

IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

Decision No: [2019] NZIACDT 75

Reference No: IACDT 014/19

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

BY **THE REGISTRAR OF
IMMIGRATION ADVISERS**
Registrar

BETWEEN **THE REGISTRAR OF
IMMIGRATION ADVISERS**
Complainant

AND **PETER GRAEME RYAN**
Adviser

SUBJECT TO SUPPRESSION ORDER

DECISION
Dated 7 November 2019

REPRESENTATION:

Registrar/Complainant:

T Thompson, counsel

Adviser:

V Nisbet, E Blincoe, counsel

PRELIMINARY

[1] The primary allegation against Mr Ryan, the adviser, is that he created false jobs for his clients to obtain work or residence visas in New Zealand. Mr Ryan is accused of operating a paper company or companies in the IT industry which had no real employees and no work. He is also accused of falsely claiming a connection to a real IT company in the United Kingdom.

[2] As a result of media articles concerning an immigration “scam” run by Mr Ryan (as alleged), the Registrar of Immigration Advisers (the Registrar), the head of the Immigration Advisers Authority (the Authority), initiated an investigation of him. The Registrar has referred a complaint to the Tribunal. It is alleged that Mr Ryan’s conduct is dishonest, and contrary to the Immigration Act 2009, the Immigration Advisers Licensing Act 2007 (the Act) and the Licensed Immigration Advisers Code of Conduct 2014 (the Code).

[3] Mr Ryan denies the allegations made against him, but offers no explanation, evidence or submissions.

BACKGROUND

[4] Mr Peter Graeme Ryan (Mr Ryan) was until recently a licensed immigration adviser and had been since 9 October 2013. As a result of this complaint, he surrendered his licence on 27 September 2019. He is the sole director and shareholder of Capital Immigration Services NZ Limited (Capital Immigration). This company was incorporated in June 2016. It operates out of level 4, 326 Lambton Quay, Wellington.

[5] Mr Ryan was also the sole director and majority shareholder of BC International Ltd. It was incorporated in May 2012 and removed from the Companies Register in March 2018. The registered office from March 2013 to March 2015 was 114–118 Lambton Quay, Wellington. The building at that address is known as Civic Assurance House. The registered office then became 326 Lambton Quay, the office of Capital Immigration. The telephone number was also that of Capital Immigration. The website address on the Companies Register was <www.biteconsulting.co.uk>. Mr ZZ was [redacted].

[6] Mr Ryan’s wife, Mrs Caroline Anne Ryan (Mrs Ryan), is also a licensed immigration adviser working as an employee at Capital Immigration. She has been licensed since April 2016.

[7] Mrs Ryan was the sole director of Bite Consulting NZ Ltd from March 2009. It had been incorporated in September 2006 and was removed from the Companies Register in November 2012. The documentation produced to the Tribunal from or referring to the New Zealand Bite company is largely in the name of “Bite [or BITE] Consulting Group”.

[8] The Companies Register shows the majority shareholder of Bite Consulting NZ Ltd until it was removed was another New Zealand company with the same residential street address as Mr and Mrs Ryan. A minority shareholder at the time of removal was Mr Richard Alexander, though he had ceased to be a director in March 2009. The registered office from January 2009 to October 2010 was 326 Lambton Quay, Wellington. The register shows that the general manager in 2011 was Mr Peter Kerr (Mr Kerr). There is an issue as to whether Mr Kerr actually exists. It is addressed later.

[9] There is a company or companies in the United Kingdom known as “BITE Consulting” or “BITE Consulting Group” operating in the IT consulting industry. The group was founded in 1998. The website address is <www.biteconsulting.co.uk>. It is understood to be registered there as BITE Contractors Ltd and BITE Consulting Ltd.

[10] At the time Mr Ryan first sought to become a licensed immigration adviser, he represented himself to the Authority as connected to the BITE group in the United Kingdom. The email footer in his communications with the Authority in September 2013 stated that he was a director of “BITE Consulting Group” of New Zealand (Civic Assurance House, Lambton Quay) and the United Kingdom (<www.biteconsulting.co.uk>). He said that the group was engaged in “IT Contracting HR Placements Employment & Outsourcing UK Europe NZ Australia South Africa India”. He used the same stylized computer screen and keyboard logos as those of the United Kingdom group.¹

[11] This complaint concerns 17 predominantly Indian nationals, all of whom were offered employment by Bite Consulting NZ and/or BC International. They were all offered employment while Mr Ryan represented himself as the director and/or Asia Pacific operations manager of Bite in New Zealand. He had a dual role, as he was also the immigration adviser acting for many of them.

[12] Immigration New Zealand records show that from at least late 2008, Mr Ryan worked at Bite Consulting NZ and was the named employer contact for foreign nationals who had been offered IT positions by that company. A number of licensed advisers were used to file the early applications with Immigration New Zealand. From about October

¹ Registrar’s supporting documents at 427–428.

2011, (Mr FF), a Wellington solicitor, filed most of the applications. From January 2014, after Mr Ryan became licensed in October 2013, most of the applications were filed in his name. Once Mr Ryan became licensed, Mr Kerr became the alleged employer contact at Bite Consulting NZ.

[13] In respect of Mr Ryan's conduct prior to 9 October 2013, the date he was licensed, it cannot be the subject of a complaint and is given in the narrative below only as background. It shows that Mr Ryan and his wife were well connected to Bite in New Zealand before Mr Ryan was licensed.

[14] It is also noted that only limited documents concerning the visa applications of each of the 17 clients have been made available to the Tribunal.

[15] The media articles exposing what was described as a "scam" are largely about the experiences of Mr Karamjeet Singh (Mr Singh). He has provided evidence to the Authority, as has (Mr L). Both were clients of Mr Ryan. Their immigration applications will be outlined first. The other visa applicants will then be set out in this decision in the order in which their applications were received by Immigration New Zealand.

Karamjeet Singh

[16] On about 19 February 2016, Mr Singh made an application for residence under the skilled migrant category. Mr Ryan was identified on the form as the immigration adviser who had provided immigration advice. He signed the form, as did Mr Singh. It stated that Mr Singh had been resident in New Zealand since July 2013. He had an offer as a customer service manager for BC International, trading as Bite Consulting Group in Lambton Quay, Wellington. The employer contact was given as Mr Kerr, the Asia Pacific operations manager. The company was said to provide computer consultancy services.

[17] The residence application made to Immigration New Zealand was accompanied by an offer of employment, dated 18 May 2015, from Bite Consulting Group based in Civic Assurance House, Lambton Quay. The letterhead stated the company was present in the United Kingdom, New Zealand, Australia, South Africa and India. The web address given was <www.biteconsulting.co.uk>. The telephone number was the same as that for Capital Immigration. The offer was signed by Mr Kerr. Mr Singh was offered the position of customer service manager, to commence on 1 June 2015.

[18] There was also provided with the application an individual employment agreement between "BC International Ltd, TA Bite Consulting Group" and Mr Singh. The position was customer service manager. It was signed by Mr Kerr on 18 May 2015 and

by Mr Singh on 20 May 2015. It stated that Mr Singh would perform his duties from 21 Queen Street (Auckland), or remote offices or the Wellington office or from the clients' offices.

[19] On 9 May 2016, Mr Kerr sent an email to the immigration officer forwarding a formal organisation chart and (*verbatim*) "last years Financials". He advised they were still completing the March 2016 financial statements. No financial statements have been sent to the Tribunal.

[20] The organisation chart (dated April 2016) showed that the chair of BITE Consulting was Mr ZZ (said to have a law degree). Underneath him was the Asia Pacific operations manager, Mr Kerr. There were three direct reports to Mr Kerr, including Mr Singh, the permanent customer service manager. Various unidentified contractors and support staff in turn reported to Mr Singh and one other manager.

[21] The officer sent an email to "Peter" (address not known) on 9 June 2016 requesting the company's financial statements, together with other financial records such as bank account statements and wage records for the previous two years.

[22] On 1 July 2016, Mr Ryan sent an email to the officer advising that he had been instructed to withdraw the application.

(Mr L)

[23] On 24 March 2016, Mr L made an application for a work visa. Mr Ryan was identified on the form as the immigration adviser. He signed the form, as did Mr L. It recorded that Mr L had worked in New Zealand since October 2011 in supermarket work, cleaning and horticulture. At the time, he was on a student visa. He had been offered the position of ICT customer support officer by Bite Consulting Group of Lambton Quay, Wellington. The employer contact was identified as Mr Kerr, the Asia Pacific operations manager.

[24] Immigration New Zealand was also provided with an individual employment agreement between Bite Consulting Group of Wellington and Mr L, for employment as an ICT customer support officer. It was signed by both Mr Kerr and Mr L on 24 March 2016.

[25] There was a letter from Bite Consulting Group, dated 24 February 2016, addressed, "To whom it may concern". It showed the address as Civic Assurance House in Lambton Quay. The website address given was <www.biteconsulting.co.uk>. The

letter was signed by Mr Kerr as the Asia Pacific operations manager. It stated that Mr L was the most suitable for their demands.

[26] An Employer Supplementary Form, signed by Mr Kerr of Bite Consulting Group, was also sent to Immigration New Zealand.

[27] Immigration New Zealand granted Mr L a work visa for three years commencing on 14 April 2016.

[28] On 8 November 2017, Mr L was located by Immigration New Zealand at a vineyard in Hastings working in breach of his visa. The agency's file note recorded that he was made liable for deportation and voluntarily departed New Zealand on 20 November 2017.

(Mr E)

[29] Mr E made a work visa application on 28 January 2009. He was represented by Mr Richard Alexander of Commonwealth Services Group Ltd. Mr Ryan of Bite Consulting was the employer contact.

[30] Immigration New Zealand granted the work visa.

[31] Mr E then made a residence application on 2 June 2009. He was represented by Mr FF, solicitor. Mr Ryan of Bite Consulting was the employer contact.

[32] Mr Ryan sent an email to an immigration officer on 13 October 2009 advising that Mr E was employed as a customer support engineer with Bite Consulting. He used the email address:

From: Peter Ryan [<mailto:peter@biteconsulting.co.nz>]

[33] The residence application was approved by Immigration New Zealand.

(Mr S)

[34] Mr S made a residence application on 22 October 2010. He was represented by Mr FF. Mr Ryan of Bite Consulting was the employer contact.

[35] Mr Ryan, who described himself as the Asia Pacific operations manager of "BITE Consulting NZ Ltd", sent an email to an immigration officer on 16 December 2010 advising that Mr S was employed as an HR/recruitment consultant. Mr Ryan explained that they placed people via Bite in the United Kingdom and had numerous placements

for permanent staff or contractors in New Zealand. The Bite Group was based in the United Kingdom and had operations there, as well as in South Africa, Australia, Sri Lanka and New Zealand. The management team included United Kingdom personnel and three management people in New Zealand.

[36] According to Mr Ryan, Mr S spent 80 per cent of his time interviewing or grading CV's and from time to time did both reference checking and contacted prospective employees.

[37] The residence application was approved by Immigration New Zealand.

(Mr R)

[38] Mr R, represented by Mr FF, made a residence visa application on 7 March 2012. Mr Ryan of Bite Consulting was the employer contact.

[39] On 16 May 2012, an immigration officer asked Mr Ryan for certain details concerning Mr R's employment.

[40] On the same day, Mr Ryan sent an email to the officer advising that Mr R would be employed as a desktop publishing officer, with the starting date offered being 23 April 2012. He was waiting for the approval of his permit. They employed Mr R as they needed specific web skills.

[41] Mr Ryan advised the officer that Bite was part of the "Bite Group Internationally" which operated in six countries, with the United Kingdom being the head office. The intranet had some 500 ongoing and changing IT related professionals as required for contract work or permanent positions. Mr Ryan described himself as the director of the New Zealand operation, who dealt with local and international partners and clients. He provided HR resources as required.

[42] The residence application was approved by Immigration New Zealand.

(Mr I)

[43] Mr I made a residence application on 17 December 2012. He was represented by Mr FF. Mr Ryan of Bite Consulting was the employer contact.

[44] Mr Ryan, who described himself as a director of "BITE Consulting Group" (<www.biteconsulting.co.uk>; Civic Assurance House, Lambton Quay), sent an email to an immigration officer on 3 April 2013 advising that Mr I was a customer service manager

in a permanent position, whose start date was 4 February 2013. He used the email address:

From: Peter Ryan [mailto:peter@biteconsulting.co.nz]

[45] The residence application was approved by Immigration New Zealand.

(Mr M)

[46] Mr M applied for a work visa on 17 December 2012. He was represented by Mr FF. Mr Ryan of Bite Consulting was the employer contact.

[47] An immigration officer sent an email on 10 January 2013 to Mr FF asking for clarification of the role of the New Zealand employees in the overall business. The New Zealand website address seemed to be based in the United Kingdom, but it was unclear how the New Zealand business fitted in. A more detailed job description of the client services manager role was also required. The officer asked for an organisation chart of the business showing the number of employees in each position and a brief job description, as well as the reporting lines. Additionally, recent IRD and payroll information was requested.

[48] Mr Ryan responded to the officer's email on 18 January 2013. He said that Bite was part of the international Bite Group, operating in five countries, with its head office in the United Kingdom. The intranet had some 500 ongoing and changing IT related professionals. He was the director of Bite's New Zealand operation and dealt directly with local and international partners and clients, in addition to providing HR resources as required.

[49] According to Mr Ryan, all the staff, both contract and permanent, reported to him unless they were based offshore. The local reporting was day-to-day and was peer reviewed internationally. They were a highly successful boutique company with many long standing supportive clients. The management structure provided for a board, director, office manager, HR manager, project managers, contract managers, client service manager (including Mr M in banking) and thereafter IT contractors. Due to confidentiality clauses, he could not release contract or PAYE details. A company structure schematic could be forwarded, as previously sent.

[50] Mr Ryan explained that, in the case of Mr M, an Australian banking client required an experienced line manager.

[51] The officer then sent an email to Mr Ryan on 25 January 2013 requiring the “company structure schematic”, including the names, immigration status and job titles of all employees based in New Zealand. She also required the IRD employer monthly schedules. The officer also wanted a further explanation of how Bite’s operations in the New Zealand and the Asia Pacific region fitted in with the United Kingdom company, as there was no mention of any such details on the website. Mr Ryan’s response has not been provided to the Tribunal.

[52] The work visa was approved by Immigration New Zealand, as was a subsequent residence visa application.

(Mr J)

[53] Mr J applied for residence on 8 May 2013. He was represented by Mr FF. Mr Ryan of Bite Consulting was the employer contact.

[54] An immigration officer sent an email to Mr Ryan on 16 May 2014 concerning Mr J’s application for residence under the skilled migrant category. The Tribunal has only been sent the first few lines of the email.

[55] There is an email reply to the officer on 23 May 2014, with the author having used the email address:

From: Peter Ryan [<mailto:peter@biteconsulting.co.nz>]

[56] The author of the email introduced himself as Peter Kerr, the new Asia Pacific operations manager “reporting to the management of Bite Consulting Group”. He said he “had been a long-term contractor to the company in the past”. He apologised for the delay but he had been waiting for the return of Mr Ryan from overseas. Mr Kerr gave details of the title (customer services manager), salary and duties of Mr J. He signed off the email in his own name, with the footer showing his email address:

peterkerr@bcinternational.co.nz

[57] The officer sent a further email to Mr Ryan on 27 May 2014 requiring additional information about Mr J’s duties.

[58] Mr Ryan responded to the officer by email on 12 June 2014 (using the email address):

From: Peter Ryan [<mailto:peter@biteconsulting.co.nz>]

[59] According to Mr Ryan's email, they used a 300-page manual supplied by Bite in the United Kingdom. Details were then given of Mr J's duties. An example was given by reference to the policies, programs and procedures relating to a client, the "Ministry of Justice, Corrections", in relation to prison software rollout. Mr J was deeply involved with that project. It recorded that it was very difficult to communicate with prison officers and staff due to the location of the prisons and the environment in which they operated. The company was providing a "first-line (SLA) service level agreement for a new software rollout". It had been a very successful project which had been implemented by Mr J.

[60] On 11 February 2015, an immigration officer sent an email to "Peter" seeking a brief description of some of the projects Mr J had worked on in the previous three months.

[61] Mr Ryan from "BITE Consulting Group" replied by email on 12 February 2015 stating that he felt that numerous case officers had treated Mr J unfairly at huge financial cost. The operations manager "here at Bite" was Mr Kerr. Mr Ryan said he had viewed the file and could confirm that Mr J was a client service manager. Mr J worked on numerous small and medium corporate accounts, as well as offshore accounts. He had installed ICT and was responsible for training and backup. He provided remote access support for onshore and offshore clients for the parent company in the United Kingdom on a 24/7 basis.

[62] The residence visa was declined by Immigration New Zealand.

(Mr V)

[63] Mr V made an application for residence on 29 August 2013, represented by Mr FF. Mr Ryan of Bite Consulting was the employer contact.

[64] On 8 November 2013, Mr Ryan sent an email to an immigration officer advising (*verbatim*):

...

As discussed our legal entity is BC International Ltd TA Bite Consulting Group. Previously it had been Bite Consulting NZ Ltd TA consulting which is causing some confusion.

We now [redacted] being [Mr ZZ] LLB whom assists with our international agreements and complex SLA agreements.

Bite Consulting Group or Bite Consulting trades in some six countries under these names, since 1998 in the UK where it all started.

Our IRD and bank account reflects the name TA Bite Consulting Group as requested and legally confirmed by those parties.

However on reflection our letter offer and employment contract do not have BC International Ltd as materially we are known as BITE Internationally. Do you require just a signed letter from company to employee stating that the legal entity is BC International Ltd TA encompassing the existing letter of offer and agreement, or do you require a backdated letter of offer and employment signed which states legal entity TA.

...

[65] The residence visa was granted by Immigration New Zealand.

(Mr O)

[66] Mr O applied for residence on 18 November 2013, represented by Mr FF. Mr Kerr of Bite Consulting was the employer contact.

[67] On 25 February 2014 an immigration officer sent an email to "Peter" at Bite Consulting concerning the residence application of Mr O. He required certain information regarding Mr O, as well as a current organisation chart for the business listing all employees.

[68] Mr Ryan, director of "BITE Consulting Group", (<www.biteconsulting.co.uk>; Civic Assurance House, Lambton Quay), sent an email to the officer on 10 March 2014 advising that the employees were:

Mr Ryan

Mr Kerr

Mr ZZ

Caroline Ryan

Mr V

Mr O

Mr J

Mr R

Two named Indian nationals

[69] The residence visa was granted by Immigration New Zealand.

(Mr K)

[70] Mr K applied for residence on 31 March 2014. The Tribunal has not been advised whether any lawyer or adviser represented him. Mr Kerr of BC International was the employer contact.

[71] Mr Kerr, describing himself as the Asia Pacific operations manager of “BITE Consulting Group”, sent an email to an immigration officer on 23 May 2014 advising that Mr K was an ICT developer/programmer and a permanent employee. He gave other details of Mr K’s employment. Mr Kerr used the email address of Mr Ryan to send the email:

From: Peter Ryan [<mailto:peter@biteconsulting.co.nz>]

[72] The residence visa was granted by Immigration New Zealand.

(Mr B)

[73] Mr B applied for residence on 3 June 2014. He was represented by Mr Ryan. Mr Kerr of BC International was the employer contact.

[74] Mr Kerr sent an email to an immigration officer on 7 November 2014 advising that Mr B was a permanent employee and employed as an ICT customer support technician. He used the email address of Mr Ryan to send the email:

From: Peter Ryan [<mailto:peter@biteconsulting.co.nz>]

[75] The residence visa was granted by Immigration New Zealand.

(Mr G)

[76] Mr G made a residence application on 9 October 2014. He was represented by Mr Ryan. Mr Kerr of Bite Consulting was the employer contact.

[77] On 27 July 2015, Mr Kerr of “BITE Consulting Group” sent an email to an immigration officer. The first six paragraphs of the email discussing Mr G’s duties and the success of the Ministry of Justice/Correction prison software rollout were identical to the email sent by Mr Ryan one year earlier on 12 June 2014 in relation to Mr J, apart from the addition of four words at the end of the first paragraph of the 27 July email.

[78] The residence application was declined by Immigration New Zealand.

(Mr N)

[79] Mr N applied for residence on 19 December 2014. He was represented by Mr Ryan. Mr Kerr of BC International was the employer contact.

[80] On 24 February 2015, Mr N applied for a work visa. Mr Ryan was identified on the form as the immigration adviser. He signed the form, as did Mr N. Mr Kerr was identified as the employer contact.

[81] Immigration New Zealand was provided with an offer of employment, dated 12 October 2014, from Bite Consulting Group. It was signed by Mr Kerr. Mr N was offered the position of customer service manager commencing on 3 November 2014.

[82] There was also provided to Immigration New Zealand an individual employment agreement between BC International, trading as Bite Consulting Group, and Mr N. It was signed by Mr Kerr and Mr N on 20 October 2014.

[83] The work visa was granted by Immigration New Zealand.

[84] Mr Kerr sent a lengthy email to an immigration officer on 19 July 2015 concerning Mr N's residence application. In relation to his employment, Mr Kerr said that Mr N was dealing with both onshore and offshore clients and had tweaked their systems to speed up responses. He was now the senior customer service manager who trained other managers. They had a very large customer and government corporate base onshore. Within the team structure, they had both permanent and numerous contract or outsource ICT technicians. Further details of Mr N's duties were also set out.

[85] On 31 July 2015, the officer asked Mr Kerr to send her an organisation chart for the business so that she could better understand Mr N's position and reporting lines.

[86] On an unknown date, an organisation chart for "BITE Consulting" was given to Immigration New Zealand. It was dated March 2015. It is apparent to the Tribunal this was produced for the New Zealand company, despite the name being formatted to look like that of the United Kingdom group and showing the same stylized computer screen and keyboard logos used by the United Kingdom group.

[87] At the top of the chart was shown the chairman and then underneath him at the second level there was the company director and the operations manager for Asia Pacific. At the third level was the senior customer service manager (permanent). It then showed at the fourth level, two customer service managers (permanent) and a technical software developer (permanent). At the next and lowest level was IT technical support (contract), IT customer support (contract), IT contractors in both New Zealand (onshore) and the United Kingdom (offshore), as well as technical partners.

[88] The officer then asked "Peter" by email on 6 August 2015 for an organisation chart showing the names of people, not just the positions.

[89] On the same day, 6 August 2015, Mr Kerr sent an email to the immigration officer advising that Mr N was unable to work as a mentally ill person was making a false claim against him.

[90] On an unknown date, the residence application was withdrawn.

(Mr P)

[91] On 30 October 2015, Mr P made an application for a residence visa under the skilled migrant category. Mr Ryan was identified on the form as the immigration adviser. He signed the form, as did Mr P. Mr Kerr was identified as the employer contact at Bite Consulting Group.

[92] Immigration New Zealand was also provided with a job offer for Mr P as an ICT systems test engineer, dated 28 November 2015. It was from Bite Consulting Group. The offer was signed by Mr Kerr. There was also an employment agreement between Bite Consulting Group/BC International and Mr P for the position of ICT systems test engineer. It was signed by Mr Kerr on 29 October 2015 and by Mr P on 30 October 2015.

[93] The residence visa was granted by Immigration New Zealand.

(Mr A)

[94] On 9 November 2015, Mr A made an application for a work visa. Another licensed immigration adviser filed the application. Mr Ryan signed it as the employer on 14 October 2015.

[95] There was an offer of employment on the letterhead of Bite Consulting Group, dated 14 October 2015, from Mr Ryan as the director. Mr A was offered the position of IT support technician. An employment agreement between Mr A and Bite Consulting Group was also provided. It was signed by Mr Ryan and Mr A on 14 October 2015.

[96] The work visa was granted by Immigration New Zealand.

(Mr Y)

[97] On 9 February 2016, Mr Y made an application for a residence visa under the skilled migrant category. Mr Ryan was identified on the form as the immigration adviser. He signed the form, as did Mr Y.

[98] There was a letter of offer, dated 10 October 2015, to Mr Y from Bite Consulting Group attached to the application. The offer was signed by Mr Kerr. Mr Y was offered the position of ICT customer support officer. There was also an individual employment agreement between BC International, trading as Bite Consulting Group, and Mr Y. It was signed by Mr Kerr and Mr Y on 12 October 2015. It stated that Mr Y would perform his duties at the Lambton Quay office, or other Bite offices or at the clients' premises.

[99] Also sent to Immigration New Zealand was a "Bite Consulting Group" promotional document of four pages. The copy sent to the Tribunal has come from the New Zealand website of Bite Consulting NZ. The document stated that the "Bite Group" was founded in the United Kingdom in 1986 and operated in 10 countries, including the United Kingdom, New Zealand, Australia, South Africa and India. It had been operating in New Zealand since 2006 and provided a full range of business services in the IT contracting service and support industries, as well as global job search, placement and business advisory services. There were references to documents on the New Zealand website as well as a New Zealand 0800 telephone number and New Zealand email address. It was said to have offices in Lambton Quay, Wellington and Queen Street, Auckland.

[100] An immigration officer sent a lengthy email to Mr Kerr at BC International on 5 April 2016 asking numerous questions about Mr Y's duties. Mr Kerr answered them on 10 April 2016. While the answers have not been sent to the Tribunal, it is noted Mr Kerr gave the street address in his covering email as Civic Assurance House.

[101] Immigration New Zealand conducted a site visit at the address of BC International Ltd at Civic Assurance House, 114 Lambton Quay, Wellington, on 23 May 2016.² It was in relation to Mr Y's residence application. No office was found at that address. Mr Ryan was contacted by telephone as the employer and directed the officers to 326 Lambton Quay. This was Capital Immigration's address. A handwritten note on Immigration New Zealand's report (which is in the form of printed questions and handwritten answers) recorded that the company had moved to 326 Lambton Quay six months previously. Mr Ryan signed that handwritten interview record.

[102] Mr Ryan was interviewed at 326 Lambton Quay. He said BC International provided professional services in IT. There were three permanent employees, whom he identified as Mr Singh, Mr Y and Mr P (see later). Mr Singh was the customer services manager, Mr Y was in IT support and Mr P was the ICT test engineer.

² Site visit report, see Registrar's supporting documents at 145–150.

[103] Mr Ryan was asked why there was such a high turnover in the company and replied that they get the best people at the lowest pay.

[104] Mr Y's duties were explained by Mr Ryan. Mr Y was said to work remotely receiving incoming calls from clients. At the time, he was away on holiday. Mr Ryan was asked to provide the full financial statements for the previous two years, together with bank account, wage and various other records.

[105] Mr Ryan provided a calling card which recorded that he was a director and a partner of Bite Consulting Group. Both the New Zealand and United Kingdom web addresses were also recorded on the card (<www.biteconsulting.co.nz> and <www.biteconsulting.co.uk>). The Wellington telephone number was that of Capital Immigration. The street address on the card was that of Civic Assurance House.

[106] On 26 May 2016, the officer sent an email to Mr Kerr noting that information had been provided for "2015" but requiring the latest information for "2016 and 2015", including full financial statements for the previous two years, together with banking and wage records, and various other documents.

[107] Mr Kerr replied on 27 May 2016 saying he had certain records and would try and get the draft "financials".

[108] Mr Kerr then sent an email to the officer on 3 June 2016 advising that the application was withdrawn.

No more applications sponsored by Bite/BC International

[109] The records of Immigration New Zealand show that after the site visit on 26 May 2016, no more immigration applications were filed with Immigration New Zealand based on employment offers from Bite Consulting NZ/BC International.

Media articles

[110] On 21 September 2018, *Stuff* published online an article, "The Big Scam: How our immigration system is being rorted".³

[111] According to the article, Mr Singh arrived in New Zealand in 2014 on a student visa, his dream being to secure residence and to own his own bistro. Instead, he paid \$35,000 for a job that did not exist, in order to obtain a work visa. The money was paid to Mr Gurpreet Singh (no relation) who owned a string of Auckland restaurants. The

³ Fonseca and Kilgallon Stuff News (New Zealand) at <www.stuff.co.nz>.

article stated that another way to obtain a visa was to secure a real job at the minimum salary required by Immigration New Zealand of \$48,000 annually, but then to pay some of it back.

[112] Mr Gurpreet Singh found Mr Singh a full-time job in Wellington paying a salary of \$42,000 annually which at the time was above the minimum threshold. In addition to the \$35,000 fee for the job, Mr Singh had to pay for a work visa costing \$10,000. Mr Singh then met Mr Peter Ryan in Wellington. According to the article, Mr Ryan was an immigration consultant at Capital Immigration and a director and majority shareholder of BC International, which traded as Bite Consulting Group. Mr Ryan was the immigration adviser who handled most of the visa applications.

[113] Mr Singh duly secured a visa to work for BC International as a customer service manager, but "Bite" did not pay him because the company did not do anything. Instead, each time Mr Singh was paid he had to return the money and because it had been taxed, he had to repay the tax as well. The job was not real and Mr Singh was living in Auckland, surviving off his savings and a cash-in-hand job at a factory.

[114] As all the bank transfers showed an Auckland location, not Wellington where Mr Singh was supposed to be, Mr Ryan sent an email to Mr Singh and Mr Gurpreet Singh stating, "What's going on all the bank statements have Auckland on them along with activities in Auckland!!!!!!!!!!".

[115] When Mr Singh telephoned Mr Ryan to check on his residence application, Mr Ryan told him Immigration New Zealand had asked for 10 years' worth of salary and financial records from Bite, so Mr Ryan asked Mr Singh to withdraw his application. Mr Ryan advised him that Mr Gurpreet Singh would find a different way of securing his residence. The article noted that the web address of "Bite Consulting" in the United Kingdom was a separate company from that in New Zealand.

[116] The article stated that when Mr Ryan was called by the reporter to discuss Mr Singh, he replied that he did not want to comment. He said he had heard all sorts of rumours and understood that someone was making quite serious and arguably false allegations. He claimed not to have been involved in the email sent to Mr Singh about the Auckland transfers. He refuted being involved in immigration fraud.

[117] It was reported that Mr Gurpreet Singh obtained a job for Mr Singh as a restaurant manager in one of his own restaurants, but Mr Singh had to make large cash payments back to his employer. According to Mr Singh, he was declined residence on 25 May

2017. He expressed a fear he would have to leave New Zealand. A final attempt to renew his work visa had been declined. He wanted his money back.

[118] A photograph of Mr Ryan accompanied the article, as did photographs of Mr Singh.

[119] A second article appeared on the *Stuff* website on 2 October 2018, titled “The Big Scam: 17 granted residency through alleged ‘paper’ company”.⁴

[120] The article repeated the accusation from Mr Singh that he obtained a visa from a paper company in Wellington owned by his immigration adviser, but for which he never did any work. BC International, trading as Bite Consulting, had paid him a wage but he was expected to return the money. He therefore worked under the table in Auckland.

[121] According to the article, Immigration New Zealand had said that 17 predominantly Indian nationals were given permanent residence through BC International between May 2012 and May 2018. Furthermore, Mr Singh was one of 20 people who successfully received work visas from the company. The company’s director and majority shareholder was Mr Peter Ryan, a licensed immigration adviser. The founding shareholder of the company, Mr Richard Alexander, had said that the company was a “P O box” while he owned it and he had handed it over to Mr Ryan for no fee as it had not traded. Mr Ryan denied any part in the fraud.

Registrar initiates an investigation

[122] An investigation was commenced by the Registrar in about October 2018.

[123] On 16 October 2018, the Authority wrote to Mr Ryan referring to the media articles and requiring the files of Messrs Singh, Y, P, L, N and S.

Mr Boatman’s evidence to investigator

[124] The Authority’s investigator telephoned BITE Consulting in the United Kingdom on 9 and 10 January 2019, obtaining the telephone number from the English website. She asked to speak to Mr Keith Boatman, described as the founding director. A person told the investigator that BITE Consulting was then known as BITE Contractors.

⁴ Fonseka and Kilgallon Stuff News (New Zealand) at <www.stuff.co.nz>.

[125] The investigator was not initially able to make contact with Mr Boatman, but the person who answered the call, who had been working in the company for 20 years, told her that BITE Consulting did not operate outside of the United Kingdom.

[126] The investigator then sent an email to Mr Boatman on 11 January 2019 asking whether there was any relationship between the United Kingdom and New Zealand companies. She noted that the stylized logos of the two companies were very similar.

[127] Mr Boatman replied to the investigator on 12 January 2019. He said he was aware that a company had been using their name, but legal action was expensive. BITE Consulting Group was in liquidation. It had only ever operated in the United Kingdom, though he had recruited people from New Zealand. He had worked in association with a company in Lambton Quay, Commonwealth Services and its directors, Mr Snelling and Mr Ward. Mr Boatman advised that he was running two companies, BITE Contractors Ltd and BITE Consulting Ltd, in IT contracting, training and job search services.

[128] Mr Boatman told the investigator that he had previously visited Wellington and possibly had met Mr Ryan. Even if he had, he had not given Mr Ryan authority to use his website. They had never had any formal or informal relationship with Mr Kerr or BC International Ltd.

[129] On 9 May 2019, Mr Boatman repeated in an email to the investigator that no one had been authorised to use his website. He had undertaken inbound recruiting to the United Kingdom, but never inbound to New Zealand. He noted the potential damage to his reputation among New Zealand nationals seeking work experience in the United Kingdom.

Mr Singh's evidence to investigator

[130] On 3 January 2019, Mr Singh sent an email to the Authority's investigator attaching a statement in the form of answers to the investigator's questions.⁵

[131] Mr Singh informed the investigator that Mr Gurpreet Singh suggested he contact Mr Ryan in order to obtain residence. Mr Singh met Mr Ryan at his office at 326 Lambton Quay on about 15 April 2016. Mr Ryan said that "Bite consulting" did not physically exist except on paper. He was told by Mr Ryan not to disclose this to anyone. Mr Singh had not met anyone from Bite Consulting NZ.

⁵ Registrar's supporting documents at 370–374.

[132] According to Mr Singh, BC International did not exist physically except as a paper company. However, it had “good books (financials)”. He paid \$35,000 to Mr Ryan, of which \$7,000 was paid as commission by Mr Ryan to Mr Gurpreet Singh. The deal was that he had to repay his salary plus tax into Mr Ryan’s account for about 1.4 years. So for nine months, he paid \$490 monthly and \$90 on top for tax, then for five months, he paid \$590.

[133] Mr Singh advised that he had never met or heard from Mr Peter Kerr. He was not sure whether he was real or fake, but his signature appeared on the job offer letter.

[134] In his answers, Mr Singh said that when an immigration officer asked Mr Ryan to complete a questionnaire on Mr Singh’s employment, Mr Ryan emailed to him all the payslips in bulk. Furthermore, Mr Ryan’s response to the officer’s request to access information about the employees of BC International was (*verbatim*), “many fishes will be caught by immigration best and safe way is withdraw the application and close the magic box”. He said he had paid Mr Ryan a total of \$47,200.

[135] In further emailed information given to the investigator on 21 February 2019, Mr Singh confirmed he had met Mr Ryan in Wellington on 15 April 2016 when Immigration New Zealand had asked for information regarding his residence application. He was not sure about Mr Kerr as his employer was Mr Ryan. He had never met anyone from Bite.

Mr L’s evidence to investigator

[136] On 19 October 2018, Mr L sent an email to the Authority’s investigator, in reply to a request for information in relation to media articles about Mr Ryan.

[137] Mr L said he was back in India. He alleged Mr Ryan and (*verbatim*) “bite consulting is preying a lot of poor students stealing their money”. Mr L went to meet “peter” at Lambton Quay and was set up with fake promises for residence. He paid \$35,000, as well as \$10,000 for the work visa. About one month after getting his work visa, Mr Ryan told him that Immigration New Zealand was strict and he (Mr Ryan) could not proceed with his file. Mr L asked for a refund of the \$10,000, but Mr Ryan refused. Mr Ryan told him to find another job, but as his visa was linked to Bite Consulting NZ, Mr L failed. Apart from meeting Mr Ryan at the company, he never met anybody from the company and never worked there. He had to move to Hastings to get farm employment, working for cash just to survive.

Immigration New Zealand's evidence to investigator

[138] One of the immigration officers who conducted the site visit on 23 May 2016 concerning Mr Y sent an email to the Authority's investigator on 18 January 2019 answering, very briefly, some questions from the investigator. He said Mr Ryan was both the employer and the immigration adviser. There was no reference in the discussion to Mr Kerr. He doubted the operation of the business.

[139] The other immigration officer who conducted the site visit sent an email to the Authority's investigator on 22 January 2019. He advised that they found the employer's address at 114 Lambton Quay vacant, so the other officer called the employer's telephone number given with the application. Mr Ryan answered the call and directed them to 326 Lambton Quay. He explained that the office had moved six months previously, which the officers found odd as the visa application made one month earlier had given the address as 114 Lambton Quay.

[140] According to the officer, Mr Ryan then conducted the interview as the employer. At the time of the interview, the officer had not realised that he was the immigration adviser who had filed the application. Mr Ryan did not mention that he was the adviser. Nor did he mention Mr Kerr at any time. Mr Y was not present in the office, as Mr Ryan said he lived in Auckland and worked remotely. There were no employees in the office. As a result of the visit, the officer was not satisfied the employment was genuine and sustainable.

[141] Immigration New Zealand produced a schedule to the investigator on about 17 April 2019. It showed most (but not all) of the immigration applications made by those referred to in this complaint, as well as the applications of others offered employment by Bite Consulting NZ/BC International. Certain information about each application was given.

Department of Corrections' evidence to investigator

[142] The Department of Corrections advised the Authority's investigator on 10 May 2019 that it was not aware of any formal procurement set up with BITE Consulting Group. The Corrections officer had consulted with the Procurement Contract team, the Electronic Security team and various external contractors.

Explanation from Mr Ryan

[143] On being contacted by the Authority's investigator, Mr Ryan sent an email to him on 30 April 2019. He said he had known Mr Peter Kerr for more than 20 years. Mr Ryan gave some personal information concerning Mr Kerr, whom he described as a management consultant. Mr Ryan advised that Mr Kerr had never been an employee, only a management consultant.

[144] The Registrar wrote to Mr Ryan on 20 May 2019 formally advising him of the details of the complaint and requesting an explanation.

[145] Mr Ryan's lead counsel, Mr Nisbet, provided submissions to the Authority on 29 July 2019. It was contended that the complaints had no foundation and had been unfairly created by the news media and by Mr Singh, who was disgruntled by the process. The Authority had relied on false information provided by him. The articles contained unproven facts and opinions.

[146] It was accepted that Mr Singh had obtained work after securing a visa as a customer service manager for BC International. However, he had fallen in love with a woman in Auckland and travelled there, so he did not fulfil his job obligation in Wellington. Mr Ryan agreed to assist him to apply for a new work visa if he obtained employment in Auckland and approval was duly granted for employment with another company. Mr Ryan was then instructed by Mr Singh to apply for residence with the new employer. The only fees received by Mr Ryan were for his professional services as an immigration adviser. Mr Singh's description of how he was paid was false.

[147] It was Mr Singh who had compromised his employment and made his choice, so the outcome for him was of his own making. Immigration New Zealand had asked for salary and financial records but not for 10 years. Mr Singh was then advised not to continue with his application because of the incidents relating to his employment. He agreed to discontinue his residence application.

[148] Mr Ryan was a sole practitioner from October 2013 and did not incorporate Capital Immigration as a limited liability company until June 2016. Since working as an immigration adviser, he had done his utmost to pursue the best business practices. He knew full well his obligations under the Act and the Code.

[149] According to Mr Nisbet, Mr Ryan had been frustrated by the unavailability of discoverable documents. They would have assisted him and his lawyer to comply with the request for an explanation.

[150] Mr Nisbet advised that Bite Consulting NZ Ltd was struck off in 2012, before “I” (presumably Mr Ryan) was involved in any immigration work. Mr Ryan could not comment on what “Bite Consulting” was used for before he took it over. The company created normal jobs. Some people were employed for long periods and some for short periods. It was not correct to suggest that Bite Consulting NZ/BC International had a contract with the Department of Corrections, as it was a subcontract.

[151] Nor was it true that 17 people received permanent residence through BC International, though a number of people could have received work visas through that company.

[152] Mr Nisbet contended that Mr L had never been asked to pay \$35,000. He had made his own choices, as had Mr Singh. He chose to work illegally at a vineyard in Hastings. Again, the only payment Mr Ryan received was for professional services.

[153] Furthermore, Mr Peter Kerr was a real person who Mr Ryan had known for 30 years. Mr Kerr and Mr Ryan were not the same person and it was ludicrous to suggest that they were.

[154] Mr Nisbet produced a reference letter for Bite Consulting NZ from Renner Company Ltd, dated 17 June 2019. Renner owned and operated a business centre at level 4, 326 Lambton Quay. It confirmed that Commonwealth Services Group had previously leased an office, effectively becoming Bite Consulting NZ in about October 2008. Mr Ryan and Mr Richard Alexander then leased an office as Bite Consulting NZ in 2009, before moving to Vivian Street and then back to level 4, 326 Lambton Quay. Mr Peter Kerr regularly attended the office.

[155] Mr Nisbet also produced a letter from Mr Noel Sulzberger, chartered accountant, dated 29 July 2019. It was addressed to Mr Ryan. Mr Sulzberger said he was approached by Mr Ryan in March 2014 to provide accounting and taxation services. The business entity at the time was BC International, which undertook personnel selection, recruitment and HR management. It had a relationship with the United Kingdom based Bite Consulting Group. Prior to BC International having that relationship with the United Kingdom Group, Bite Consulting NZ had that relationship. BC International had business relationships with many hundreds of businesses and government departments.

[156] Mr Sulzberger’s initial action was to compile the annual financial statements for the years ended 31 March 2013 and 2014. BC International Ltd remained trading through the 2015, 2016 and 2017 financial years. The company’s business activities

diminished as Mr Ryan focussed on providing immigration consulting services. BC International ceased trading during the 2016/2017 financial year.

[157] According to Mr Sulzberger, with the growth in the immigration consulting business, Mr Ryan separated the immigration business from the other business activities, so on 9 June 2016 Capital Immigration Services NZ Ltd was incorporated for the immigration business. Mr Sulzberger continued to provide services to Capital Immigration, compiling the financial statements for 2017, 2018 and 2019.

Complaint referred to Tribunal

[158] The Registrar filed a statement of complaint with the Tribunal on 16 August 2019. He has referred to the Tribunal the following possible breaches by Mr Ryan of the Act and the Code:

- (1) displaying dishonest or misleading behaviour by providing false or misleading information to Immigration New Zealand and the Authority; and
- (2) breaching cl 3(c) by providing false or misleading information to Immigration New Zealand and the Authority contrary to New Zealand immigration legislation, including the Immigration Act 2009.

JURISDICTION AND PROCEDURE

[159] The grounds for a complaint to the Registrar made against an immigration adviser or former immigration adviser are set out in s 44(2) of the Act:

- (a) negligence;
- (b) incompetence;
- (c) incapacity;
- (d) dishonest or misleading behaviour; and
- (e) a breach of the code of conduct.

[160] The Tribunal hears those complaints which the Registrar decides to refer to the Tribunal.⁶

⁶ Immigration Advisers Licensing Act 2007, s 45(2) & (3).

[161] The Tribunal must hear complaints on the papers, but may in its discretion request further information or any person to appear before the Tribunal.⁷ It has been established to deal relatively summarily with complaints referred to it.⁸

[162] After hearing a complaint, the Tribunal may dismiss it, uphold it but take no further action or uphold it and impose one or more sanctions.⁹

[163] The sanctions that may be imposed by the Tribunal are set out in the Act.¹⁰ The focus of professional disciplinary proceedings is not punishment but the protection of the public.¹¹

[164] It is the civil standard of proof, the balance of probabilities, that is applicable in professional disciplinary proceedings. However, the quality of the evidence required to meet that standard may differ in cogency, depending on the gravity of the charges.¹²

[165] The Tribunal has received a statement of complaint, dated 16 August 2019, from the Registrar, together with supporting documents.

[166] The Registrar, through counsel, Ms Thompson, made an application to the Tribunal at the same time to suspend Mr Ryan's licence. The Tribunal issued a Notice of Intention to Suspend Licence on 12 September 2019. He was invited to make representations as to why his licence should not be suspended by a given date, but made no representations. Instead, Mr Ryan surrendered his licence on 27 September 2019. The application to suspend his licence was therefore dismissed by the Tribunal on 1 October 2019.

[167] Mr Ryan was invited by the Tribunal on 30 September 2019 to file a statement of reply to the Registrar's statement of complaint, if he disagreed with any part of it. On 30 October 2019, Ms Blincoe, on behalf of Mr Ryan, advised the Tribunal that he denied the allegations in the complaint, but did not wish to provide any further response. She noted that the Tribunal already had the reply of 29 July 2019 to the Authority.

[168] The complaint will be heard on the papers. No party has requested an oral hearing.

⁷ Section 49(3) & (4).

⁸ *Sparks v Immigration Advisers Complaints and Disciplinary Tribunal* [2017] NZHC 376 at [93].

⁹ Section 50.

¹⁰ Section 51(1).

¹¹ *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97], [128] & [151] (citation omitted).

¹² *Z v Dental Complaints Assessment Committee*, above n 11, at [97], [101]–[102] & [112].

ASSESSMENT

[169] The Registrar relies on cl 3(c) of the Code:

Legislative requirements

3. A licensed immigration adviser must:

...

- c. whether in New Zealand or offshore, act in accordance with New Zealand immigration legislation, including the Immigration Act 2009, the Immigration Advisers Licensing Act 2007 and any applicable regulations.

(1) *Displaying dishonest or misleading behaviour by providing false or misleading information to Immigration New Zealand and the Authority*

[170] Mr Ryan formally denies the allegations in the complaint but offers no explanation or evidence to the Tribunal. He has twice been invited by the Tribunal to explain his conduct, but knowing of the gravity of the allegations and having the detailed evidence supporting them, he has chosen not to. In the absence of any explanation of his alleged conduct, Mr Ryan's bald denial is not credible and has no value.

[171] The Notice of Intention to Suspend Licence set out certain specific allegations against Mr Ryan:

[4] The Tribunal's reasons for the intended suspension are:

...

- (3) [the Registrar's] documents disclose that you face an allegation of dishonest or misleading behaviour, in that you supplied to immigration officers in multiple visa applications false or misleading information, namely fake job offers and associated employment information. If proven, this would amount to an offence under s 342(1)(b) of the Immigration Act 2009. It would also be a breach of cl 3(c) of the Licensed Immigration Advisers Code of Conduct 2014;
- (4) two of your clients, Messrs Karamjeet Singh and [Mr L], have told the Immigration Advisers Authority that you provided false job offers from companies controlled by you and your wife, BC International Limited and Bite Consulting NZ Limited;
- (5) the only client of BC International Ltd and/or Bite Consulting NZ Ltd identified by you, the Department of Corrections, has said it has no knowledge of any procurement contract with Bite Consulting;
- (6) a site inspection on 26 May 2016 by officers of Immigration New Zealand showed that BC International Ltd/Bite Consulting NZ Ltd did not exist at the address given in the immigration application and when they went to the alternative address given by you, it turned out

to be the address of your immigration consulting business. No employees of your IT business were present, apart from you and your wife;

...

[172] Mr Ryan has elected not to answer these allegations. He is aware from the notice and the statement of complaint of the allegation that his companies, Bite Consulting NZ/BC International, have no real IT business but he has chosen not to provide any evidence to the contrary. Mr Ryan is also aware from the statement of complaint of the evidence of Mr Boatman that the United Kingdom BITE companies have never had any relationship with him or his companies, contrary to his claim to have a connection, but he has chosen not to answer this.

[173] Mr Ryan is further aware from the statement of complaint that it is alleged that Mr Kerr is not a real person, but he has produced no evidence to the contrary. Extraordinarily, there are no email communications between Mr Ryan (the adviser) and Mr Kerr (the employer contact) on any client file as is common on genuine files. As the Registrar states, Mr Ryan provided no contact details despite being requested to do so and only vague and non-specific details about Mr Kerr which could not be verified.¹³ The Authority's investigator suggested a meeting be arranged with Mr Kerr, but Mr Ryan did not do so.

[174] I dismiss the letter from the landlord of 17 June 2019, no doubt given in good faith, of a Mr Peter Kerr regularly attending the office. It is apparent from Mr Ryan's email address used by Mr Kerr that Mr Ryan was the actual author of the emails. No statement has been produced from the landlord. Moreover, there is no statement from Mr Kerr.

[175] I also dismiss Mr Sulzberger's letter of 29 July 2019 provided to the Authority as being any evidence of a real IT business. Mr Ryan has chosen not to produce the financial records or any other records showing Bite Consulting NZ/BC International has any real IT business. They may have had work in the fields of personnel selection, recruitment and HR management, as Mr Sulzberger says, but they had no IT work. There is no statement from Mr Sulzberger.

[176] I find that Mr Ryan was the principal party in a scheme to present to Immigration New Zealand visa applications for foreign nationals based on fraudulent employment. In the dual roles of immigration adviser and/or employer, he is responsible for false employment documents being presented to Immigration New Zealand. His companies, Bite Consulting NZ/BC International, had no real IT work and there were no real jobs.

¹³ Statement of complaint (16 August 2019) at [10.6].

They had no connection with the very real United Kingdom BITE group in the IT industry, as claimed by Mr Ryan.

[177] Mr Peter Ryan and Mr Peter Kerr are, for the purpose of this fake business, one and the same person. There may exist a real Peter Kerr, but he is not engaged with Bite Consulting NZ/BC International, at least not in respect of the claimed IT business. Communications purportedly authored by Mr Kerr were actually from Mr Ryan.

[178] Mr Ryan's communications with Immigration New Zealand concerning the job offers by Bite Consulting NZ/BC International, in his capacity as adviser and/or employer, were as deceptive as the employment documents themselves. The Bite Consulting NZ promotional and organisation documentation produced to Immigration New Zealand was also false.

[179] The false information was provided not just to Immigration New Zealand, but also to the Authority.

[180] On 30 April 2019, Mr Ryan falsely advised the Authority that Mr Kerr was a management consultant, not an employee. Mr Kerr, if he is a real person, was not engaged with any IT business of Bite Consulting NZ/BC International. I note also that Mr Ryan's advice to the Authority that Mr Kerr was not an employee, was contrary to the information given allegedly by Mr Kerr himself on 23 May 2014 (in the context of Mr J's application) that he was the Asia Pacific operations manager who had previously been a contractor. This was the position previously occupied by Mr Ryan.

[181] Then Mr Ryan falsely advised the Authority on 29 July 2019, through counsel, acting on instructions, that Mr Singh had work with BC International but did not fulfil his job obligations because he fell in love and went to Auckland, that Mr Singh agreed to discontinue his residence application for that reason, that Mr Ryan only received allowed professional fees, that the companies provided normal jobs, that it had a subcontract with the Department of Corrections, and that Mr Kerr and Mr Ryan are not one and the same person (in relation to the alleged IT business of Bite Consulting NZ/BC International).

[182] The Registrar has presented cogent and compelling evidence in support of the complaint, which has not been explained or countered by Mr Ryan. The provision by Mr Ryan of false information amounts to dishonest behaviour. The first head of complaint is upheld in respect of the seven clients where Mr Ryan was the adviser.¹⁴ His

¹⁴ Messrs Singh, L, B, G, N, P and Y.

conduct as the employer of the other 10 visa applicants, was also dishonest, but it is not caught by the Act or the Code.

(2) *Breaching cl 3(c) by providing false or misleading information to Immigration New Zealand and the Authority contrary to New Zealand immigration legislation, including the Immigration Act 2009*

[183] Clause 3(c) of the Code requires an immigration adviser to comply with New Zealand immigration legislation, including the Immigration Act 2009. The provision of false information, documents or other evidence to Immigration New Zealand is contrary to the Immigration Act 2009 and a criminal offence.¹⁵

[184] It is not my role to assess whether conduct is criminal, but I find that Mr Ryan knowingly provided false information and evidence to Immigration New Zealand in his capacity as an adviser in respect of the seven visa clients identified immediately above. This is a breach of cl 3(c). He also knowingly provided false information and evidence to the Authority. This is a ground for complaint under the Act, and therefore also a breach of cl 3(c).

OUTCOME

[185] The complaint against Mr Ryan is upheld. His behaviour has been dishonest. He has breached cl 3(c) of the Code.

SUBMISSIONS ON SANCTIONS

[186] As the complaint has been upheld, the Tribunal may impose sanctions pursuant to s 51 of the Act. In relation to Mr Ryan's conduct concerning Mr Singh, the sanctions will be assessed in the context of Mr Singh's separate complaint. Mr Ryan will not be sanctioned for his conduct in representing Mr Singh on this complaint.

[187] A timetable is set out below. Any request for repayment of fees or the payment of costs or expenses or for compensation must be accompanied by a schedule particularising the amounts and basis of the claim.

¹⁵ Immigration Act 2009, s 342(1).

Timetable

[188] The timetable for submissions will be as follows:

- (1) The Registrar and Mr Ryan are to make submissions by **29 November 2019**.
- (2) The Registrar and Mr Ryan may reply to the submissions of any other party by **13 December 2019**.

ORDER FOR SUPPRESSION

[189] The Tribunal has the power to order that any part of the evidence or the name of any witness not be published.¹⁶

[190] Mr Karamjeet Singh is publicly identified in the *Stuff* articles. However, there is no public interest in knowing the names of Mr Ryan's other clients. Nor is there any public interest in knowing the name of [redacted] Mr ZZ. He is not named in the *Stuff* articles. The same applies to the solicitor who represented some of the early clients, Mr FF.

[191] The Tribunal orders that no information identifying Mr Ryan's clients (apart from Mr Singh), Mr ZZ or Mr FF, is to be published other than to Immigration New Zealand.

D J Plunkett
Chair

¹⁶ Immigration Advisers Licensing Act 2007, s 50A.