

**IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL**

Decision No: [2019] NZIACDT 19

Reference No: IACDT 017/18

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

**BY** **THE REGISTRAR OF  
IMMIGRATION ADVISERS**  
Registrar

**BETWEEN** **PETER HAHN**  
Complainant

**AND** **PETRA WALKE**  
Adviser

---

**DECISION**  
Dated 8 April 2019

---

**REPRESENTATION:**

Registrar: Self-represented  
Complainant: Self-represented  
Adviser: Self-represented

## **PRELIMINARY**

[1] The adviser, Ms Petra Walke, resides in Germany. The complainant, Mr Hahn, is another licensed adviser, though resident in New Zealand. They both represent German speaking migrants to New Zealand.

[2] Ms Walke's group of companies operate in a number of countries offering migration services to New Zealand and Australia. They hold seminars at which prospective migrants can hear information about New Zealand's living conditions and immigration criteria. The speaker at those seminars is Mr Alexander Walke, who is not licensed under New Zealand law to give immigration advice. It is alleged the information given is incorrect and that Ms Walke has facilitated an unlicensed person to unlawfully give "immigration advice", a statutorily defined term.

[3] The key issues to consider are whether the information given at the seminars amounts to immigration advice and whether Ms Walke's conduct has facilitated Mr Walke being able to do so.

## **BACKGROUND**

[4] Ms Petra Walke is an immigration adviser licensed by the New Zealand Immigration Advisers Authority (the Authority).

### *New Zealand and Australian website information*

[5] Ms Walke is listed by the Authority on its website at the following "location", which is information she would have provided:

New Zealand Migration International Pty Ltd  
c/o Sydney Migration International  
Kaiserswerther Str.115  
Ratingen  
Dusseldorf 40880  
Germany

[6] According to the information Ms Walke gave the Authority, her "relationship to organisation" is "contractor". She has held a full licence since October 2010.

[7] New Zealand Migration International Pty Ltd (NZMI) was an Australian registered company. The letterhead showed an Australian street address but an

Auckland telephone number.<sup>1</sup> It has or previously had a physical office in Shortland Street, Auckland.<sup>2</sup> It was deregistered on 27 September 2018.<sup>3</sup>

[8] Despite being deregistered, NZMI retains a website. The current website provides an Auckland telephone number and an email address but does not identify any person.<sup>4</sup> It claims to have a team of licensed immigration advisers. The website says that “our founder” laid the cornerstone for the first office in 2008 but today “New Zealand Migration International has grown from a single office to an international business”. It is said to be part of the Migration International Group.

[9] The company’s New Zealand website currently advertises seminars and conferences in Dubai in January and March 2019 and in Los Angeles in May 2019. Places can be booked on the site. It holds itself out as providing assistance on virtually all visa types into New Zealand. It is said to be a “Government Licensed Immigration Agency, German Federal Law”. The “success stories” tab on the website has a large number of testimonials, most of which are addressed to “Petra” or “Frau Walke”. There are none addressed to any other licensed adviser by name.

[10] The website’s photo gallery depicts a number of photographs of people at seminars. One of them shows an unknown woman standing next to an English language banner which reads:

New Zealand Migration International  
LIVING and WORKING in NEW ZEALAND

[11] The New Zealand website also advertises Australian immigration. Clicking on the tab for Australia takes the viewer into the current website of Sydney Migration International, which is similar in format and content to the New Zealand website.

[12] On its website, Sydney Migration International states that it is part of the Migration International Group which has grown from a single office into an international business, with branches in Australia, New Zealand, North America and Europe. It states that “our founder” laid the cornerstone for the Migration International Group in 2008, with its first office in Sydney. The director is identified as Mr Alexander Walke.

---

<sup>1</sup> See Mr Walke’s letter of 4 June 2018 to the New Zealand Society of Translators and Interpreters.

<sup>2</sup> See Ms Walke’s email to the Tribunal, 4 June 2018.

<sup>3</sup> Website of Australian Securities and Investments Commission, accessed March 2019.

<sup>4</sup> Website accessed March 2019.

[13] The Australian site also advertises seminars in Dubai and Los Angeles for living and working in New Zealand. A place at these seminars can be booked on the site. Many of the testimonials on the Australian website are addressed to “Petra”. The website has links to both the New Zealand site and one in Dusseldorf.

[14] The Tribunal has been provided with Mr Walke’s Emigration Consulting Licence issued by the German Federal Office of Administration. He is authorised to provide business advice on the prospects of emigration and the living conditions in Australia, Canada, New Zealand, Oceania and the United States. Ms Walke states she is also licensed by the German Federal Office of Administration to provide migration advice.

[15] In addition to her New Zealand and German licences, Ms Walke is registered by the Australian government as a migration agent there. The Australian registration agency’s website records the business names under which she operates:

- (1) Sydney Migration International Group Pty Ltd (describing her as an “employee”);
- (2) Sydney Migration International GmbH of Kaiserswerther Strasse 115, Ratingen 40880 Germany (“director”); and
- (3) Sydney Migration International Pty Ltd (“consultant”).

[16] As noted above, the New Zealand website no longer mentions any person, but in January 2018, it identified both Ms Walke and Mr Walke. Ms Walke was said to be a licensed immigration adviser for New Zealand and the founder of the Migration International Group. Under the heading, “Creating Liberty to Move”, it was stated:

***Creating Liberty to Move*** has been our mission since our founder Petra laid the cornerstone for the Migration International Group in 2008

[17] The following description of her appeared then on the NZMI website:

Petra has been acknowledged throughout New Zealand and overseas as one of the leading migration experts providing efficient and satisfying solutions while saving her clients valuable time in reducing their costs. “We are a focused team dedicated to provide outstanding service. If you have any questions you would like to ask, please visit our offices or contact me.”

[18] The New Zealand website said in respect of Mr Walke:

With wide ranging experience in international law and with a solid engineering background Alexander is the first point of contact for our corporate clients. Alexander is supporting overseas companies and finding business solutions, preparing market studies, commercialising local branches and placing successfully overseas personnel.

[19] The New Zealand website in January 2018 advertised a seminar in Los Angeles on 28 April 2018, “Upgrade Your Lifestyle”. It stated (*verbatim*):

What are your chances having a New Zealand visa or permanent residency granted? Your opportunities of becoming a New Zealand resident is one of the many items addresses during our seminars. We furthermore provide you with extensive information regarding visa application processes, requirements, advice about living costs such as housing, schools and insurances and the New Zealand work environment in general.

Each seminar last four hours during which time you can meet with us personally. At the end of the seminar we allow sufficient time to address your individual questions. If you would like us to cover certain topics, please contact us prior to the seminar and we will incorporate your requests.

[20] In January 2018, NZMI’s website blog had photographs of people attending a seminar. The presenter was Mr Walke. He is standing next to an English language banner which reads:

LIVING and WORKING in NEW ZEALAND

[21] The blog contains the following information (*verbatim*):

Stay Informed with our Migration Blog

Details

Created: 05 May 2017

Living and working in New Zealand – we just welcomed the 1000<sup>th</sup> participant

This March again, New Zealand Migration International hosted its popular seminar “Living and Working in New Zealand” with a wide range of interactive presentations, our migration advisers introduced the specifics of living and working in New Zealand to the seminar participants and informed them about current visa updates and successful strategies for migrating to New Zealand.

This year’s seminars mainly focussed on different visa options for professionals, family businesses, self-employed persons and freelancers. The seminar participants were especially excited about the possibility of a “Branch-Out”, which offers businesses, self-employed persons and freelancers the opportunity to start a business in New Zealand whilst keeping the existing overseas business.

In addition, the seminar hosts also provided many useful and practice-orientated information concerning relocating to New Zealand and the local job market. Furthermore, there was enough time for personal discussion with other seminar participants and for individual talks with our experts.

[22] A screenshot from 26 January 2018 of the NZMI Facebook page concerning “Past events” shows eight seminars between 3 November and 3 December, presumably in 2017. All were said to be “hosted” by NZMI. They were held in Munich, Frankfurt, Auckland, Singapore, San Jose and Los Angeles. The titles were “Upgrade

Your Lifestyle”, “Living and Working in New Zealand”, “Working in New Zealand”, and there was one in German (untranslated).

[23] In April 2018, the New Zealand website said in relation to Ms Walke:

Migration International Group

Founder Petra Walke relocated several times between Europe, North America, New Zealand and Australia. As a result of her own experiences she was determined to rekindle the level of professional service clients can expect from a professional Migration Agency.

Petra started out with this commitment: “We are going to provide professional, dedicated, reliable and friendly immigration service to all our clients.” Petra believes that every client’s enquiry must be processed with attention to detail and that there is no easy solution that fits all purposes. Dedicated to serve her clients, the company was designed for bringing competitive solutions, reliability, comfort, and convenience to the lives of each client. Today, the Migration International Group has grown from the single home office at the Northern Beaches, to an international business with branches in Australia, New Zealand, North America and Europe.

With strategically located offices in Auckland, Melbourne, Sydney and Los Angeles our group offers the highest calibre of immigration services. You can be assured that as one of our clients, your immigration needs will be catered for.

#### *German magazine articles*

[24] In early 2017, Ms Walke authored two articles which were published in a German language magazine, *360° Neuseeland*. Ms Walke was described in the articles as an immigration adviser under the relevant German legislation, a licensed immigration adviser for New Zealand and a registered migration agent for Australia. Mr Hahn has provided professional translations of both articles.

[25] The English translation of the first article gives the heading:

**Try out New Zealand:** Residency and work visa for entrepreneurs, freelance and self-employed professionals

[26] The article was directed at entrepreneurs with existing businesses in Germany whom it was said could establish a branch in New Zealand and become permanent residents with dual citizenship. It set out how this could be achieved, describing it as the “branch out” process:

In the “branch out” process, the “Residency” status as well as the work visa are attached to an existing and continuously operating business in Germany.

...

This – very popular – model offers those entrepreneurs, freelance and self-employed professionals, toying with the “branch out” idea, the very attractive opportunity to immigrate to New Zealand with their entire family, without having to give up their business enterprises in Germany.

[27] The title of the second article (as translated) was:

Immigrating for family entrepreneurs and self-employed professionals:

**Choosing the correct visa category and status**

**Part 2 of our series “Doing Business in New Zealand”**

[28] The second article’s topics were:

- (a) The New Zealand visa conditions;
- (b) Visa status: rights and opportunities;
- (c) Dream outcome for many immigrants: New Zealand citizenship;
- (d) The path to dual citizenship; and
- (e) The special visa path for family entrepreneurs.

[29] It is only partially translated, so the contents of each topic are unknown. It concluded by promoting a seminar:

**UPGRADE YOUR LIFESTYLE – NOVEMBER 2017**

Targeted toward all family entrepreneurs, New Zealand Migration International offers focus events on 11 and 25 November 2017, giving detailed information on the topic: “branch-out”. The focal point of the events is the current New Zealand “Investment Attraction Strategy” and the resulting visa advantages for family entrepreneurs.

**For further information:** [www.newzealand-migration.de](http://www.newzealand-migration.de)

[30] Both articles were followed by advertisements for seminars by NZMI in Frankfurt and Stuttgart in March 2017 and in an unnamed location in November 2017. The advertisements identified the Auckland telephone number of NZMI and the Dusseldorf telephone number of Sydney Migration International GmbH.

[31] These branch-out seminars, appearing on the NZMI website, blog and Facebook page, took place in Germany, Singapore, the United States and Dubai. Participants paid a fee to attend (\$A290).

[32] According to an English language brochure for the seminar “Upgrade Your Lifestyle Living and Working in Australia or New Zealand”, the presenter was Mr Walke. The brochure described Mr Walke as the director of the New Zealand branch:

With wide-ranging experience in international law and with a solid in engineering background Alexander is the first point of contact for all our clients. Alexander is also the Director of our branches in Australia and New Zealand. He is available throughout the seminar to answer your questions and to provide information which is relevant to your individual circumstances.

[33] The program in the seminar brochure listed the following topics:

- (a) Living in Australia or New Zealand;
- (b) Job hunting;
- (c) Working in Australia or New Zealand;
- (d) Visa categories;
- (e) Your free visa assessment; and
- (f) Do’s and don’ts – avoiding costly mistakes.

[34] Under the heading visa categories, the following topics were listed:

- (a) Possible visa options;
- (b) Distinction between temporary and permanent visa categories;
- (c) Expression of interest & skill assessments;
- (d) The advantage of a state sponsorship; and
- (e) How to apply for your visa.

[35] The brochure was issued by “Migration International Group”. It contained the website address and Auckland telephone number of NZMI, as well as the website addresses and telephone numbers of Sydney Migration International, Melbourne Migration International and Sydney Migration International GmbH (Dusseldorf).

## **COMPLAINT**

[36] Mr Peter Hahn made a complaint against Ms Walke to the Authority on 16 October 2017. It is on the grounds of incompetence, dishonest or misleading



behaviour and breach of the Code of Conduct 2014 (the Code). It concerned the “branch-out” visa seminars.

[37] According to Mr Hahn, he had been approached by clients to organise branch-out visas. He contacted the publisher of the articles who in turn contacted Ms Walke. As a result, Mr Hahn received an email on 22 May 2017 from Mr Christopher Chang, the Australian based in-house legal counsel of the Migration International Group, threatening him with legal action in respect of his defamatory accusations.

[38] The Authority first raised the complaint with Ms Walke on 23 January 2018. There followed an exchange of emails and correspondence between the Authority and Mr Chang.

[39] On 31 January 2018, Mr Chang questioned Mr Hahn’s motive as a direct business competitor. According to Mr Chang, there was no evidence that anyone other than Mr Walke was involved in the seminars. They had been exclusively delivered in Germany only. In that country, no person or immigration adviser was permitted to give immigration advice unless licenced by the German Federal Office of Administration. Mr Walke was one of the few licensed people under German federal law to give New Zealand immigration advice. Mr Hahn was engaging in character assassination of a fellow licensed immigration adviser, with the sole purpose of hindering a competitor in the same marketplace. There was no merit to the complaint.

[40] In an email on 1 February 2018, Mr Chang would not answer the question as to whether Ms Walke, who was listed on the website, had been involved in the business in the previous 12 months. He stated that Ms O’Sullivan was the only agent located in New Zealand and that the facility was used as offices for meetings. He would not answer the question as to the relationship between Ms Walke and Mr Walke.

[41] The Authority wrote to Ms Walke on 19 February 2018 formally setting out details of the complaint. She was notified that Mr Hahn had stated that her husband, Mr Alexander Walke, appeared to be the driving force behind the branch-out visa seminars in the United States.

[42] According to the Authority, Mr Hahn alleged Ms Walke had displayed incompetence, dishonesty or misleading behaviour and had breached the Code. Following an investigation, the Registrar had determined that there were grounds for a complaint concerning breaches of cls 1, 3(c), 29(e) and (f) of the Code. This involved misrepresenting New Zealand immigration requirements and facilitating unlicensed immigration advice.

[43] The Authority recorded that the NZMI website stated that Ms Walke was the founder of the company and Mr Walke the director. Mr Hahn claimed they were husband and wife. Mr Walke was not licensed.

[44] In its letter, the Authority noted that the company was holding seminars in Germany, the United States, the United Arab Emirates and Singapore. It did not appear that Ms Walke took part in the seminars but as the founder of the company and possibly having a close personal relationship with Mr Walke, she would be aware of what was occurring at them. She was therefore facilitating the provision of unlicensed immigration advice by Mr Walke. A website blog stated that the 1000<sup>th</sup> person had attended a “Living and Working in New Zealand” seminar, which indicated a large amount of unlicensed immigration advice had been given to the public by Mr Walke. Ms Walke was given the opportunity to provide a written explanation.

[45] On 1 March 2018, Mr Chang sent a letter to the Authority on the letterhead of Sydney Migration International Pty Ltd. He described himself as the in-house lawyer of Sydney Migration International, the Migration International Group and its related entities, but stated he did not act for Ms Walke. He posed 40 questions for the Authority to answer, many concerning the purported extra-territorial effect of the New Zealand legislation.

[46] Mr Chang wanted to know why the Authority maintained that the law applied to “acts done wholly in Germany” in the German language authorised under German federal law. The seminars were “delivered wholly in Germany, in German, to Germans”. Serious and clearly false allegations had been made against Ms Walke and the business. They were now considering the viability of claims for misfeasance in a public office and other causes of action.

[47] The Authority sent a lengthy letter to Ms Walke on 3 April 2018, replying to the questions. In particular, the Authority maintained that NZMI was Ms Walke’s company because its website stated that she was the founder. Ms Walke was advised that she would have to translate into English any documents in German on which she wished to rely. Ms Walke’s response to the Authority’s letter of 19 February 2018 was invited.

[48] On 5 April 2018, Ms Walke stated in an email to the Authority that the complaint concerned German language articles, seminars delivered in German in Germany, German language websites hosted in Germany and the provision of advice under German law. She set out a number of questions.

[49] In an undated email to the Authority written after 6 April 2018, Mr Chang posed further questions for the Authority to answer. He asserted that the relevant New Zealand legislation did not apply in Germany and the law being enforced was invalid. The Authority was invited to dismiss the complaint.

[50] In an email to the Authority on 10 April 2018, Ms Walke denied any wrongdoing. In particular, she stated that she had never failed to ensure her immigration advice was accurate and had never facilitated the provision of unlicensed immigration advice. She was disturbed that the Authority had become the tool of a disgruntled competitor. The allegations were without substance and were malicious.

#### *Complaint filed with Tribunal*

[51] The Registrar of Immigration Advisers (the Registrar), the head of the Authority, filed a statement of complaint (24 April 2018) with the Tribunal, together with supporting documents. He has referred to the Tribunal the following possible breaches of the Code:

- (1) advertising a visa pathway which is not viable and misrepresents New Zealand immigration and citizenship requirements, in breach of cl 29(e) and (f);
- (2) failing to exercise diligence and due care in ensuring that advertised visa pathways are viable under Immigration New Zealand and citizenship requirements, in breach of cl 1;
- (3) facilitating the provision of unlicensed immigration advice by Mr Walke at seminars and thereby failing to comply with immigration legislation, in breach of cl 3(c); and
- (4) failing to exercise due care in ensuring that unlicensed immigration advice was not given by Mr Walke, in breach of cl 1.

#### **JURISDICTION AND PROCEDURE**

[52] 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 Immigration Advisers Licensing Act 2007 (the Act):

- (a) negligence;
- (b) incompetence;

- (c) incapacity;
- (d) dishonest or misleading behaviour; and
- (e) a breach of the Code of Conduct.

[53] The Tribunal hears those complaints which the Registrar decides to refer to the Tribunal.<sup>5</sup>

[54] The Tribunal must hear complaints on the papers but may in its discretion request further information or any person to appear before the Tribunal.<sup>6</sup> It has been established to deal relatively summarily with complaints referred to it.<sup>7</sup>

[55] 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.<sup>8</sup>

[56] The sanctions that may be imposed by the Tribunal are set out in the Act.<sup>9</sup> It may also suspend a licence pending the outcome of a complaint.<sup>10</sup>

[57] 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.<sup>11</sup>

[58] The Tribunal has received from the Registrar the statement of complaint (24 April 2018), together with the supporting documents. Ms Walke has provided a comprehensive statement of reply (9 May 2018), with supporting documents. She does not seek an oral hearing.<sup>12</sup>

## ASSESSMENT

[59] The Registrar relies on the following provisions of the Code:

### General

1. A licensed immigration adviser must be honest, professional, diligent and respectful and conduct themselves with due care and in a timely manner.

<sup>5</sup> Immigration Advisers Licensing Act 2007, s 45(2) & (3).

<sup>6</sup> Section 49(3) & (4).

<sup>7</sup> *Sparks v Immigration Advisers Complaints and Disciplinary Tribunal* [2017] NZHC 376 at [93].

<sup>8</sup> Section 50.

<sup>9</sup> Section 51(1).

<sup>10</sup> Section 53(1).

<sup>11</sup> *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97]–[98], [101]–[102] & [112].

<sup>12</sup> Statement of reply form, 10 May 2018, at Part 4: Ms Walke's email of 4 June 2018 to the Tribunal.

### 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.

### Advisers

29. A licensed immigration adviser must not misrepresent or promote in a false, fraudulent or deceptive manner:

...

- e. immigration opportunities or risks, or
- f. New Zealand's immigration requirements.

[60] I will consider the first and second heads of complaint together.

(1) *Advertising a visa pathway which is not viable and misrepresents New Zealand immigration and citizenship requirements, in breach of cl 29(e) and (f)*

(2) *Failing to exercise diligence and due care in ensuring that advertised visa pathways are viable under Immigration New Zealand and citizenship requirements, in breach of cl 1*

[61] Mr Hahn, himself a licensed adviser, alleges that the branch-out visa strategy does not exist and contains information which is wrong. The Registrar contends it is not a viable pathway to New Zealand residence and citizenship.

[62] According to Ms Walke, it is an amalgamation of different visa categories used lawfully and sequentially. She contends it is a viable strategy which can result in overseas professionals and entrepreneurs migrating to New Zealand, where they can establish a branch office, obtain permanent residence and eventually citizenship.

[63] While various Immigration New Zealand documents setting out its criteria for different visa categories have been produced to the Tribunal, I find it is not straight forward as to whether Ms Walke's approach is viable or not. It would require expert evidence from Immigration New Zealand to assess this. I note that the Authority's investigator consulted Immigration New Zealand, but no evidence from that agency has been filed.

[64] I bear in mind that the only evidence sent to the Tribunal of the branch-out strategy is website and seminar materials. It is necessarily general, broad and promotional in nature. Without knowing how Ms Walke amalgamates the various options in a specific pathway for a particular client, it is not possible to assess whether it could be viable.

*Conclusion on first and second heads of complaint*

[65] There is insufficient evidence to establish that the branch-out pathway is not viable. I dismiss the first and second heads of complaint.

[66] The third and fourth heads of complaint will also be considered together.

(3) *Facilitating the provision of unlicensed immigration advice by Mr Walke at seminars and thereby failing to comply with immigration legislation, in breach of cl 3(c); and*

(4) *Failing to exercise due care in ensuring that unlicensed immigration advice was not given by Mr Walke, in breach of cl 1*

*Motive of the complainant*

[67] Ms Walke questions the motive of the complainant, Mr Hahn. She says he is a direct competitor of NZMI. She also raises his business relationship with the translator of the German language articles provided to the Tribunal and issues with the quality of the translations.<sup>13</sup> She additionally raises suspicions as to the partial translation of the second article, asserting that this was done to her obvious detriment.

[68] The motive of Mr Hahn is not material, nor is his business relationship with the translator. The apparent mistakes in the articles are trivial. I appreciate there is a semantic difference between “emigrate” and “immigrate”, but it is not material in this context. Ms Walke does not offer a full translation of the second article, which is quite short and would not have been onerous to provide, so her suspicions can be dismissed.

---

<sup>13</sup> Mr Walke, on behalf of NZMI, made a formal complaint about the translation to the New Zealand Society of Translators and Interpreters on 4 June 2018.

*The statutory definition of immigration advice*

[69] It is contended by the Registrar that Ms Walke facilitates Mr Walke’s provision of “immigration advice” concerning New Zealand at seminars in Germany and other countries, yet Mr Walke has no New Zealand licence.

[70] First, I will look at the applicable New Zealand legislation.

[71] Under the Act, a person commits an offence if he or she provides “immigration advice” without being licensed or exempt from licensing.<sup>14</sup> A person also commits an offence by employing or contracting an immigration adviser who is not licensed or exempt.<sup>15</sup>

[72] The Act has extra-territorial effect. A person may be charged with such offences even where part or all of the conduct occurred outside New Zealand.<sup>16</sup>

[73] The statutory scope of “immigration advice” is very broad:<sup>17</sup>

**7 What constitutes immigration advice**

- (1) In this Act, **immigration advice**—
  - (a) means using, or purporting to use, knowledge of or experience in immigration to advise, direct, assist, or represent another person in regard to an immigration matter relating to New Zealand, whether directly or indirectly and whether or not for gain or reward; but
  - (b) does not include—
    - (i) providing information that is publicly available, or that is prepared or made available by the Department; or
    - (ii) directing a person to the Minister or the Department, or to an immigration officer or a refugee and protection officer (within the meaning of the Immigration Act 2009), or to a list of licensed immigration advisers; or
    - (iii) carrying out clerical work, translation or interpreting services, or settlement services.

---

<sup>14</sup> Immigration Advisers Licensing Act 2007, s 63.

<sup>15</sup> Section 68(1).

<sup>16</sup> Sections 8 & 73.

<sup>17</sup> Section 7.

- (2) To avoid doubt, a person is not considered to be providing immigration advice within the meaning of this Act if the person provides the advice in the course of acting under or pursuant to—
- (a) the Ombudsmen Act 1975; or
  - (b) any other enactment by which functions are conferred on Ombudsmen holding office under that Act.

[74] The words “advise”, “advice” and “assist” are not to be given restrictive meanings.<sup>18</sup>

[75] The obligations set out in the Code are personal to the licensed immigration adviser and cannot be delegated.<sup>19</sup>

*Whether New Zealand law can apply outside New Zealand*

[76] According to Ms Walke:<sup>20</sup>

The Act does not apply, and have force and effect upon acts which occur in countries/jurisdictions other than New Zealand. It is *void ab initio*, invalid, void, of no legal effect;

[77] This is a very bold statement indeed. She offers no New Zealand legal authority in support. I do not intend to assess any conflict of laws issue myself. If material, they are for a higher court. I will accept the extra territorial provisions of the Act at face value.

[78] The Act makes it plain that it is applicable to conduct outside New Zealand. Ms Walke signed up to a regime with statutory and professional obligations to which she is bound, wherever in the world she undertakes professional services herself and wherever she bears some responsibility for the services provided by others.

[79] This does not mean, as Ms Walke suggests, that New Zealand law overrides German law. The two sets of law may well be compatible. Ms Walke does not identify any specific incompatibility. If they are not compatible and Ms Walke cannot comply with New Zealand law while at the same time complying with German law as she must, then she must surrender her New Zealand licence.<sup>21</sup> A licence can only be held by a person able to comply with the legal and professional obligations imposed by the Act and Code which attach to the licence.

<sup>18</sup> *Yang v Ministry of Business, Innovation and Employment* [2015] NZHC 1307 at [22]–[23].

While the Court was considering s 63(1)(a) of the Act, it is plain it also had in mind the use of the words in s 7(1).

<sup>19</sup> *Sparks v Immigration Advisers Complaints and Disciplinary Tribunal* [2017] NZHC 376 at [29], [34] & [47].

<sup>20</sup> Statement of reply, 9 May 2018, at [48](a).

<sup>21</sup> Even the Code requires her compliance with German law – at cl 3(b).



*Whether Ms Walke has any connection with NZMI*

[80] Ms Walke claims the Migration International Group, which she says is the trading name of Sydney Migration International Pty Ltd, does not have a branch office in New Zealand and is not operating in New Zealand. In particular, she states she does not own or manage the New Zealand company, nor supervise its staff, nor is she responsible for the content of its website. She says she has contacted the business and requested that the “allegedly false information about [her]” be removed from the webpages.<sup>22</sup>

[81] Ms Walke is not forthcoming on what her relationship with NZMI is or on who controls it, though she implies it is Mr Walke’s company.<sup>23</sup> According to the Authority’s website, Ms Walke is a contractor to the company.<sup>24</sup> The website of NZMI has previously asserted that Ms Walke was the founder of the Migration International Group of which NZMI was a part.

[82] It is surprising that Ms Walke asserts that Migration International Group does not have a branch in New Zealand as the email footer on which she communicates with the Tribunal is expressed to be that of the Migration International Group, following which is a list of offices in Sydney, Melbourne, Dusseldorf, Auckland and Los Angeles. A street address (Shortland St, Auckland) is given, along with an Auckland telephone number.<sup>25</sup>

[83] I do not know who the directors, shareholders and managers of NZMI were, perhaps only Mr Walke. I do not know whether it even had any staff in New Zealand. Mr Chang refers to a Ms O’Sullivan but the period and nature of her relationship to the company is not known.<sup>26</sup> The New Zealand website in January 2018 listed Ms Tomomi Matsuzawa as a New Zealand licensed immigration adviser, but she was based at Sydney Migration International Pty Ltd in Sydney and in any event, her New Zealand licence had expired in September 2017. Mr Chang says the Auckland office is a facility for holding meetings.

[84] While I do not accept that NZMI is or was not part of the Migration International Group, for the purpose of this complaint, I will assume Mr Walke solely controls or controlled NZMI.

---

<sup>22</sup> Statement of reply, at [10].

<sup>23</sup> At [59].

<sup>24</sup> See also Mr Walke’s letter of 4 June 2018 to the New Zealand Society of Translators and Interpreters, which says the same.

<sup>25</sup> Email to Tribunal, 4 June 2018.

<sup>26</sup> Mr Chang’s email to the Authority, 1 February 2018.

[85] However, it is not at all material whether Ms Walke currently owns, controls or manages the New Zealand company, or did so before it was deregistered. The seminars which are the subject of the complaint are not managed from New Zealand.

[86] The seminars are managed from Dusseldorf and/or Sydney. They are not hosted exclusively by NZMI, but by the Migration International Group. The brochure makes this clear. NZMI was part of the group and one of the host companies. The brochure also identifies Sydney Migration International GmbH of Dusseldorf/Ratingen, of which Ms Walke is a director, as a host or contact company. This would make sense as the seminars cover migration to Australia, as well as New Zealand. The wider group's hosting of the seminars is particularly obvious in respect of the current seminars, as NZMI has not existed since September 2018.

[87] Ms Walke is engaged with all the Migration International Group companies, as is Mr Walke. Indeed, she is the founder of the group. It follows that her alleged conduct in enabling Mr Walke to give New Zealand immigration advice, which will shortly be assessed, is not confined to her activities in respect of NZMI.

[88] In reality, the essential question for the Tribunal in this complaint is whether Ms Walke is linked to the seminars and has knowledge of Mr Walke's conduct, not whether she controls NZMI. I will assess this question later when I review whether Ms Walke has facilitated Mr Walke's allegedly unlawful advice.

*Whether the seminars are confined to Germany*

[89] The next issue is whether the seminars occur in Germany only, as alleged. According to Ms Walke, the complaint concerns German language articles and seminars, websites hosted in Germany in the German language and the provision of emigration advice under German law.<sup>27</sup> Mr Chang goes further and claims they are exclusively delivered in German to Germans in Germany.<sup>28</sup>

[90] Neither Ms Walke nor Mr Chang are being truthful in asserting or implying that the complaint concerns only German language activities in Germany.

[91] It is true that the articles were published only in German in Germany, but the articles are merely evidence of Ms Walke's knowledge and encouragement of Mr Walke's activities and are not the subject of the third and fourth heads of complaint.

---

<sup>27</sup> Statement of reply, 9 May 2018, at [3], [4] & [18].

<sup>28</sup> Letter to Authority, 1 March 2018, at [28] & [39].

[92] These heads of complaint concern Mr Walke's seminars. There is ample evidence that they are not confined to Germany:

- (a) The New Zealand website currently advertises seminars in Dubai and Los Angeles. According to Ms Walke, these references and the "past events" entries on the websites "[do] not constitute evidence that any events actually took place".<sup>29</sup> Furthermore, NZMI had confirmed only the events in Germany ("allowed under German federal law"). I find that the website bookings and information of past events to be good evidence that such events did and continue to occur.
- (b) The Australian company's current website also advertises seminars in Dubai and Los Angeles for New Zealand migration.
- (c) The New Zealand company's Facebook page in January 2018 showed past events, said to have been hosted by NZMI, in Auckland, Singapore, San Jose and Los Angeles.
- (d) There are photographs on the current New Zealand website, as there were in January 2018, of seminars displaying the English language banner, "LIVING and WORKING in NEW ZEALAND". These seminars will not have been given in Germany.
- (e) The seminar brochure is in English, which would not be necessary if the seminars were confined to Germany.

[93] I find that seminars occur in a number of countries other than Germany. The relevance of this finding, if at all, will be discussed shortly.

*Whether Ms Walke and Mr Walke are husband and wife*

[94] Ms Walke has not been forthcoming as to her relationship with Mr Walke. Mr Chang would not answer that question.<sup>30</sup>

[95] Mr Hahn says they are husband and wife, but no evidence is provided by him. Ms Walke is the founder of a group of companies of which she and Mr Walke are directors of different companies within the group. There is a photograph of them in the first article. They appear to be about the same age. They are unlikely to be brother and sister.

---

<sup>29</sup> Statement of reply, at [18].

<sup>30</sup> Email to the Authority, 1 February 2018.

[96] On the balance of probabilities, I find Ms Walke and Mr Walke are husband and wife, or otherwise life partners.

[97] In any event, their personal relationship is not material. For the purpose of assessing whether Ms Walke facilitates Mr Walke's seminars, it is not necessary that they are life partners or siblings.

*Whether Mr Walke is giving immigration advice at the seminars*

[98] The next issue is as to whether Mr Walke is providing immigration advice, as defined in s 7 of the Act, at the seminars. Such conduct is prohibited unless undertaken by a New Zealand licensed adviser.

[99] There can be no doubt that Mr Walke is using his knowledge or experience of New Zealand immigration, to the extent that he has such knowledge or experience, to advise others in relation to New Zealand immigration.

[100] The seminar topics as recorded in the brochure are clear about this. They are not merely providing publicly available information, as they are promoting the group's branch-out strategy.

[101] Furthermore, there is the offer to answer questions and to provide information relevant to the individual circumstances of the participants, so the seminars are not just about generalised information, though that in itself would amount to advising or assisting others. The seminar topics include a free visa assessment. The New Zealand website blog described a March 2017 seminar where there had been enough time for personal discussions and individual talks with the company's experts.

[102] Ms Walke does not assert she attends to engage prospective clients in the individual talks, nor does she assert that the companies have any other New Zealand licensed advisers who were present to do so. It is Mr Walke and possibly other unlicensed company "experts" who are providing this advice.

[103] I find that Mr Walke, an unlicensed person, has given immigration advice, as defined in the Act. This is contrary to s 6 of the Act. It is not for me to determine whether he has committed any offence.

[104] It is not relevant to assessing whether Mr Walke is providing immigration advice in terms of New Zealand law that he is licensed by the German authorities to give any such advice. In other words, even if Mr Walke's seminars were only in Germany, his conduct would still be contrary to the Act.

*Whether Ms Walke has facilitated Mr Walke's unlicensed advice*

[105] The critical question in this complaint is whether Ms Walke has facilitated or enabled Mr Walke, an unlicensed person, to give immigration advice.

[106] The German language articles establish that the “branch-out” strategy was likely created by Ms Walke. She does not identify any other New Zealand licensed adviser responsible for the strategy. Even if Ms Walke did not create it, she endorses it and through her writing promotes the seminars at which it is presented. It is Ms Walke’s “branch-out” strategy, as described in the German magazine articles, that is presented by Mr Walke at the seminars.<sup>31</sup>

[107] Participants will be attracted to the seminars as they are given by a group of companies which have a person licensed by the New Zealand government to provide New Zealand immigration advice. The articles, websites and brochures all emphasise this. Even in Germany, the articles and accompanying advertising of the seminars make it clear that Ms Walke of NZMI is a New Zealand licensed adviser.

[108] As already noted, Mr Walke is authorised under German law to give immigration advice about New Zealand, as indeed is Ms Walke. I do not know the basis of that certification and what New Zealand knowledge or experience was required to obtain it, but even in Germany participants will be attracted to the seminars because the group has a New Zealand licensed adviser, namely Ms Walke. It is apparent from the German articles that Ms Walke thought it important in promoting the seminars to make it clear that she is licensed in New Zealand. Of course, outside Germany, the German registration of Mr Walke will be meaningless. What will be attractive to participants is that the seminar host group has a New Zealand licensed adviser.

[109] In other words, Mr Walke is trading on Ms Walke’s New Zealand licence in holding the seminars. That is the case for seminars in Germany or elsewhere in the world, one of which was even held in Auckland. It is self-evident that Ms Walke will be aware of this. Aside from the articles, she is the founder of the group and a director of one of the companies hosting the seminars.

[110] In terms of New Zealand law, the German licences of Mr Walke and Ms Walke do not excuse her conduct in facilitating his behaviour, any more than they excuse his behaviour. They are irrelevant.

---

<sup>31</sup> See the “Upgrade Your Lifestyle” seminar advertisement accompanying the second article at [29] herein, and the 5 May 2017 blog on NZMI’s website at [21].

*Conclusion on third and fourth heads of complaint*

[111] I find that Ms Walke has facilitated and enabled Mr Walke, an unlicensed person, to give immigration advice. She created the branch-out strategy, or at least endorses and promotes it. His seminars would not be successful without her licence. To the knowledge of Ms Walke, Mr Walke is conducting himself in a way which is contrary to s 6 of the Act. It follows that in facilitating Mr Walke's behaviour, Ms Walke is not conducting herself in accordance with s 6 of the Act.

[112] Nor is Ms Walke exercising due care in ensuring that Mr Walke not give unlicensed immigration advice.

[113] Ms Walke is therefore in breach of both cl 1 and 3(c) of the Code.

**OUTCOME**

[114] I uphold the complaint. Ms Walke is in breach of cls 1 and 3(c) of the Code.

**SUPPRESSION ORDER**

[115] Ms Walke requests that her name not be published. She gives no reason beyond her submission that the complaint is without merit. I decline to make such an order. The public are entitled to know of Ms Walke's conduct.

**SUBMISSIONS ON SANCTIONS**

[116] As the complaint has been upheld, the Tribunal may impose sanctions pursuant to s 51 of the Act.

[117] A timetable is set below. Any request that Ms Walke undertake training should specify the precise course suggested.

[118] It is disappointing that an adviser, licensed under the Act and required to conduct herself in accordance with the Act and its professional Code, considers herself to be outside all its legal requirements. Given her stance, the Tribunal will consider whether Ms Walke's licence should be cancelled or suspended and/or whether there should be an order prohibiting her from holding a licence. The parties are asked to specifically address this issue.

*Timetable*

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

- (1) The Registrar, Mr Hahn and Ms Walke are to make submissions by **29 April 2019**.
- (2) The Registrar, Mr Hahn and Ms Walke may reply to the submissions of any other party by **13 May 2019**.

---

D J Plunkett  
Chair