreasonably or irresponsibly in doing so. If that were the law, any complaint would likely require a demonstration of failure to delegate appropriately or supervise properly.

[26] However, the Act was, among other things, intended to put an end to a history of a small minority of advisers who exploited vulnerable migrants. The background to the Act is discussed in *ZW v Immigration Advisers Authority* [2012] NZHC 1069, and reflected in section 3 of the Act.

[27] It is evident that the legislative scheme is designed to exclude unlicensed people from engaging in the delivery of professional services to a degree that is far from universal in the regulation of professional service delivery.

[28] It was foreseeable that some people who had formerly provided immigration services, and failed to gain a licence, would seek to have a licensed person

"rubber stamp" their continuing activity in the industry. Unfortunately, this Tribunal's work demonstrates that was a well-founded apprehension and an area where enforcement action has been necessary.

[29] Against that background, the policy behind the stringent restrictions in the Act on unlicensed persons providing immigration services is evident.

[30] Section 63 of the Act provides that a person commits an offence if they provide "immigration advice" without being either licensed, or exempt from the requirement to be licensed.

[31] Section 73 provides that a person may be charged with an offence under section 63 whether or not any part of it occurred outside New Zealand.

[32] The scope of "immigration advice" is defined in section 7 very broadly. It includes:

> using, or purporting to use, knowledge of or experience in immigration to advise, direct, assist, or represent another person in regard to an immigration matter relating to New Zealand ...

[33] There are exceptions to consider. Section 7 provides that the definition does not include "clerical work, translation or interpreting services".

[34] The scope of *clerical work* is important, as otherwise, the very wide definition of immigration advice would likely preclude any non-licence holder working in an immigration practice in any capacity.

[35] *Clerical work* is defined in section 5 of the Act in the following manner:

> **clerical work** means the provision of services in relation to an immigration matter, or to matters concerning sponsors, employers, and education providers, in which the main tasks involve all or any combination of the following:
>
> (a) the recording, organising, storing, or retrieving of information:
>
> (b) computing or data entry:
>
> (c) recording information on any form, application, request, or claim on behalf and under the direction of another person

[36] The definition is directed to administrative tasks such as keeping records, maintaining financial records, and the like. The definition deals specifically with the role an unlicensed person may have in the process of preparing applications for visas. They may record information "on any form, application, request, or claim on behalf and under the direction of another person".

[37] The natural meaning of those words is that the unlicensed person relying on the "clerical work" exception may type or write out what another person directs.

[38] That other person may properly be the person who is making the application, a licensed immigration adviser, or a person who is exempt from being licensed. The person typing or writing out the form in those circumstances is not giving immigration advice.

[39] The definition does not give any authority for an unlicensed person to make inquiries and determine what is to be recorded on the form. Under "clerical work" they must do nothing more than "record" information as directed.

[40] The other exception in section 7 is that immigration advice does not include "providing information that is publicly available, or that is prepared or made available by the Department". This also excludes the possibility of an unlicensed person engaging with the specific factual situation of the person making an application, they may only provide information, not advice.

Whether Mr Sparks negligently failed to supervise

[41] The first question is whether Mr Sparks negligently or carelessly failed to exercise sufficient control over SIL, and accordingly, any liability on his part is the result of that lack of care. The alternative is that Mr Sparks knew what SIL personnel were doing at the time, but that was how he chose to deliver his professional services to the complainant. Furthermore, the gravity of any breach of professional standards on Mr Sparks' part is affected by whether he knew his professional service delivery breached the Act or the 2010 Code.

[42] As to the first question, there can be little doubt Mr Sparks was fully aware of what SIL did. He first engaged personally with the complainant's instructions when he was holding a complete set of documents ready to file with Immigration New Zealand. He found that unsurprising, and describes the process as his "business model". There is no scope for regarding what occurred as the result of negligence; Mr Sparks intentionally structured his service delivery in this way.

[43] As to whether Mr Sparks knew his "business model" breached the Act and 2010 Code; I am satisfied he did know the Registrar considered it did. Further, the specific breaches discussed below were patently inconsistent with the specific requirements of the Act and the 2010 Code. I am sure that Mr Sparks' breaches were considered and intentional.

[44] This is not the first complaint regarding Mr Sparks' practices. On 7 February 2013[3], the Tribunal upheld a complaint against him. The Tribunal heard the previous complaint on the papers. The information was quite different from the

[3] Immigration *Advisers Authority v Lindsay Sparks* [2013] NZIACDT 5 (7 February 2013).

information now before the Tribunal after Mr Sparks gave oral evidence. In the previous complaint, the Tribunal found Mr Sparks and his licensed colleague Ms Maerean breached their professional obligations, with regard to commencing a client relationship and allowing unlicensed persons in the Philippines to provide immigration advice as defined in the Act. Significantly, the Tribunal found Mr Sparks and Ms Maerean "failed to understand their professional obligations rather [than their breach] being the result of intentional wrongdoing."

[45] Mr Sparks claimed that he managed the complainant's instructions after considering the Tribunal's decision in the previous complaint. However, that cannot be true, as the decision in the previous complaint post-dated him filing the visa application in the present case. The Tribunal's decision on the earlier complaint issued on 7 February 2013; well after 14 May 2012 when Mr Sparks lodged the work visa application in this case. When questioned on this issue, Mr Sparks said he became aware of the issues while the Registrar and the Tribunal were processing and considering the previous complaint. However, I place no weight on that and it is not in Mr Sparks' interests that I do. I had the impression Mr Sparks gave that evidence without giving much thought as to its implications, as it was a convenient response for a different purpose.

[46] However, the previous complaint was not the first relevant matter regarding what Mr Sparks knew concerning unlicensed persons and his obligation to deliver professional services personally. Two of the earliest decisions of the Tribunal were *JM v AHX*[4], and *Kumar v Lepcha*[5]. The decisions ought to have put Mr Sparks on notice of the relevant principles, especially considering the Registrar of the Authority regularly drew attention to the Tribunal's decisions in communications with the profession.

[47] The Registrar brought an "own motion" complaint in *Immigration Advisers Authority v Van Zyl* [2012] NZIACDT 37, which was intended to identify the proper boundaries relating to licensed immigration advisers operating in conjunction with agencies in the Philippines. The Tribunal's decision of 31 July 2012 concerned circumstances that were strikingly similar to BIL's operations. However, that decision also post-dated Mr Sparks filing the application in this case.

[48] Accordingly, in relation to this complaint, Mr Sparks could have potentially regarded aspects of SIL's role as unresolved by the Tribunal. Indeed, even now, notwithstanding the Tribunal's previous decision upholding the complaint, he still takes that view. Mr Sparks certainly knew that the Registrar considered his business model breached the Act and the 2010 Code. He gave evidence

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4 [2011] NZIACDT 2, [2011] NZIACDT 10, and [2011] NZIACDT 15.

5 [2011] NZIACDT 3, and [2011] NZIACDT 8.

that he attended a meeting of licensed immigration advisers where the then Registrar personally told licensed immigration advisers that they must engage directly with clients in the course of the client engagement processes.

[49] As to the timing of that communication, Mr Sparks evidence was that in 2011 he communicated with the Registrar and understood the decisions later upholding the complaints against him and Ms Maerean had the effect of "endorsing and applying a view to the same effect that the [Immigration Advisers Authority] had communicated to me in 2011". In his affidavit lodged with the Tribunal, Mr Sparks made those remarks with reference to how he should complete his declaration on visa applications. In cross-examination, he accepted that at the 2011 meeting where the Registrar addressed him and other licensed immigration advisers, the Registrar said they must have face-to-face communication with clients in the course of client engagement. He said the Registrar had clarified that "face to face" included communications; which may not necessarily involve physical proximity, and use electronic or similar means of communication.

[50] Accordingly, at the time Mr Sparks engaged with the complainant's immigration affairs leading up to filing his work visa application on 14 May 2012, Mr Sparks was aware the Registrar considered he was breaching the 2010 Code in relation to how he provided his professional services to the complainant.

[51] I also find that Mr Sparks was aware at the time he engaged with the complainant's instructions that his conduct breached the Act and the 2010 Code. In the following section, I discuss the necessity to provide immigration advice to gain informed instructions, initiate the client relationship in accordance with the 2010 Code, and to prepare an application to lodge with Immigration New Zealand. Mr Sparks intentionally delegated that work to SIL. He knew it involved providing immigration advice and that SIL could not do the work lawfully. Furthermore, I find for the reasons discussed below that Mr Sparks presented declarations to Immigration New Zealand that did not truly identify his role, and instead, said he performed work which SIL had performed.

[52] Accordingly, I dismiss negligence as a ground for complaint and move now to consider whether Mr Sparks breached the 2010 Code.

The specific allegations of Mr Sparks' breaches of the 2010 Code

[53] The specific allegations against Mr Sparks which the Registrar advanced were that he breached his professional duties in that he:

[53.1] failed to obtain informed instructions (Clauses 1.1(a) and (b) of the 2010 Code).

[53.2] failed to ensure that his client relationship was initiated in accordance with the Code, including by failing to take personal responsibility for ensuring that the written agreement, Code of Conduct, and complaints procedures were provided and explained to the complainant (Clauses 1.4(a), 1.5(a), 9(b) and 9(c) of the 2010 Code).

[53.3] failed to, before commencing work incurring costs, set out the fees and disbursements (specifically Immigration New Zealand fees) to be charged, and ensure that this was provided to the client prior to signing the written agreement (Clauses 8(b) and 8(d) of the 2010 Code).

[53.4] maintained business practices under which he relied on unlicensed people acting as his employees or agents to provide immigration advice to his client (Clauses 2.1(b) and 3 of the 2010 Code).

[53.5] failed to protect against the risk of inaccurate information being supplied to immigration New Zealand (Clause 2.1(f) of the 2010 Code).

[53.6] failed to perform his services with due care, diligence and professionalism, including by failing to take responsibility for the actions of those holding themselves out as his agent (Clause 1.1(a)).

[54] The first consideration is that Mr Sparks did not personally do any of those things; he claims he complied as his agent in the Philippines performed those services under his direction. The relevant parts of the 2010 Code direct all those obligations to a licensed immigration adviser personally. Every one of the relevant provisions in the Code in issue commences with the words "A licensed immigration adviser must". Whatever Mr Sparks' agent did in the Philippines, Mr Sparks was required personally to ensure that it occurred; regardless of whether his agents acted lawfully or otherwise.

Failure to get informed instructions

[55] Mr Sparks' response to the allegation he failed to obtain informed instructions was that he was not clear what he did or did not do that was a failure to obtain informed instructions. The response does him no credit. Clauses 1.1(a) and (b) of the 2010 Code provide:

> "A licensed immigration adviser must, with due care diligence, respect and professionalism:
>
> a) perform his or her services; and
>
> b) Carryout the lawful informed instructions of clients".

[56] Mr Sparks was required to understand this elementary aspect of professionalism. A professional person can only deliver their services by understanding what their client's circumstances are, evaluating potential responses using their professional skill, and then advising on realistic options.

Taking informed instructions is elementary for licensed immigration advisers, lawyers, accountants, health professionals, engineers, and virtually any other profession.

[57] This Tribunal has repeatedly pointed out that a licensed immigration adviser must make inquiries of their client's circumstances. They must inquire as to what they seek and provide advice on the options, the risks, and the opportunities associated with them. For the complainant, that would require an interview (if appropriate using indirect communications). Mr Sparks said that there were some 150 Skype calls per week between BIL and their clients, employers, and agents.

[58] Mr Sparks initially claimed:

> If the allegation here is that I acted in breach of my responsibilities by not speaking directly with [the complainant] as part of the process, my response is that that was a consequence of the Philippines laws I have referred to, and of the straight forward nature of [the complainant's] work visa application. The POEA Rules meant that my communications with [the complainant] needed to go through [SIL] as the manpower agency that was acting for him.

[59] However, when questioned Mr Sparks admitted that was not true as his contractors and sometimes himself, communicated with clients, notwithstanding the POEA Rules. He said there was in the order of 150 Skype calls a week with potential migrants regarding employment issues. He accepted the effect of the rules was that the Philippines agent had to participate, and that was routine in the course of the interactions. He admitted there was no prohibition on discussing New Zealand immigration issues with the Philippines agent observing. There is nothing in New Zealand law prohibiting it either. The POEA Rules did not stop Mr Sparks engaging with the complainant fully and effectively. Instead, he chose to leave that to SIL personnel.

[60] The reality of Mr Sparks' response to this issue is that he readily arranged Skype interviews, as that was necessary to secure employment opportunities for his clients. He elected not to comply with the Act and the 2010 Code. His claim that Philippines law prevented him doing so has no foundation.

[61] As to the "straight forward nature" of the complainant's instructions, that is no more than a manifestation of Mr Sparks' failure to take informed instructions. He said in the course of his evidence that after his clients arrived in New Zealand, without him first interviewing them, some would ask about opportunities for their families to migrate to New Zealand. That is a matter Mr Sparks should have discussed with his clients when seeking their informed instructions. A licensed immigration adviser does not deliver professional services as a mere functionary by rubber-stamping documents supplied by

others. Mr Sparks was a trusted professional adviser required to understand his client's circumstances.

[62] Mr Sparks never personally engaged with his client before he received completed documents, and never gave him the advice promised by the 2010 Code. He knew that nobody the complainant engaged with in the Philippines had the skills or the right to get his client's informed instructions. I accordingly uphold this ground of complaint.

Failure to initiate the client relationship in accordance with the Code of Conduct

[63] Clause 1.4(a) requires that:

> A licensed immigration adviser must:
>
> a) explain and provide clients with a copy of the Licensed Immigration Advisers Code of Conduct 2010 before any agreement is entered into

[64] Clause 1.5(a) requires that:

> A licensed immigration adviser must ensure that:
>
> a) before any agreement is entered into, clients are made aware, and in writing and in plain language, of the terms of the agreement and all significant matters relating to it;

[65] Clause 9 (b) and (c) require:

> A licensed immigration adviser must:
>
> …
>
> b) explain to and provide clients with a copy of the adviser's internal complaints procedure before any agreement is entered into; and
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> c) explain to, and provide clients with, the details of the complaints and disciplinary procedures that are outlined in the Immigration Advisers Licensing Act 2007

[66] Although Mr Sparks did not engage with his client, he contended that he met his obligation to explain and provide his client with a copy of the 2010 Code. He said he did so by having the complainant sign the agreement with an acknowledgement he "received, read and understand[s] both the contents of the Code of Conduct and the Complaints procedure".

[67] In addition, Mr Sparks relies on SIL arranging for a Philippines lawyer to certify he explained the nature and effect of the agreement, and says that the complainant did not raise issues of concern with him.

[68] Clauses 1.4 and 9 required that Mr Sparks as the licensed immigration adviser had to "explain" the relevant documents to his client. He had to explain the 2010 Code, the internal complaints procedure, and the complaints and disciplinary procedure. That was a personal professional duty; he could not

delegate any of it to a Philippines lawyer. He could not absolve himself by having his client sign the agreement saying he understood these documents and their implications.

[69] I do not need to decide whether the lawyer did effectively explain or not. The 2010 Code required Mr Sparks to explain using his professional skills. These requirements are an important part of the regulatory regime. The clauses are drafted to preclude handing over the duty to a lawyer from another regime, or effectively contracting out of the obligation by getting an acknowledgement from the client that they understand something. It is implausible to hold that the complainant would understand without an explanation from a qualified professional, but that is not relevant. I am concerned with whether Mr Sparks performed his obligation; he did not.

[70] In relation to clause 1.5(a), Mr Sparks was required to ensure the complainant was made aware of all significant matters relating to the agreement. That required informed instructions. Mr Sparks never ascertained what the extent of the complainant's immigration objectives were. He admitted he delegated this and all other matters to SIL, he said:

> Of course all of these steps needed to happen in the Philippines, where [the complainant] was living at the time. They also needed to be taken in accordance with the POEA Rules, that is, through Sacred Heart. That is what happened.

[71] As discussed in relation to taking informed instructions, the 2010 Code clearly required Mr Sparks to engage in a Skype communication; or other means of communication, to explain documents; using an interpreter if necessary, and to personally comply with the 2010 Code in each of these respects. He failed to do so, and the POEA rules were no obstacle to compliance. Whether the complainant understood, or not, is a different issue. My finding is that Mr Sparks did not comply with the steps mandated by the 2010 Code to protect his client.

Failure to comply with requirements relating to costs

[72] The Registrar alleges Mr Sparks failed to comply with clauses 8(b) and (d) of the 2010 Code, which provide:

> An immigration adviser must:
>
> …
>
> b) before commencing work incurring costs, set out fees and disbursements (including Immigration New Zealand fees and charges) to be charged, including the hourly rate and the estimate of the time it will take to perform the services, or the fixed cost for the services; and
>
> c) …

> d) ensure that fees, disbursements and payment terms and conditions are provided to clients in writing prior to the signing of any written agreement; and

[73] The Statement of Complaint alleged:

> On or around 12 April 2012 the Complainant was interviewed via Skype by the Adviser's unlicensed employee. On 17 April 2012 the Adviser sent a job offer for the Complainant to SHI, along with an invoice for USD 1580 (including USD 250 for "INZ Work Visa Fee.
>
> At [this] point SHI explained to the Complainant that the total fee for the services of BIL and SHI would be PHP 350,000 (around NZD 10,000). SHI directed the Complainant to AG Finance and encouraged him to borrow PHP 200,000 at high interest rates in order to pay these fees.

[74] Mr Sparks acknowledges that he received a package of documents ready to file with Immigration New Zealand; having had SIL perform all the work, and potentially the complainant having done some of it himself. Components of the fees related to:

[74.1] SIL's services under the POEA requirements in the Philippines.

[74.2] SIL's immigration services in preparing the material to send to Mr Sparks.

[74.3] BIL's job search services.

[74.4] BIL's immigration services.

[75] SIL and BIL provided the services in an amalgamated delivery of the services, with no transparency regarding the costs. In evidence, Mr Sparks suggested that immigration services may have accounted for about one third of the total costs, but could provide no better basis than describing the various steps and his impression of the respective values.

[76] The first point to observe is that Mr Sparks allowed SIL to provide the complainant with an agreement saying Mr Sparks would provide immigration services. The front page of the document has Mr Sparks' licence number, and the logo used by licensed immigration advisers. He also provided a certificate saying he was bound by the Licensed Immigration Advisers Code of Conduct. He said he would "manage and facilitate and advise on the various procedures for an immigration application". In my view, those representations made Mr Sparks responsible for all financial matters relating to the agreements, and for the money, the complainant paid to SIL for their work. That is because:

[76.1] The agreement referred to the recruitment process by BIL, and the certificate referred to the work performed by SIL.

[76.2] Mr Sparks put his license number and references to his status as a licensed immigration adviser at SIL's disposal. SIL informed the

complainant that he entered into the agreement and paid money with the protection of Mr Sparks' status and accountability as a licensed immigration adviser.

[76.3] Accordingly, Mr Sparks is responsible for delivering what the Code of Conduct required, having allowed his agent to promise his status as a licensed immigration adviser would ensure that was so.

[77] Some of the work was not restricted immigration work, however, Mr Sparks' professional obligations apply to all of the fees solicited through the representations he made using his licence. The situation is similar to a lawyer in relation to instructions that may not only relate to work reserved to lawyers, for example instructions to appear before a tribunal where a lay advocate can appear.

[78] Accordingly, Mr Sparks was responsible for setting out the fees and disbursements in accordance with the 2010 Code. He was obligated to set out all of the fees paid to SIL and BIL in relation to the immigration and other services they provided. It was Mr Sparks' choice to involve SIL in delivering his professional services. Had they not been engaged in providing immigration services and operated separately, the position may be different and their fees separate from Mr Sparks' area of responsibility.

[79] The documentation did not meet the requirements in the 2010 Code:

[79.1] The service delivery agreement between Mr Sparks and the complainant had a schedule of fees; the total was US$3,400 (base fee). The fees were not allocated to the particular work, but were payments staged in terms of the steps, and a disbursement identified but not quantified. The details were:

[79.1.1] US$1,300 "plus Government Visa Fees" payable when the employment contract is signed;

[79.1.2] US$150 for additional family members, payable when applications "are sent to us";

[79.1.3] US$1,100 payable on Immigration New Zealand approving work visa;

[79.1.4] US$1,000 payable on arrival in New Zealand.

[79.2] An invoice of 17 April 2012, which said the complainant was due to pay US$1,580, broken down as:

[79.2.1] US$1,300, narrated as "Job offer arranged";

[79.2.2] US$250, narrated as Immigration New Zealand “Work Visa Fee”;

[79.2.3] US$30, narrated as Bank Charges.

[79.3] An invoice of 25 May 2012, which said the complainant was due to pay US$1,130 broken down as:

[79.3.1] US$1,100, narrated as “work visa approved”;

[79.3.2] US$30, narrated as “Bank charges”.

[79.4] An invoice of 25 May 2012 (the same date as the immediately preceding invoice), which said the complainant was due to pay US$1,000. It had no explanation other than “Balance of ICA”.

[79.5] The total fees for SIL and BIL were in the order of PHP350,000 (approximately New Zealand$10,000). Mr Sparks’ fees of US$3,400 did not include the immigration services that SIL provided to prepare and send Mr Sparks a complete set of documents for him to check and sign.

[79.6] Mr Sparks’ estimation of the amount of the US3,400 for the immigration services that he performed; that is checking the completed documents and lodging them with Immigration New Zealand, was one third of the fees he received. He provided no explanation regarding SIL’s fees for their work.

[79.7] This documentation, which Mr Sparks relies on:

[79.7.1] does not identify SIL’s fees either in part or in whole. Accordingly, he did not set out the cost of preparing the immigration documentation he received, or the additional work SIL apparently performed;

[79.7.2] neither the agreement nor the invoices set out what the fees relate to. Clause 8(b) of the 2010 Code requires that the fees are set out and Clause 8(e) requires that invoices “contain a full description of the services that the invoice relates to”; and,

[79.7.3] the schedule to the agreement does not set out what the “Government Visa Fees” will be, notwithstanding that clause 8(b) of the 2010 Code required that Mr Sparks set out “disbursements (including Immigration New Zealand fees and charges).

[80] Mr Sparks' response is that there may be some technical infringement as he admits SIL performed some of the work before any agreement. However, he excuses that on the basis that the complainant agreed to pay for it. However, his view was that regardless of the 2010 Code, his clients ought to be satisfied, as:

> Had it been concluded from the initial information that was gathered that [the complainant] did not have a reasonable prospect of successfully seeking a work visa, [the complainant] would not have had any work done for him by [BIL] that incurred any costs. That is the business model, and philosophy, of [BIL]. As I have explained above, it has been developed over time and based on my experiences. It is designed with the interests of migrants in mind, and it favours and protects them through the overall Recruitment and Immigration "package" it offers."

[81] Mr Sparks claimed the fees in the package were "appropriately divided between Recruitment and Immigration divisions". He claimed that the total fee was divided into instalments at particular stages, and that this is best for clients.

[82] Mr Sparks could not explain why he completely failed to quantify the cost of the immigration services provided by SIL and the Immigration New Zealand fees and charges. His explanation is a paternalistic claim that he knows what is best for his clients, and that they should be satisfied.

[83] The evidence establishes Mr Sparks exploited the complainant. Mr Sparks chose to use his status as a licensed immigration adviser to solicit fees paid to both SIL and BIL for immigration and other services. He failed to set out the totality of those fees and disbursements, and provide a full description of the services to which the respective invoices relate. In the case of invoices issued by SIL, it appears that Mr Sparks does not have access to them. Accordingly, the immigration services provided by SIL in preparing the documents that Mr Sparks checked and filed was charged completely outside the requirements of the 2010 Code. Parliament intended to eradicate such conduct through the Act. I reject Mr Sparks' explanation that he acted with the complainant's interests in mind. He delegated his professional duties to SIL and had his client pay SIL separately. Compliance with the Act and the 2010 Code required him to apply time and effort to earn fees.

[84] Accordingly, I find that Mr Sparks breached clauses 8(b) and (d) of the 2010 Code.

Using unlicensed employees or agents to provide immigration advice

[85] As a preliminary to considering whether it was possible to view Mr Sparks' delegation to SIL as negligence, I reviewed the law relating to unlicensed persons providing immigration services[6]. I concluded that what Mr Sparks did

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6 Above, para.[22] ff

was both considered and intentional, and to his knowledge breached the Act and the 2010 Code. Accordingly, I dismissed negligence as a ground for upholding this complaint. I must now set out why I find Mr Sparks breached the 2010 Code in his delegation of his professional obligations to SIL.

[86] The allegation in the Statement of Complaint is that Mr Sparks failed to maintain proper business practices, and relied on unlicensed people acting as his employees or agents to provide immigration advice to his client. It is submitted that thereby, Mr Sparks breached clauses 2.1(b) and 3 of the 2010 Code.

[87] It is unnecessary to set out the facts in detail again, just that Mr Sparks received a package of documents prepared by SIL and possibly, in part, by his client. He then checked the documents and filed them with Immigration New Zealand. Accordingly:

[87.1] SIL personnel took the complainant's instructions. This was a critical phase in the process. As the costs schedule agreement noted, other family members might wish to migrate. Therefore, the complainant had to give instructions before any work could commence.

[87.2] SIL personnel and possibly a Philippines lawyer completed the client engagement process that required them to explain the 2010 Code, make the complainant aware of the terms of the service agreement and all significant matters relating to it, set out a full description of the services, and provide information regarding the complaints and disciplinary process.

[87.3] SIL and potentially the complainant completed the full set of documents to file with Immigration New Zealand.

[88] Each of those matters required the use of knowledge of, or experience in immigration. It was part of advising, assisting or representing the complainant in regard to a New Zealand immigration matter. Accordingly, all of those activities were "immigration advice" as defined in section 7 of the Act. None of them was clerical work, which is expected. Section 63 provides that was an offence, if committed knowingly, punishable by up to 7 years imprisonment and a fine of $100,000. If the offending is not committed knowingly, the maximum penalty is a fine of that amount. Section 8 provides that the provisions have extraterritorial effect.

[89] Potentially, the complainant completed some of the visa application himself. He was of course entitled to do that. However, if he did so Mr Sparks was derelict in his duty to his client. He represented to his client in a certificate that he would "manage and facilitate and advise on the various procedures for an

immigration application". It is unacceptable if the complainant paid for this professional assistance and Mr Sparks left him to complete the forms with the risk of error.

[90] Mr Sparks knew what SIL and the Philippines lawyer did. He expected them to do it and he accepts that was how he routinely delivered his professional services.

[91] Accordingly, I find Mr Sparks breached clauses 2.1(b) and 3 of the 2010 Code. They required Mr Sparks to act in accordance with immigration legislation, including the Act, and maintain professional business practices relating to documents contracts and staff management. He arranged for persons who he knew were not licensed immigration advisers or exempt to provide "immigration advice" as defined in the Act, in particular:

[91.1] SIL personnel took the complainant's instructions.

[91.2] SIL personnel, with or without a Philippines lawyer (who was not licensed or exempt), completed the client engagement process. That process included explaining the 2010 Code, making the complainant aware of the terms of the service agreement and all significant matters relating to it, setting out a full description of the services, and providing information regarding the complaints and disciplinary process.

[91.3] SIL completed the full set of documents to file with Immigration New Zealand; excluding part or the whole of the complainant's work visa application (which the complainant may have completed without assistance).

Failure to protect against the risk of inaccurate information

[92] Clause 2.1(f) of the 2010 Code provides that licensed immigration advisers must uphold the integrity of New Zealand's immigration system. One of the manifestations of that responsibility is ensuring that persons applying for visas understand the importance of providing accurate information. There are two aspects to this:

[92.1] First, it is important for New Zealand's immigration system that applications are made on true information and that visas are not granted or declined due to false information; and,

[92.2] Second, if a person provides false information there are serious consequences. An applicant needs to know that both honesty and a high level of care are required as a departure from the required standards may have long-term consequences.

[93] Visa application forms remind licensed immigration advisers of these obligations. In this case Mr Sparks signed a declaration stating:

> I certify that the applicant asked me to help [him] complete this form and any additional forms. I certify that the applicant agreed that the information provided was correct before signing the declaration.

[94] The applicant's declaration included a declaration that the applicant had provided "true and correct answers to the questions".

[95] When Mr Sparks completed his declaration, he declared that he had "assisted the applicant with recording the information on the form" and had checked the documents.

[96] Mr Sparks never communicated with the complainant before making this declaration. He did not help him complete the form. He did not explain the importance of providing accurate information on the form, and the applicant did not tell him the information provided was correct before he signed the declaration. Mr Sparks also knew of the prohibition on unlicensed persons undertaking those tasks, and of the imperative directions in the 2010 Code.

[97] Mr Sparks sought to justify his false declaration by contending that:

[97.1] the information on the form was in fact correct, and the complainant would have committed an offence if it was not correct;

[97.2] he warned the complainant through a clause in the service delivery agreement;

[97.3] he satisfied himself the information was accurate by reviewing the completed document;

[97.4] SIL had incentives to ensure the complainant did not provide false information; and,

[97.5] the Registrar condoned unlicensed persons assisting applicants for visas provided no immigration advice was provided.

[98] The allegation Mr Sparks faces concerns the steps he took to ensure that his client understood his obligation to provide accurate information. That extended both to:

[98.1] ensuring his client understood his obligation of honesty and candour; and,

[98.2] providing professional assistance and support to ensure that his client understood the questions on the form.

[99] Whether or not the information was in fact accurate is not in issue. Mr Sparks claims he could discharge his obligations by having a notice in his service delivery contract saying:

> Should any Application submitted contain false or incorrect information, proof of inadequate health standard, character requirement or details which NZIS consider unacceptable for approval of this Application, then such Application will almost certainly be declined and BIL cannot be held responsible if such situation occurs and no money paid to date will be refunded.

[100] That is not professional advice to a client. It is a false and self-serving attempt to limit liability for failing to provide the proper professional guidance. Contrary to what the notice implies, Mr Sparks can be held responsible if his lack of professional diligence and engagement results in Immigration New Zealand receiving incorrect information. Regardless, Mr Sparks' client does not speak English as a first language, and Mr Sparks failed to perform his duty of explaining the agreement to his client. This provision did nothing to discharge Mr Sparks' obligations.

[101] Mr Sparks claims he could determine whether information was accurate or not by reading the document. However, that would only disclose an internal inconsistency. SIL could not properly discharge Mr Sparks' professional obligations to engage with his client.

[102] The claim that the Registrar condoned unlicensed persons providing advice regarding the accuracy of information has no factual foundation. The document Mr Sparks relied on says only clerical assistance can be provided. The Registrar said:

> … this means that you can complete an applicant's form under their direction, but you can't use your knowledge or experience to give them advice about any immigration matter …

[103] I am satisfied Mr Sparks failed to engage with his client. He also failed to provide the assistance and advice regarding the accuracy of the information supporting his client's application for a work visa. Mr Sparks did so knowing that his conduct breached his professional obligations. He provided a false declaration which hid that:

[103.1] he had not assisted the complainant with recording the information on the form; and,

[103.2] the complainant had not agreed that the information provided was correct before he signed the declaration.

[104] That declaration was a personal declaration from Mr Sparks to Immigration New Zealand, framed to represent that Mr Sparks had personally engaged with the complainant in relation to his work visa application. He had not done so.

[105] Accordingly, I find Mr Sparks breached his obligation under clause 2.1(f) of the 2010 Code. He failed to uphold the integrity of New Zealand's immigration system through his failure to comply with his professional obligations to protect against the risk of inaccurate information being provided to Immigration New Zealand.

Failure to take responsibility for SIL's actions as Mr Sparks' agent

[106] The Registrar alleged that Mr Sparks breached clause 1.1(a) of the 2010 Code as he failed to perform his services with due care, diligence and professionalism, including failing to take responsibility for the actions of those holding themselves out as his agent.

[107] Inevitably, this ground of complaint is made out. Mr Sparks' failure to obtain informed instructions, initiating his engagement in accordance with the Code of Conduct, using unlicensed persons to deliver services, and failing to act properly to ensure the complainant provided accurate information establish a breach of Mr Sparks' obligation to perform his services with due care, diligence, and professionalism.

[108] However, the preceding findings address the range of Mr Sparks' professional offending in relation to his responsibility for SIL.

[109] Accordingly, I uphold this ground of complaint, but it does not add to the range or gravity of the preceding findings.

Dishonest and misleading behaviour

[110] The Registrar alleged that Mr Sparks engaged in dishonest or misleading behaviour which is a ground for complaint under section 44(2)(d) of the Act. The Statement of Complaint identified two aspects:

[110.1] Mr Sparks provided Immigration New Zealand with a declaration that omitted to acknowledge he provided immigration advice, when he had in fact done so. Alternatively,

[110.2] he had not provided immigration advice and dishonestly told his client he would do so.

[111] Mr Sparks' response to the complaint disclosed rather different circumstances to what the Registrar apparently understood when drafting the statement of complaint. His affidavit took the position that he did provide advice to the complainant. However, he said he had considered the reasoning of the earlier complaint that the Tribunal upheld, and made a decision not to declare he had given advice due to the reasoning in that decision. The logic employed by Mr Sparks was unconvincing. Regardless the claim was obviously wrong, as the Tribunal's decision did not issue until after Mr Sparks made the declaration.

When challenged in the course of his oral evidence, Mr Sparks claimed that the Registrar had advised him unless he met face to face with a client he could not declare that he had provided immigration advice. This evidence is discussed above in relation to whether Mr Sparks' use of SIL was negligent or intentional, and his knowledge of the obligations applying to him[7].

[112] In the course of his oral evidence, the true position became clear. Mr Sparks had no personal contact with the complainant. SIL provided all of the immigration services until the time Mr Sparks received the completed documents. The specific declaration is in the application form for the complainant's work visa, which Mr Sparks submitted to Immigration New Zealand. The Statement of Complaint identified as potentially false an omission to signify this element of the declaration in the complainants Work Visa application:

> I have provided immigration advice (as defined in the Immigration Advisers Licensing Act 2007) and my details in Section R: Immigration adviser's details are correct.

[113] Mr Sparks should have included that declaration, as checking the documents was "immigration advice" as defined in the Act. However, given the fact SIL provided the immigration services, that was not the principal falsity in the declaration.

[114] Mr Sparks declared:

> I certify that the applicant asked me to help [him] to complete this form and any additional forms. I certify that the applicant agreed that the information provided was correct before signing.
>
> …
>
> I have assisted the applicant with recording information on the form.

[115] Both statements were false, and Mr Sparks made them dishonestly. He gave evidence that the Registrar had told him in a meeting with other licensed immigration advisers that he had to personally communicate with his clients to discharge his professional obligations. The evidence in this case was that Mr Sparks had a "business model" that was irreconcilable with the prohibition in the Act and the 2010 Code on unlicensed persons providing services, and the imperatives that a licensed immigration adviser do so personally. Significantly, Mr Sparks was on notice from the Registrar that he had to engage personally with clients. He elected not to do so. One thing Mr Sparks had to do to continue with his "business model" was to make false declarations regarding what he did. The seriousness of the declarations is obvious. Mr Sparks dishonestly attempted to mislead Immigration New Zealand.

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[7] Para.[41] - [52] above.

[116] The alternative aspect of dishonest and misleading behaviour is the allegation Mr Sparks misrepresented to his client that he would provide immigration advice, and did not do so.

[117] The representations included a notice attached (certificate provided to the complainant) to the agreement for the delivery of services, which represented:

> Business Immigration NZ Ltd wish to inform you that your licensed immigration adviser is Lindsay Charles Sparks, who is bound by the licensed Immigration Advisers Code of Conduct. …
>
> [The complainant has]:
>
> 1. Appointed Lindsay Charles Sparks (Licensed Immigration Adviser) to act on his … behalf as a Licensed Immigration Adviser to manage and facilitate and advise on the various procedures for an immigration application .. to Immigration New Zealand.
>
> 2. Provided all the requested documentation to process the immigration application to your recruitment agent "_____" [*left blank in the original*] for the purpose of it being sent to New Zealand so your appointed adviser can manage and facilitate the various procedures for this immigration application …

[118] Mr Sparks did not propose to comply with the Code of Conduct. Instead, he proposed to use unqualified persons to provide immigration services. He did not manage, facilitate, and advise on the various procedures for the immigration application. He left that to unqualified advisers. When he received the documentation completed in breach of the Code of Conduct, he misrepresented the position to Immigration New Zealand.

[119] The representations in the notice were dishonest misrepresentations to the complainant, they were calculated to induce him to pay substantial fees for professional assistance, which Mr Sparks neither provided nor intended to provide. What he did do was to check the forms for internal consistency; however, that does him no credit. Internal inconsistency would likely have alerted Immigration New Zealand to Mr Sparks' dishonest declaration that he had personally engaged in completing the documentation.

[120] Accordingly, I am satisfied that Mr Sparks engaged in dishonest and misleading behaviour. He knowingly made false representations to Immigration New Zealand, and mislead the complainant by representing that he would comply with the 2010 Code, and perform the immigration services required. Instead, he intended that unlicensed persons would provide the services. I uphold the complaint on this ground.

Other matters

[121] Mr Sparks attributed the complaint to what he styled trade competition, and he was critical of the Authority's investigation. Mr Sparks criticised the Authority

for not independently verifying the complainant's allegations. He was also critical of the law firm representing the complainant.

[122] These matters are not relevant to the complaint. Mr Sparks' own evidence is the foundation for upholding the complaint.

Decision

[123] The Tribunal upholds the complaint pursuant to section 50 of the Act.

[124] The adviser engaged in dishonest and misleading behaviour. The adviser also breached the Code of Conduct in the respects identified. These are grounds for complaint pursuant to section 44(2) of the Act.

Submissions on Sanctions

[125] The Tribunal has upheld the complaint. Therefore, pursuant to section 51 of the Act, it may impose sanctions.

[126] The Tribunal indicated in its directions of 11 February 2016 that if it upheld this complaint it would not impose sanctions until first hearing the other 11 complaints, which the parties consider involve similar issues. However, given the seriousness of the findings the Tribunal will reconsider that indication if either the Registrar or the complainant applies to have the Tribunal make a decision on sanctions sooner. The Tribunal will not issue a timetable to deal with sanctions at this point.

DATED at WELLINGTON this 25th day of May 2016

_____
G D Pearson
Chair