

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

Decision No: [2016] NZIACDT 47

Reference No: IACDT 001/15

**IN THE MATTER**

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

**BY**

**The Registrar of Immigration Advisers**

Registrar

**BETWEEN**

**Raminderpal Singh**

Complainant

**AND**

**Mayank Kumar**

Adviser

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**DECISION**  
(SANCTIONS)

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**REPRESENTATION:**

**Registrar:** Mr A Skadiang and Ms F Mohammed, lawyers, MBIE, Auckland.

**Complainant:** In person

**Adviser:** Mr P Moses, Barrister, Auckland.

Date Issued: 6 September 2016

## DECISION

### The complaint admitted

- [1] This decision considers sanctions following a earlier decision upholding a complaint against Mr Kumar (refer decision *Singh v Kumar* [2016] NZIACDT 14; [www.justice.govt.nz](http://www.justice.govt.nz)).
- [2] Mr Kumar admitted the ground of complaint, which the Tribunal upheld. In essence, the ground was that he failed to record some advice in writing, and was not as clear as desirable in correspondence.
- [3] The Registrar filed a statement of complaint alleging Mr Kumar, failed to warn against a grossly unfounded application, a failure to respond to Immigration New Zealand's concerns regarding his client's circumstances, and failing to explain matters of concern to his client.
- [4] At an oral hearing, the Registrar did not support the grounds of complaint beyond the issues relating to recording advice in writing and the clarity of communications, being the extent of Mr Kumar's admissions. She did not file any evidence, did not cross-examine Mr Kumar, and indicated she accepted his explanation. The complainant took no part in the hearing.
- [5] It is not appropriate for the Tribunal to speculate regarding the information that led to the Registrar's decision not to support the original grounds of complaint. It is the Registrar's statutory duty to represent the public interest in the disciplinary process, and there are circumstances that properly remain confidential. There is no application for any disclosure.

### The Parties' Positions on Sanctions

- [6] The Registrar and the complainant did not provide submissions on sanctions.
- [7] Counsel for Mr Kumar took the position that any sanctions should be at a low level. He pointed to the low level of the grounds of complaint upheld; that Mr Kumar had taken steps to remediate aspects of his practice, and that Mr Kumar had substantial expenses in defending the grounds of complaint to which he provided answers, which the other parties did not challenge.

### Discussion

- [8] If the finding on this complaint stood alone, censure and a modest financial penalty would be appropriate. It is important to also consider two other complaints the Tribunal upheld; like this complaint only minor elements of a wider complaint were upheld. However, in the other matters Mr Kumar faced allegations that were more serious. Like this complaint, the Registrar and the complainant did not support the wider grounds when Mr Kumar provided an explanation that was irreconcilable with the allegations the complainant made against him. There were other complaints where the Tribunal dismissed the complaints in similar circumstances, where neither the Registrar nor the complainants supported the original grounds of complaint.
- [9] In the course of the disciplinary process, Mr Kumar has faced stress, embarrassment and expense, which on the face of it, ought not to have occurred.
- [10] I am satisfied that given that the Tribunal has dismissed all of the very serious allegations Mr Kumar faced, because they were unsupported; and Mr Kumar has committed to improving his practices, the proper outcome is to take no further action in relation to any of the matters; including this complaint. The adverse findings were minor.

### Determination and Orders

- [11] Having upheld the complaint in the limited respect identified, the Tribunal will take no further action pursuant to section 50(b) of the Immigration Advisers Licensing Act 2007.

**DATED** at WELLINGTON this 6<sup>th</sup> day of September 2016.

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**G D Pearson**  
Chair