

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

Decision No: [2016] NZIACDT 54

Reference No: IACDT 050/15.

**IN THE MATTER**

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

**BY**

**The Registrar of Immigration Advisers**

Registrar

**BETWEEN**

**Michael Carley (Immigration New  
Zealand)**

Complainant

**AND**

**Nadezda (Nadia) Pastushenko**

Adviser

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**DECISION  
(SANCTIONS)**

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**REPRESENTATION:**

**Registrar:** Ms C Pendleton, lawyer, MBIE, Auckland.

**Complainant:** Ms G Kelly, lawyer, Immigration New Zealand, Auckland.

**Adviser:** In person.

Date Issued: 14 September 2016

## DECISION

### Introduction

- [1] The Tribunal upheld this complaint in a decision dated 16 March 2016, *Carley v Pastushenko* [2016] NZIACDT 10 ([www.justice.govt.nz](http://www.justice.govt.nz)). The Tribunal found Ms Pastushenko breached her professional obligations:
- [1.1] Ms Pastushenko had a client who remained in New Zealand when his visa expired, and she engaged him to work with a company she controlled.
- [1.2] The employment was in breach of his obligations, as he did not have a work permit.
- [1.3] Ms Pastushenko had misunderstood the law and thought the work was lawful. However, she said her motivation was humanitarian and the circumstances arose from her charitable work. She did not exploit her client and did not intentionally breach New Zealand's immigration laws.
- [1.4] The Tribunal noted Ms Pastushenko had a duty to ensure she fully informed herself of the restrictions that apply to work in New Zealand when a person requires a visa.

### Discussion

- [2] For a licensed immigration adviser to be a party to a breach of immigration law relating to employment would usually be at the very serious end of the spectrum. The Tribunal has accepted Ms Pastushenko's explanation she misunderstood the law; and that she was providing humanitarian support. This is not a case where there was any element of exploitation.
- [3] Ms Pastushenko who was obviously concerned about what happened explained how the error developed in her mind, and requested that the Tribunal not impose sanctions. Neither the Registrar nor the complainant opposed that course.
- [4] The Tribunal will accordingly take no further action having upheld the complaint. It does so because this was a case where there was a misunderstanding of the law, and a complete absence of illicit motivation.
- [5] Nothing in this decision should be understood to diminish the important obligation for all licensed immigration advisers to understand the law relating to the need for citizenship or an appropriate visa to work or undertake business in New Zealand.

### Determination

- [6] The Tribunal has upheld this complaint, and will take no further action.

**DATED** at Wellington this 14<sup>th</sup> day of September 2016

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**G D Pearson**  
Chair