

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

Decision No: [2016] NZIACDT 32

Reference No: IACDT 028/14

IN THE MATTER

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

BY

The Registrar of Immigration Advisers

Registrar

BETWEEN

Jinhee Kim

Complainant

AND

Kimberly Eyon Hee Kim

Adviser

DECISION

REPRESENTATION:

Registrar: Mr A Dumbleton, lawyer, MBIE, Auckland.

Complainant: In person.

Adviser: Mr S Laurent, lawyer, Laurent Law, Auckland.

Date Issued: 22 June 2016

DECISION

Introduction

- [1] The Registrar of the Immigration Advisers Authority referred this complaint to the Tribunal. The essential facts alleged in the complaint are:
- [1.1] The complainant sought a long-term business visa and engaged Ms Kim to assist. The complainant was proposing to migrate from Korea to New Zealand.
 - [1.2] There were irregularities in the client engagement process.
 - [1.3] Ms Kim had her client sign a blank application and then submitted it to Immigration New Zealand; without notifying Immigration New Zealand of the process, and having her client approve the contents.
 - [1.4] Ms Kim failed to provide her client with invoices.
 - [1.5] When the complainant was entitled to a visa, Ms Kim told her she had to pay her fees before the visa would issue. She falsely claimed this was an official requirement that the Government enforced through an audit process.
 - [1.6] The complainant had her visa application declined and was in New Zealand unlawfully. Ms Kim gave inadequate advice regarding her options.
- [2] Ms Kim accepts she did not provide the invoices for her client.
- [3] Ms Kim disputes some of the facts, the most significant being:
- [3.1] Whether she sent the complainant a copy of the Code of Conduct in the course of the client engagement process;
 - [3.2] How she managed the application signed in blank. She accepts she did use that process. However, she says she referred the completed and pre-signed form to the complainant for approval before sending it to Immigration New Zealand; and,
 - [3.3] She disputes the nature and extent of the advice she gave after the complainant was in New Zealand unlawfully.
- [4] After making findings on the disputed facts, it is necessary to consider the written material and evaluate Ms Kim's conduct against her professional obligations in the circumstances in which she provided her professional services. She considers her client engagement process, her communications regarding the obligation to pay fees, the use of a pre-signed form, and the advice she provided to her client met the relevant professional standards.
- [5] The Tribunal must accordingly measure the facts against standards of professional conduct that applied to Ms Kim.

The complaint

- [6] The Registrar's statement of complaint put forward the following background facts alleged to support the complaint:
- [6.1] In May 2011, the complainant engaged Ms Kim to submit a Long Term Business Visa (LTB Visa) application. They entered into a written agreement, which provided the fees would be 9M KRW (approximately \$10,000) to be paid in two instalments.
 - [6.2] The agreement provided that:
 - [6.2.1] All "things" provided by Ms Kim's company would remain the exclusive property of the company until the visa process was complete; and,

- [6.2.2] Ms Kim could sign documents where the authorities required her client's signature, subject to notifying her client.
- [6.3] Ms Kim arranged a business plan for the complainant, but the agreement did not refer to that service.
- [6.4] The complainant paid the first instalment of 50% of the fee in May 2011. Ms Kim did not issue an invoice.
- [6.5] The complainant signed a blank Immigration New Zealand application, which Ms Kim completed with the information required. She submitted that LTB Visa application with a business plan for the complainant and her family in August 2011.
- [6.6] In January 2012, Immigration New Zealand approved the LTB Visa and wrote to the complainant, care of Ms Kim, requesting passports to complete the process for issuing visas. Ms Kim emailed the complainant stating that Immigration New Zealand could not issue the visas until she paid the balance of Ms Kim's fees. She told the complainant this was a regulation, and that immigration advisers had to report on compliance.
- [6.7] On 31 January 2012, the complainant paid the balance of the fee, but Ms Kim did not issue an invoice.
- [6.8] In March 2012, the complainant asked to see a copy of the business plan she believed Ms Kim submitted. She did not provide a copy and said she would explain it when the complainant came to New Zealand.
- [6.9] In April 2012, the complainant arrived in New Zealand on a nine-month work visa under the LTB Visa category. In October 2012, Ms Kim submitted an application for the balance of the complainant's LTB Visa. Immigration New Zealand granted the complainant and her family interim visas in November 2012 for six months, or until Immigration New Zealand made a decision on the LTB Visa application (whichever occurred earlier).
- [6.10] Immigration New Zealand wrote to Ms Kim raising concerns regarding the implementation of the complainant's business plan on four occasions between November 2012 and February 2013. Ms Kim wrote to Immigration New Zealand in response. However, Immigration New Zealand declined the complainant's LTB Visa application on 19 February 2012, resulting in her interim visa also expiring.
- [6.11] Ms Kim advised the complainant she could remain in New Zealand for a further three months. The complainant queried the advice and asked about lodging a request under section 61 of the Immigration Act.
- [6.12] The complainant met with Ms Kim and requested a copy of her response to Immigration New Zealand's queries. However, Ms Kim told her that she had no responsibility to show her the letter.
- [7] The Registrar identified six potential grounds for complaint. The allegations were that potentially:
- [7.1] Ms Kim breached clauses 1.5(b), and 3 of the Licensed Immigration Advisers Code of Conduct 2010 (the 2010 Code), as she did not have an agreement containing a full description of the services she was to provide, and did not maintain professional business practices relating to the contract. In particular:
- [7.1.1] The agreement did not contain a description of all the services Ms Kim was to provide, including omitting reference to preparation of a business plan. (In breach of clause 1.5(b))
- [7.1.2] Clause 8 of the agreement said all things provided by Ms Kim's company would remain the property of the company until the visa process was completed. Ms Kim was acting as an adviser and was not entitled to claim ownership of her client's documents. Ms Kim refused to show her client a letter. (In breach of clause 3)

- [7.1.3] Clause 10 of the agreement allowed all employees of Ms Kim's company to sign documents on behalf of its clients. It was an action only a person holding written authority could undertake. (In breach of clause 3)
- [7.2] Ms Kim breached clause 1.4(a) of the 2010 Code because she failed to supply a copy of the 2010 Code to the complainant in the course of the client engagement process, which clause 1.4(a) required her to do.
- [7.3] Ms Kim breached clause 2.1(b) of the 2010 Code:
- [7.3.1] Under section 348(a) of the Immigration Act 2009 it is an offence to attach further information to a form after the person to whom it relates has signed it.
- [7.3.2] The complainant signed a blank form and Ms Kim submitted a completed application, which the complainant did not see.
- [7.3.3] Ms Kim accepts the complainant signed a blank form, which Ms Kim completed, but contends she returned it to her client for approval before submitting it to Immigration New Zealand.
- [7.3.4] Ms Kim's actions breached clause 2.1(b) of the 2010 Code, which required her to act in accordance with immigration legislation.
- [7.4] Ms Kim Breached clause 8(e) of the 2010 Code, which required her to provide clients with invoices containing a full description of services. Ms Kim failed to provide invoices for payments she received.
- [7.5] Ms Kim engaged in misleading behaviour which is a ground for complaint under section 44(2)(d) of the Immigration Advisers Licensing Act 2007; the particulars are:
- [7.5.1] Immigration New Zealand granted the complainant and her family visas in January 2012, and requested their passports to attach the visa labels.
- [7.5.2] Ms Kim told the complainant that the labels could not be put into the passports until she paid Ms Kim the balance of fees due to her, and said there was a regulation to that effect and that licensed immigration advisers were subject to audit to ensure compliance.
- [7.5.3] Ms Kim misled the complainant in making those false representations regarding attaching visa labels.
- [7.6] Ms Kim breached clause 1.1(a) of the 2010 Code in relation to advice she provided following the decline of the complainant's visa application:
- [7.6.1] Immigration New Zealand declined the complainant's LTB Visa application on 19 February 2013. Her interim visa expired at that time. The consequence of this was that she was in New Zealand unlawfully and liable for deportation.
- [7.6.2] When she asked Ms Kim about her status on 21 February 2013, Ms Kim told the complainant she could remain in New Zealand lawfully for another three months.
- [7.6.3] Ms Kim failed to discuss the complainant's immigration options following the decline of her visa application.
- [7.6.4] Ms Kim failed to perform her services with due care, diligence, and professionalism as required by clause 1.1(a) of the 2010 Code because she failed to provide adequate advice to her client regarding her immigration options.

The response to the statement of complaint

- [8] Ms Kim initially responded to the statement of complaint with sworn evidence in reply, which challenged some of the factual matters and provided explanations for other matters. Her explanation was to the effect that while she may have made low to medium errors of judgement, she was not responsible for the serious serious allegations of unprofessional conduct which the statement of complaint alleged.
- [9] In directions issued on 2 June 2015, the Tribunal indicated it was concerned that the facts were not adequately resolved. In response, Ms Kim filed a further affidavit and submissions providing a more complete response to the allegations against her. She acknowledged she did not have records in some cases, explained why, and gave evidence of invariable practice to support her explanation.
- [10] The Registrar indicated she did not wish to file any evidence or apply to question any evidence. She said in a memorandum filed by her counsel:

“It is submitted that by itself the absence of rebuttal evidence tendered in response [to Ms Kim’s affidavits] does not simply deem the affidavit evidence to be correct. The reliability of the affidavit evidence may be assessed by the Tribunal against the totality of the information it has before it and in the context of the complaint itself.

It is submitted that even without evidence or further information tendered by the Registrar or the complainant, the Tribunal should satisfy itself on the balance of probabilities as to the factual and legal merits of the complaint before determining it. If the Tribunal is not satisfied that the adviser’s untested affidavit evidence or sworn information is sufficient for it to determine the matter, it may itself call for further information or require any witnesses to attend before the Tribunal and be examined by it.”

- [11] The complainant had not responded, which was unsurprising, given the difficulties and cost for a layperson to participate in a professional disciplinary process without assistance. In these circumstances, the Tribunal requested that Ms Kim appear before the Tribunal to present her answer to the complaint.

Oral hearing

- [12] In anticipation of Ms Kim’s appearance before the Tribunal, the complainant provided a written statement. Ms Kim provided a brief of evidence and the complainant replied. Only Ms Kim gave oral evidence and that included cross-examination by counsel for the Registrar.
- [13] The hearing is predominantly on the papers pursuant to section 49 of the Immigration Advisers Licensing Act 2007. The Tribunal has of course fully considered Ms Kim’s oral evidence provided after its request pursuant to section 49(4).

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 finding: *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [55].

The facts

- [15] The Registrar provided a chronology and supporting documentation with the statement of complaint. The complainant and Ms Kim have added some information, and disputed aspects of the facts. However, there is broad agreement on the general circumstances. Accordingly, as the starting point the narrative provided in the statement of complaint, outlined above¹ is a narrative of the allegations. I will identify the extent of the disputed facts, and my findings in relation to each of the grounds of complaint.

¹ Refer paragraph [6] above.

First ground of complaint – failing to have proper agreement

- [16] Ms Kim faces an allegation that the professional services agreement was defective in the following regards:
- [16.1] Clause 1.5(b) of the 2010 Code required that an agreement contain “a full description of the services to be provided”, and it did not do so.
- [16.2] Clause 3 of the 2010 Code required professional business practices, including in respect of contracts, whereas;
- [16.2.1] The agreement incorrectly claimed proprietary rights over work, and Ms Kim refused to show the complainant a letter. Accordingly, the agreement incorrectly stated the complainant’s rights and Ms Kim acted on that misstatement; and,
- [16.2.2] The agreement also purported to provide for Ms Kim to sign documents.
- [17] The Registrar provided a copy of the agreement. It does not set out the services beyond saying that the contract is for a “Long Term Business Visa”, it does say that “All that [Ms Kim’s company] provided is monopolized by [it] until immigration Services are completed”, and “the Adviser can sign on behalf of the Client with the Client’s approval.”
- [18] The original agreement is not in English. On its face, the description of services is obviously deficient. The statement regarding monopolising what is provided is vague, and the statement that the adviser can sign documents is not necessarily a comprehensive description.
- [19] At the hearing, the translator said the expression relating to monopolisation was best put as “Whatever is provided by the company exclusively belongs to the company until client processing is complete.”
- [20] Ms Kim’s justification for the absence of detail regarding the services was that they were evident from the wider material and discussions.
- [21] I have no doubt the agreement was unsatisfactory, even allowing for the fact that translation may have created a less satisfactory impression. For the protection of both licensed immigration advisers and their clients, the requirement to set out “a full description of the services to be provided by the adviser” are clear words that require a description of the essential steps in the work provided for the agreed fees. The description “Long Term Business Visa” leaves a myriad of questions regarding the services, such as: what about short term visas while the LTB Visa is sought; what role will the adviser have in preparing a business plan; and, what happens if there are queries or unanticipated outcomes?
- [22] The adviser plainly ought to have taken the care to set out the scope of her work. Ms Kim failed to do that. Ancillary communications were not designed to identify what services were purchased for the agreed fee. Furthermore, Ms Kim has not identified any communications that did have that effect.
- [23] It is not acceptable to set out that a client cannot control or access information while a matter is in progress. The provision in the form regarding monopolising material was unsatisfactory as it created the impression the complainant had limited rights to information. The client paid for the material and Ms Kim had obligations to disclose information and respond to requests. The allegation of breaching clause 3 of the 2010 Code only goes to the form of the agreement, it is not necessary to make a finding on any potential exploitation of the provision by relying on it to withhold information.
- [24] There are important restrictions on signing or adding to documents for a client. However, I do not regard the statement in the agreement, referring to the Agent signing for the client, as a breach in itself. The issues relating to that are addressed adequately under the ground of complaint relating to modification of the form. The provision in the agreement did refer to client authority and it is not fair to treat the term in the contract as a comprehensive code. It amounts to no more than a signal of a potential process.

[25] Accordingly, I find Ms Kim breached clauses 1.5(b), and 3 of the 2010 Code:

[25.1] The agreement did not contain an adequate description of services.

[25.2] It conveyed that Ms Kim's practice had ownership and control of client information to an extent that misrepresented the law and Ms Kim's professional duties to her client.

[26] I make no adverse finding regarding the agreement in relation to signing documents, and note it clearly identifies that the client will approve any attestation.

Second ground of complaint – failing to provide a copy of the Code of Conduct

[27] Clause 1.4(a) of the 2010 Code required that Ms Kim supply a copy of the Code to the complainant in the course of the client engagement process. She says she did that, by email, but that her computer was stolen in a burglary and she cannot access the email. Ms Kim said it was her "common practice" to email the Code when dealing with offshore clients. The complainant's response is that there was no email with a copy of the Code attached, and said Ms Kim "always makes an excuse that her laptop was stolen, was hacked or caused an error."

[28] Ms Kim is not alleged to have breached clause 3 of the 2010 Code due to a failure to backup information, so I make no adverse finding on the circumstances leading to the absence of records.

[29] Absent from the record before me is a comprehensive set of emails the complainant received. Accordingly, the evidence before me is simply different recollections and nothing that provides a reason to prefer one recollection over the other. I am not satisfied either Ms Kim or the complainant could claim accurate recall of the matter without access to a record. It is reliability rather than a credibility issue on this point.

[30] In these circumstances, I decide the point based on the evidence not reaching the balance of probabilities and therefore do not reach an adverse conclusion.

[31] I accordingly dismiss this ground of complaint.

Third ground of complaint – adding information to signed form

[32] Section 348(a) of the Immigration Act 2009 provides it is an offence to alter or add information to an immigration form after the submitter has signed and declared it is true. However, there is provision to do so under subsection (b), if released with a statement saying "why and by whom the information or material has been altered, entered, or attached". Immigration forms routinely have warnings regarding section 348.

[33] Ms Kim admits she did have the complainant sign the application form in blank. She explained her process was that:

[33.1] she did this for overseas clients;

[33.2] she would fill in the form, if the clients required professional assistance; and,

[33.3] after completing the form she would send it to the client by email for review.

[34] Ms Kim claims that due to the stolen computer she cannot prove that she sent the completed form or received authorisation.

[35] The complainant denies Ms Kim returned the completed form for review.

[36] I must take the same approach to the issue of whether Ms Kim returned the form as I took to the claimed email delivery of a copy of the 2010 Code. In the absence of a full set of emails from the complainant, I cannot make an adverse finding. There was plainly a good deal of communication and I am not satisfied either Ms Kim or the complainant could claim accurate recall of a particular communication without access to the record. This too is a reliability of unaided memory issue, rather than a credibility issue.

- [37] However, section 348(b) of the Immigration Act 2009 required that if Ms Kim used the process she described, then she had to sign a statement setting out “the information or material that has been altered, entered, or attached”; and says “and by whom the information or material [was] altered, entered, or attached.” She did not do so, despite licensed immigration advisers seeing the warnings on standard forms constantly. Ms Kim must have understood this prohibition.
- [38] Accordingly, I am satisfied that Ms Kim breached clause 2.1(b) of the 2010 Code which required her to comply with immigration legislation, including the Immigration Act 2009.

Fourth ground of complaint – failure to provide invoices

- [39] Ms Kim admits she did not send copies of invoices to the complainant, but did prepare invoices. She accepts she breached clause 8(e) of the Code in not providing copies to her client. Accordingly, I uphold this ground of complaint in that respect.

Fifth ground of complaint – misleading claim regarding fees and the issue of visas

- [40] The statement of complaint relied on a translation of an email, which set out the English text of an email from Ms Kim to the complainant stating:

A visa label can only be placed [in your passport] after the remaining sum is received.

This is a regulation set by the immigration adviser system. [Clients are] required to pay the remaining sum at the time of receiving a written approval, and [immigration advisers] have to report it. This is a regulation, and we must follow it. We will be audited.

- [41] This was a certified translation from a New Zealand translation service. Ms Kim relied on the same translation at the hearing.
- [42] The allegation against Ms Kim in the statement of complaint is:

INZ granted the Complainant and her family visas in January 2012, and requested their passports to attach the visa labels.

However, [Ms Kim] told the Complainant that the labels could not be put in their passports until after the Complainant paid the balance of the professional fees due. [Ms Kim] stated that there was a regulation requiring clients to pay the balance of the fees at the time written approval was received, which immigration advisers had to report on and were audited on.

By informing the Complainant that she was required to pay [her] remaining fee before the visa labels could be attached, [Ms Kim] may have misled the Complainant.

- [43] Quite simply, the allegation is that having reached the point of entitlement to have visas issued, to make sure she was paid, Ms Kim dishonestly made up a story that the New Zealand Government enforced the payment of adviser’s fees before visas issued, and audited advisers to make sure the requirement was met. The proposition is of course utterly false. There may be disputes over fees and Immigration New Zealand will have no interest in them.
- [44] Ms Kim’s answer to this ground of complaint is that she was entitled to the fees at that point in time, she had to get the fee before submitting the passports, and that was part of her service agreement. Regardless, that provides no answer to the allegation she dishonestly misrepresented New Zealand immigration law and her professional obligations to encourage her client to pay her fee.
- [45] I accordingly find Ms Kim dishonestly misrepresented New Zealand law and her professional obligations. I am satisfied Ms Kim fabricated an account to ensure her client paid her fee. Accordingly, she engaged in dishonest and misleading behaviour which is a ground for complaint under section 44(2)(d) of the Act.

Sixth ground of complaint – failure to provide adequate advice after visa declined

- [46] Ms Kim was obliged to perform her services with due care, diligence, respect and professionalism. The complainant ultimately reached a point where she was in New Zealand unlawfully, as her migration initiatives had failed. When a person is in New Zealand unlawfully they have an obligation to leave and a range of adverse and potentially long-term consequences may follow if they do not do so promptly.
- [47] The statement of complaint alleges Ms Kim advised her client she could remain for another three months after she was in New Zealand unlawfully, and failed to provide either correct or adequate advice.
- [48] Ms Kim denies she said the complainant could remain in New Zealand. She claims she provided full advice at a meeting on 21 February 2013. It included:
- [48.1] accurate advice regarding the 42 day period prior to liability for deportation;
 - [48.2] the right to appeal to the Immigration and Protection Tribunal against deportation;
 - [48.3] the right to request a visa under section 61 of the Immigration Act 2009;
 - [48.4] the right to students visas pending an appeal; and,
 - [48.5] other options such as asking the Minister to intervene.
- [49] If Ms Kim had such a discussion, that would appear to be appropriate advice. The complainant says Ms Kim did not give such advice and says Ms Kim's claim is a fabrication.
- [50] Ms Kim was obliged to comply with the 2010 Code. Clause 3 of the Code provides:
- A licensed immigration adviser must maintain professional business practices relating to finances, records, documents, contracts and staff management, including:
- ...
- f) confirming in writing the details of material discussions with clients;
- [51] She did not produce confirmation in writing of the details of the material parts of the discussion that she claimed she had with the complainant. She did produce a written communication of 25 February 2013 stating:
- I Kimberly Kim advise that the fee for section 61 is \$350 for individual applicant. The fee will be deducted **when they grant** the visa and they charge for each application form or all family members depend on the branch. But they will charge individual members of the application for even visitor visas. (emphasis added)
- [52] That advice was wholly inadequate and indeed misleading. It implies after making a section 61 request, visas will issue. In reality, the request is discretionary and Immigration New Zealand are neither obliged to consider the request nor to give reasons. The statement fails to deal with the range of options and their likelihood of success. The fact that Ms Kim wrote to her client regarding section 61 and did not include at least a summary of the options and prospects, which she says she identified, is inexplicable given the duty to do so under the 2010 Code.
- [53] However, the complainant's email to Ms Kim of 22 February 2013 strongly reinforces her claim that Ms Kim did not provide full or adequate advice. Ms Kim says this email appears to show that the complainant misunderstood what she had said regarding staying in New Zealand for another three months. In fact, this email demonstrates very clearly that the complainant did not understand her position and an urgent need for Ms Kim to explain to her what her options were, and evaluate the merits of them. In the email of 22 February 2013, the complainant indicated that:
- [53.1] She understood she had three months to remain in New Zealand;
 - [53.2] She did not understand what rights she had to provide additional information to Immigration New Zealand; and,

- [53.3] If she was to make a request under section 61, she had gathered from other people that there was some urgency.
- [54] The email gives a strong impression that whatever occurred at the 21 February 2013 meeting, the complainant understood she could remain in New Zealand for a period. She did not know what her opportunity was to challenge the adverse decision with new information and she understood a section 61 request was the primary response. Accordingly, she certainly did not have a comprehension of the advice Ms Kim claims she gave (as set out in paragraph [48] above).
- [55] Ms Kim's written response of 25 February 2013 failed to respond professionally or properly given her client's state of mind communicated in the 22 February 2013 email. Ms Kim's claim she gave full advice at the meeting on 21 February 2013 is demonstrably inconsistent with the written record. It is implausible that Ms Kim gave full measured advice considering that she implied that a section 61 request would be successful, and discussed the lodgement fees, after she received an email demonstrating that the complainant grossly misunderstood her position. Any adviser who had given sound advice would plainly have responded with urgency and concern after receiving the complainant's email of 22 February 2013. I am accordingly satisfied that Ms Kim probably did not give the advice she claims at the meeting of 21 February 2013.
- [56] Regardless of the advice given on 21 February 2013, the written record shows Ms Kim plainly failed to provide the advice her client required. On 22 February 2013, her client wrote showing she did not understand her options and was under a misapprehension regarding her lawful status in New Zealand. That last element was a serious concern that would potentially have serious effects for the complainant and her family. Ms Kim did not address this misapprehension. She merely wrote an unsatisfactory letter regarding fees for a section 61 request and then failed to provide proper or adequate advice.
- [57] I accordingly find Ms Kim breached clause 1.1(a) of the 2010 Code. She failed to provide her client with adequate advice, and accordingly, failed to provide her services with due care, diligence and professionalism.

Observation

- [58] Ms Kim and the complainant have engaged over a range of issues that form part of the narrative. I have made findings only on the grounds of complaint the Registrar identified as potentially supported by the facts she identified. For example, they engaged over the issue of whether Ms Kim provided a business plan or not. However, the Registrar only raised the issue of whether the service agreement was deficient in not identifying providing a business plan as one of the services included in the fee. The only point of importance was the adequacy of that agreement given its silence on that and other elements of the immigration services. There was no ground of complaint identified regarding whether a plan was provided, or its adequacy. Accordingly, it is neither necessary nor appropriate to explore those matters.
- [59] The complainant did not seek to widen the grounds the Registrar identified, and accordingly, to the extent there were wider grounds in the original complaint they are dismissed.

Decision

- [60] The Tribunal upholds the complaint pursuant to section 50 of the Act. Ms Kim breached the 2010 Code in the respects identified and engaged in dishonest and misleading behaviour. They are grounds for complaint pursuant to section 44(2)(d) & (e) of the Act.
- [61] In other respects, the Tribunal dismisses the complaint.

Submissions on Sanctions

- [62] The Tribunal has upheld the complaint. It may impose sanctions pursuant to section 51 of the Act.
- [63] The Authority and the complainant have the opportunity to provide submissions on the appropriate sanctions, including potential orders for costs and compensation. Whether they do

so or not, Ms Kim is entitled to make submissions and respond to any submissions from the other parties.

- [64] Any application for an order for the payment of costs or expenses under section 51(1)(g) should be accompanied by a schedule particularising the amounts and basis for the claim.

Timetable

- [65] The timetable for submissions will be as follows:

[65.1] The Authority and the complainant are to make any submissions within 10 working days of the issue of this decision.

[65.2] Ms Kim is to make any further submissions (whether or not the Authority or the complainant makes submissions) within 15 working days of the issue of this decision.

[65.3] The Authority and the complainant may reply to any submissions made by the adviser within 5 working days of her filing and serving those submissions.

DATED at WELLINGTON this 22nd day of June 2016.

G D Pearson
Chair