

**IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL**

Decision No: [2020] NZIACDT 14

Reference No: IACDT 018/19

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

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

**BETWEEN** **KARAMJEET SINGH**  
Complainant

**AND** **PETER GRAEME RYAN**  
Adviser

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**DECISION  
(Sanctions)  
Dated 27 February 2020**

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**REPRESENTATION:**

Registrar T Thompson, counsel

Complainant: Self-represented

Adviser: V Nisbet, counsel

## INTRODUCTION

[1] The Registrar of Immigration Advisers (the Registrar) initiated an investigation of Mr Ryan following media reports in *Stuff* online of an immigration scam perpetrated by him. It was alleged that many of his clients had obtained work and/or residence visas in New Zealand as a result of false employment offers from paper companies he controlled. One of those clients was Mr Karamjeet Singh, who filed this complaint against Mr Ryan with the Immigration Advisers Authority (the Authority). It was referred by the Registrar to the Tribunal.

[2] Mr Ryan provided no explanation or evidence to the Tribunal, which upheld Mr Singh's complaint in a decision issued on 8 November 2019 in *Singh v Ryan*.<sup>1</sup> It was found that Mr Ryan had been dishonest, a ground of complaint under the Immigration Advisers Licensing Act 2007 (the Act). He had also breached the Licensed Immigration Advisers Code of Conduct 2014 (the Code).

[3] It is now for the Tribunal to determine the appropriate sanctions.

## BACKGROUND

[4] The narrative leading to the complaint is set out in the decision of the Tribunal upholding the complaint and will only be briefly summarised here.

[5] It is recorded that the Registrar's broader investigation of Mr Ryan's practice was also referred to the Tribunal. That complaint was upheld in a separate decision issued on 7 November 2019.<sup>2</sup>

[6] Mr Peter Graeme Ryan was until recently a licensed immigration adviser. As a result of the two complaints, he surrendered his licence on 27 September 2019. He is the sole director and shareholder of Capital Immigration Services NZ Ltd (Capital Immigration).

[7] Mr Ryan was also the sole director and majority shareholder of BC International Ltd. Mr Ryan's wife, Mrs Caroline Anne Ryan, is also a licensed immigration adviser working as an employee at Capital Immigration. She was the sole director of Bite Consulting NZ Ltd. Both companies were incorporated in New Zealand. They were controlled by Mr Ryan.

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<sup>1</sup> *Singh v Ryan* [2019] NZIACDT 76.

<sup>2</sup> *Registrar of Immigration Advisers v Ryan* [2019] NZIACDT 75.

[8] Mr Singh is an Indian national. He arrived in New Zealand in 2013. In May 2015, Mr Singh was offered employment by “BC International Ltd, TA Bite Consulting Group”. The offer was signed by Mr Peter Kerr. The company or companies purportedly operated in the IT industry. It was claimed by Mr Ryan they were connected with the BITE group in the United Kingdom.

[9] A work visa application for Mr Singh was lodged by Mr Ryan with Immigration New Zealand in about May 2015. Mr Ryan then filed a residence application for Mr Singh in February 2016. Both applications were based on the employment with Mr Ryan’s company. The work visa was granted, but the residence application was withdrawn. Mr Singh says he paid Mr Ryan \$47,200. Mr Singh departed New Zealand in December 2018 and returned to India.

#### *Decision of the Tribunal*

[10] It was found that Mr Ryan provided false information to Immigration New Zealand, since the offer of employment with BC International/Bite Consulting NZ made to Mr Singh was fake. Those companies had no real IT work, nor did they have any connection to the real United Kingdom BITE companies. Furthermore, Mr Peter Kerr did not exist, at least not in the business of the two companies.

[11] Mr Ryan had also provided false information to the Authority in reply to the complaint against him. He falsely advised the Authority that Mr Kerr was engaged with BC International/Bite Consulting NZ, that Mr Ryan and Mr Kerr were not the same person, that Mr Singh had worked for BC International but left the job because he fell in love and decamped to Auckland, that Mr Singh agreed to discontinue his residence application for that reason, that Mr Ryan only received professional fees and that his companies provided normal jobs.

[12] In conclusion, it was found that Mr Ryan has knowingly provided false information and documents to Immigration New Zealand in respect of Mr Singh, contrary to the Immigration Act 2009. He has also knowingly provided false information and documents to the Authority in respect of Mr Singh. His behaviour was dishonest, a ground of complaint under the Act, and he has breached cl 3(c) of the Code.

## **SUBMISSIONS**

#### *Submissions from the Registrar*

[13] Counsel for the Registrar, Ms Thompson, in her submissions of 26 November 2019, contends that Mr Ryan’s conduct is at the very upper end of seriousness of a

breach by a licensed immigration adviser with statutory obligations. His conduct was sustained, deliberate, and arguably for financial gain. It brings the licensed immigration adviser regime into disrepute. Sanctions against him must be punitive to denounce his egregious behaviour and to deter other immigration advisers from engaging in similar conduct.

[14] It is submitted by Ms Thompson that censure and the maximum penalty of \$10,000 are appropriate. In addition, Mr Ryan should be prevented from reapplying for a licence for a period not exceeding two years.

*Submissions from Mr Singh*

[15] Mr Singh sent a claim for a refund and compensation to the Tribunal by email on 15 December 2019 and 5 February 2020. He contends that Mr Ryan has ruined his life, his future and his dreams. He is not able to count the financial loss. Mr Singh says he had to return to India and give up what he had gained in this beautiful country.

[16] The total claim from Mr Singh is for approximately \$147,500 made up as follows:

Paid to Mr Ryan through Gurpreet Singh	\$	35,000
Repayments to Mr Ryan monthly (14 months)	\$	8,700
Fees Mr Ryan	\$	3,500
Fees Immigration New Zealand	\$	3,000
Lost salary working without pay (14 months)	\$	53,000
Stress/rehabilitation	\$	45,000
Air ticket to see Mr Ryan	\$	178.90
	<b>\$</b>	<b>147,500</b>

[17] It is appreciated that the mathematics is not accurate, but these are the figures given by Mr Singh. The arithmetic leading to some of the individual figures given above is also not accurate.

*Submissions from Mr Ryan*

[18] Counsel for Mr Ryan, Mr Nisbet, in his submissions of 29 November 2019, accepts that the sanctions proposed by the Registrar are appropriate, namely censure, an order for payment of a penalty and an order preventing Mr Ryan from reapplying for a licence within two years.

[19] In his reply of 4 February 2020 to Mr Singh's claim for compensation, Mr Nisbet notes that the Tribunal can only award "reasonable" compensation. Accordingly, it should not have a disproportionately punitive effect.

[20] It is submitted that Mr Singh has provided no evidence that he paid \$35,000 to Mr Ryan, through Mr Gurpreet Singh. As for the \$8,700 said to have been paid over 14 months, none of the claimed monthly figures are evident in the bank statements provided by Mr Singh. Nor is there any evidence supporting the claim for lost salary. The sums sought by Mr Singh have not been established on the evidence.

[21] It is accepted though that Mr Singh paid \$4,535 to Mr Ryan in fees. It is also recognised that compensation of around \$10,000 would be appropriate for the emotional harm Mr Singh suffered.

## **JURISDICTION**

[22] The Tribunal's jurisdiction to impose sanctions is set out in the Act. Having heard a complaint, the Tribunal may take the following action:<sup>3</sup>

### **50 Determination of complaint by Tribunal**

After hearing a complaint, the Tribunal may—

- (a) determine to dismiss the complaint:
- (b) uphold the complaint but determine to take no further action:
- (c) uphold the complaint and impose on the licensed immigration adviser or former licensed immigration adviser any 1 or more of the sanctions set out in section 51.

[23] The sanctions that may be imposed are set out at s 51(1) of the Act:

### **51 Disciplinary sanctions**

- (1) The sanctions that the Tribunal may impose are—
  - (a) caution or censure:
  - (b) a requirement to undertake specified training or otherwise remedy any deficiency within a specified period:
  - (c) suspension of licence for the unexpired period of the licence, or until the person meets specified conditions:
  - (d) cancellation of licence:

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<sup>3</sup> Immigration Advisers Licensing Act 2007.

- (e) an order preventing the person from reapplying for a licence for a period not exceeding 2 years, or until the person meets specified conditions:
- (f) an order for the payment of a penalty not exceeding \$ 10,000:
- (g) an order for the payment of all or any of the costs or expenses of the investigation, inquiry, or hearing, or any related prosecution:
- (h) an order directing the licensed immigration adviser or former licensed immigration adviser to refund all or any part of fees or expenses paid by the complainant or another person to the licensed immigration adviser or former licensed immigration adviser:
- (i) an order directing the licensed immigration adviser or former licensed immigration adviser to pay reasonable compensation to the complainant or other person.

[24] In determining the appropriate sanction, it is relevant to note the purpose of the Act:

### 3 Purpose and scheme of Act

The purpose of this Act is to promote and protect the interests of consumers receiving immigration advice, and to enhance the reputation of New Zealand as a migration destination, by providing for the regulation of persons who give immigration advice.

[25] The focus of professional disciplinary proceedings is not punishment, but the protection of the public:<sup>4</sup>

...It is well established that professional disciplinary proceedings are civil and not criminal in nature. That is because the purpose of statutory disciplinary proceedings for various occupations is not to punish the practitioner for misbehaviour, although it may have that effect, but to ensure that appropriate standards of conduct are maintained in the occupation concerned.

...

The purpose of disciplinary proceedings is materially different to that of a criminal trial. It is to ascertain whether a practitioner has met appropriate standards of conduct in the occupation concerned and what may be required to ensure that, in the public interest, such standards are met in the future. The protection of the public is the central focus.

...

Lord Diplock pointed out in *Ziderman v General Dental Council* that the purpose of disciplinary proceedings is to protect the public who may come to a practitioner and to maintain the high standards and good reputation of an honourable profession.

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<sup>4</sup> *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97], [128] & [151] (citations omitted).

[26] Professional conduct schemes, with their attached compliance regimes, exist to maintain high standards of propriety and professional conduct not just for the public good, but also to protect the profession itself.<sup>5</sup>

[27] While protection of the public and the profession is the focus, the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty.<sup>6</sup>

[28] The most appropriate penalty is that which:<sup>7</sup>

- (a) most appropriately protects the public and deters others;
- (b) facilitates the Tribunal's important role in setting professional standards;
- (c) punishes the practitioner;
- (d) allows for the rehabilitation of the practitioner;
- (e) promotes consistency with penalties in similar cases;
- (f) reflects the seriousness of the misconduct;
- (g) is the least restrictive penalty appropriate in the circumstances; and
- (h) looked at overall, is the penalty which is fair, reasonable and proportionate in the circumstances.

## DISCUSSION

[29] Mr Ryan was found to be the principal perpetrator of a fraudulent scheme in which seven foreign nationals, including Mr Singh, secured work and/or residence visas in New Zealand. He provided them with false employment offers from companies controlled by him. He did so for financial gain.

[30] I agree with the description of Mr Ryan's conduct by Ms Thompson. It is at the very upper end of seriousness of a breach by a licensed immigration adviser of his or her statutory and professional obligations. It was sustained and deliberate. There is no

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<sup>5</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724–725 & 727; *Z v Dental Complaints Assessment Committee*, above n 4, at [151].

<sup>6</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at [28].

<sup>7</sup> *Liston v Director of Proceedings* [2018] NZHC 2981 at [34], citing *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354 at [44]–[51] and *Katamat v Professional Conduct Committee* [2012] NZHC 1633, [2013] NZAR 320 at [49].

question that Mr Ryan has brought the licensed adviser regime into disrepute. Moreover, his behaviour has harmed the integrity of New Zealand's immigration system.

[31] Mr Ryan will be separately sanctioned in relation to six of the clients. This decision concerns his identical behaviour in representing Mr Singh only.

[32] In sanctioning Mr Ryan, I consider the objectives to be the severest denunciation of his conduct, deterring other advisers from similar behaviour and protecting the public from him for the maximum period permitted by the legislation. I take into account that he was motivated by avarice, that he admits no wrongdoing and expresses no remorse. There is no indication that his future professional behaviour would be any different, if he was allowed to practice. There is no suggestion from him that rehabilitation is possible. There is no explanation and no mitigation. The sanctions imposed should be punitive.

[33] I will now consider the potentially appropriate sanctions.

#### *Caution or censure*

[34] The only appropriate sanction is censure. His egregious conduct is denounced.

#### *Prohibition*

[35] Mr Ryan himself accepts that he should be prevented from reapplying for a licence for the maximum period of two years.

[36] If it was possible to prohibit Mr Ryan from reapplying for a licence for life, I would do so. Mr Ryan should never regain an immigration adviser's licence. It is not just that his professional misconduct is of the most serious kind, but he has expressed no remorse nor stated that his conduct would be any different if allowed to practice again.

#### *Financial penalty*

[37] Mr Ryan's misconduct is the most serious that can be perpetrated by an adviser in performing the core duty of presenting immigration applications to Immigration New Zealand. Mr Ryan did not merely turn a blind eye to fraud perpetrated by a client, itself serious enough. In this case, the fraudulent documents were actually created by Mr Ryan himself, though plainly Mr Singh was a willing party.



[38] Mr Ryan continued to deny any wrongdoing to the Tribunal and even now does not admit it. He merely accepts the sanctions proposed by the Registrar.

[39] The penalty to be imposed here is to punish Mr Ryan for his wrongdoing in relation to Mr Singh only. However, even in relation to Mr Singh, the fraudulent behaviour was not an isolated incident. As his adviser, Mr Ryan presented false documents and information to Immigration New Zealand on multiple occasions over about one year (May 2015 to July 2016). He then twice gave false information to the Authority, on 30 April 2019 and 29 July 2019.

[40] The penalty will be the maximum of \$10,000. For the sake of clarity, this is in addition to the \$10,000 penalty imposed in respect of the other six clients.

#### *Refund*

[41] Mr Ryan should not benefit from his wrongdoing. He should return to Mr Singh all fees paid to him. The difficulty is determining what fees were paid.

[42] There is documentary evidence supporting the payment of \$4,535 in fees to Capital Immigration. Mr Ryan agrees to reimburse this amount, so it will be directed.

[43] Mr Singh claims he paid \$35,000 to Mr Ryan through Mr Gurpreet Singh. However, the evidence given to the Authority was that he paid \$35,000 to Mr Ryan, who then paid \$7,000 to Mr Gurpreet Singh.<sup>8</sup> Whether it is \$35,000 or \$28,000 and whoever it was initially paid to, there is no documentary evidence to support this claim.

[44] Mr Singh has produced to the Tribunal screenshots of entries from his own bank account and that of his father. He contends they show the payment of \$33,500 to Mr Ryan. He does not identify any particular entries. There are only two payments clearly to Mr Ryan or his companies for a total of \$2,500, of which at least \$1,000 appears to be included in the \$4,535 paid in fees. There are another three New Zealand dollar withdrawals totalling \$11,655 (with a further one being illegible), but they do not identify any payee. The bank statements do not, on their face, support his claim.

[45] According to Mr Singh, there are recordings of Mr Gurpreet Singh admitting receiving \$35,000 for Mr Ryan. They have not been produced to the Tribunal. Nor is there a transcript. In any event, they are unlikely to have spoken in English and I would not be able to identify the speakers, even if I was sent the tapes.

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<sup>8</sup> *Singh v Ryan* [2019] NZIACDT 76 at [70].

[46] I appreciate that Mr Ryan will not have welcomed such illegal payments directly to him, so difficulties in proof are inevitable for Mr Singh. I also acknowledge that Mr Ryan's scam would have cost Mr Singh more than \$4,535. However, there is no evidentiary basis at all, beyond Mr Singh's allegation, supporting the claim for \$35,000 or \$28,000. To award any sum would be arbitrary. I decline to do so.

### *Compensation*

[47] The Tribunal can award Mr Singh reasonable compensation arising out of Mr Ryan's wrongdoing. Mr Singh has claimed \$147,500, of which some items are in the nature of refunds and are considered above. I have already observed that the arithmetic is inaccurate. Few of the items are supported by documentary evidence, as requested by the Tribunal, and many of the figures in those documents do not correspond with the figures used by Mr Singh in his claim.<sup>9</sup>

[48] One of the items claimed is for the repayments in salary said to have been made to Mr Ryan. According to Mr Singh, he paid \$580 (\$490 + \$90) for nine months and \$680 (\$590 + \$90) for five months, a total of \$8,620 or \$8,700 as claimed. Mr Singh says he deposited those amounts into Mr Ryan's accounts. However, there is no documentary evidence to support this claim. Mr Singh has ringed numerous entries in the copy bank statements sent to the Tribunal, but they bear many different descriptions and payees. None of them are precisely for any of the claimed amounts.

[49] While Mr Ryan has accepted that Mr Singh should receive compensation of \$10,000 for emotional harm, I do not intend to award him any compensation. He was a willing party in Mr Ryan's fraud. He participated, knowing of the scam. Mr Singh was not duped. Nor would I describe him as vulnerable in the way some immigrants can be. He is educated and intelligent. It is also apparent that he had access to family money in India. He was not trapped in New Zealand without the ability to leave. The reality is that he voluntarily participated in an immigration scam in order to remain here.

[50] Mr Singh is no more entitled to benefit from the fraudulent scheme than Mr Ryan. While he is entitled to a refund of any monies he can show were paid to Mr Ryan (since Mr Ryan should not benefit from the scam either), he does not deserve any other financial benefit or recompense.

[51] For the same reason, I decline to award compensation for the air ticket to see Mr Ryan.

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<sup>9</sup> See Tribunal's email to Mr Singh on 13 December 2019.

**OUTCOME**

[52] Mr Ryan is:

- (1) censured;
- (2) prevented from reapplying for a licence for two years from today's date;
- (3) ordered to immediately pay to the Registrar the sum of \$10,000 by way of penalty; and
- (4) ordered to immediately pay to Mr Singh the sum of \$4,535.

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D J Plunkett  
Chair