

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

Decision No: [2013] NZIACDT 40

Reference No: IACDT 010/11

IN THE MATTER

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

BY

Immigration Advisers Authority

Authority

BETWEEN

Esperanza Eusebio Moctezuma

Complainant

AND

**Marion Maro-Mako Eady
Chase-Seymour**

Adviser

DECISION
IMPOSITION OF DISCIPLINARY SANCTIONS

REPRESENTATION:

Complainant: In person

Adviser: In person

Date Issued: 26 June 2013

DECISION

Introduction

- [1] The Tribunal upheld this complaint in a decision dated 21 March 2013. The key elements of the decision were as follows.
- [2] Ms Moctezuma engaged Ms Chase-Seymour to assist her with applying for residence in New Zealand. She would have qualified for residence if she had an offer of employment that met Immigration New Zealand's requirements. It needed to be fulltime, and at the appropriate skill level.
- [3] Ms Moctezuma did not have a suitable position of employment. Ms Chase-Seymour told Ms Moctezuma that she could offer her suitable employment in her own practice. On this basis Ms Moctezuma engaged Ms Chase-Seymour to assist her for a fee of \$2,500 and signed a written agreement to that effect.
- [4] As matters transpired, Ms Chase-Seymour asked for another \$4,000 and that was paid, despite Ms Chase-Seymour not being entitled to that money under the agreement.
- [5] Immigration New Zealand then rejected Ms Moctezuma's residence application as it was not satisfied Ms Chase-Seymour's practice could offer the employment as it was not in a financial position to do so.
- [6] Ms Chase-Seymour then asked Ms Moctezuma to pay another \$3,000 for a financial analysis of her own practice.
- [7] Ms Chase-Seymour's practice was running at a net loss of some \$40,000 per annum. Immigration New Zealand had rightly rejected the employment offer.
- [8] The Tribunal upheld the complaint as Ms Chase-Seymour was not honest. She presented Ms Moctezuma with an offer of employment that appeared to qualify her for residence. However, Ms Chase-Seymour was aware the offer of employment was not genuine, which Immigration New Zealand detected.
- [9] If Ms Moctezuma was told the truth, she would never have engaged Ms Chase-Seymour to apply for residence, as she lacked an essential requirement to seek residence.
- [10] Ms Chase-Seymour's conduct was dishonest, misleading, unprofessional, and the complaint has been upheld on that basis.
- [11] Ms Chase-Seymour did not refund the fees she had taken dishonestly from Ms Moctezuma.

The parties' positions on sanctions

Ms Moctezuma's first submission

- [12] Ms Moctezuma made submissions on the appropriate sanctions.
- [13] She provided evidence that Ms Chase-Seymour had endeavoured to have Ms Moctezuma work for her practice without remuneration. That, she said, was the position when Ms Chase-Seymour claimed that a lack of performance on Ms Moctezuma's part justified a \$4,000 increase in the fee. At the time, Ms Moctezuma said, Ms Chase-Seymour stated she was satisfied with Ms Moctezuma's work.
- [14] Ms Chase-Seymour's assurances of being able to get residence resulted in Ms Moctezuma returning to New Zealand, with her father accompanying her to support her, agreeing to pay a further \$4,000, and facing the cost of accommodation in anticipation of migrating to New Zealand.

[15] The following expenditure was incurred due to the false representation that Ms Moctezuma would qualify for residence, and she seeks compensation and a refund of fees:

[15.1] Her father's travel of US\$2,578;

[15.2] Payments to Ms Chase-Seymour of \$9,505;

[15.3] Medical examinations for visa applications of \$384;

[15.4] Rent of \$2,400; and

[15.5] Criminal record checks of USD 18.

[16] The total of these expenses is NZD 15,331.09.

Ms Chase-Seymour's reply

[17] Ms Chase-Seymour said the Tribunal's decision was "wrong and unfounded", and provided analysis, which she said demonstrated that.

[18] Ms Chase-Seymour said that Ms Moctezuma had not been expected to work without remuneration.

[19] In relation to Ms Moctezuma's claim that she and her father came to New Zealand in reliance on Ms Chase-Seymour's representation regarding entitlement to residence, Ms Chase-Seymour said she advised against that course of action. Ms Chase-Seymour produced no record of that, despite being required to hold such records pursuant to clause 3 f) of the Code.

[20] Ms Chase-Seymour also claimed the trip was a family holiday.

[21] Ms Chase-Seymour expressed concern as to the effect of the complaint on her and reiterated that she does not accept the Tribunal's findings as the complaint was "irrevocably unfounded and the Tribunal's Decision unjust".

Ms Moctezuma's reply

[22] Ms Moctezuma explained that it was not a family trip when she came back to New Zealand. While her father made a day trip while in New Zealand, it was not a tour of New Zealand as Ms Chase-Seymour claimed. Ms Moctezuma's friend was not in New Zealand at the time, contrary to Ms Chase-Seymour's claims.

Ms Chase-Seymour's second reply

[23] Ms Chase-Seymour replied, and essentially reargued the findings against her. The key point being that Ms Chase-Seymour's offer of employment was genuine. Ms Chase-Seymour did not address the fact Immigration New Zealand had found the employment was not a genuine position.

Discussion

[24] As the complaint has been upheld, section 51 allows the Tribunal to impose sanctions.

The findings that determine whether Ms Chase-Seymour's licence should be suspended or cancelled

[25] The most critical decision is whether Ms Chase-Seymour's licence should be suspended or cancelled, and if so, on what terms.

[26] As is evident from the decision the grounds on which the complaint has been upheld are serious. First, Ms Chase-Seymour has misrepresented Ms Moctezuma's immigration prospects. That in itself is significant, as the advice related to important life decisions that Ms

Moctezuma was making. However, that alone would not justify suspension or cancellation of Ms Chase-Seymour's licence.

- [27] What followed was far more serious. I am satisfied it amounted to the systematic exploitation of a vulnerable migrant. Ms Moctezuma was a relatively young woman, with limited life experience, and highly dependent on Ms Chase-Seymour in relation to New Zealand immigration matters.
- [28] Ms Moctezuma needed employment that qualified her for immigration into New Zealand, and without that she could not get residence here.
- [29] Ms Chase-Seymour took an expedient that involved her own personal interests; she offered Ms Moctezuma employment in her own practice, which she said would qualify her for residence. When Ms Chase-Seymour involved her personal interests in this way she had a duty to ensure she dealt with Ms Moctezuma with integrity and candour.
- [30] Ms Chase-Seymour, as a licensed immigration adviser, had to understand the sort of employment that would qualify Ms Moctezuma to migrate to New Zealand. In fact, she was not in a position to offer qualifying employment; that was apparent to Immigration New Zealand. It must have been more apparent to Ms Chase-Seymour, given the fact the employment was her own practice.
- [31] Ms Chase-Seymour:
- [31.1] Represented to Ms Moctezuma she could rely on the position offered and be confident she would meet the requirements to migrate to New Zealand; and
- [31.2] Represented to Immigration New Zealand that the position qualified.
- [32] In reality the position was not genuine. Ms Chase-Seymour was in no position to offer a position of employment that did qualify. Immigration New Zealand detected the misrepresentation.
- [33] Ms Chase-Seymour was aware of the lack of a genuine position of employment. However, she systematically sought more money from Ms Moctezuma, with the promise she could expect it would result in Ms Moctezuma being able to migrate to New Zealand. That compounded the dishonesty:
- [33.1] Ms Chase-Seymour knew she had an agreement that did not entitle her to demand more money.
- [33.2] She knew Ms Moctezuma could not expect to be able to migrate to New Zealand.
- [33.3] She knew Ms Moctezuma believed she would be able to migrate to New Zealand due to the misrepresentations she had made to her.
- [33.4] She made the further misrepresentation that Ms Moctezuma could expect to satisfy Immigration New Zealand that the employment did qualify. In reality, there was no prospect of that occurring, and Ms Chase-Seymour hid that from Ms Moctezuma.
- [34] I am satisfied that Ms Chase-Seymour gained the payment of an additional \$4,000 in those circumstances, and attempted to get a further \$3,000.
- [35] It was an inevitable consequence that Ms Chase-Seymour was found by this Tribunal to have engaged in dishonest and misleading conduct.
- [36] Ms Chase-Seymour has not mitigated the position. She has retained fees that she gained through misrepresentations, and has still not returned the fees.
- [37] Ms Chase-Seymour continues to deny any wrongdoing. She has no insight into her conduct, and says the complaint was "irrevocably unfounded and the Tribunal's Decision unjust".

- [38] Accordingly, the Tribunal must address the issue of Ms Chase-Seymour's licence. Serious misconduct has occurred, and the Tribunal is yet to receive a response which contains an element of contrition or insight from the adviser.
- [39] The combination of the two elements makes it inevitable that removal from the profession is an outcome that must be considered.

Principles for suspension or cancellation of licence

- [40] The authorities indicate it is a "last resort" to deprive a person of the ability to work as a member of their profession. However, regard must be had to the public interest when considering whether a person should be excluded from a profession due to a professional disciplinary offence: *Complaints Committee of Waikato Bay of Plenty District Law Society v Osmond* [2003] NZAR 162 (HC).
- [41] Rehabilitation of a practitioner is an important factor when appropriate (*B v B* HC Auckland, HC4/92 6 April 1993). In *Patel v Complaints Assessment Committee* (HC Auckland CIV-2007-404-1818, 13 August 2007), the Court stressed when imposing sanctions in the disciplinary process applicable to that case, that it was necessary to consider the "alternatives available short of removal and explain why lesser options have not been adopted in the circumstances of the case".
- [42] The purpose of professional disciplinary proceedings was affirmed by the Supreme Court in *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97]:
- [T]he 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.
- [43] The statutory purpose is achieved by considering at least four factors which materially bear upon maintaining appropriate standards of conduct:
- [43.1] Protecting the public: section 3 of the Act states "[t]he purpose of this Act is to promote and protect the interests of consumers receiving immigration advice ..."
- [43.2] Demanding minimum standards of conduct: *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) and *Taylor v General Medical Council* [1990] 2 All ER 263 (PC), discuss this aspect.
- [43.3] Punishment: the authorities, including *Z v Dental Complaints Assessment Committee*, emphasise that punishment is not the purpose of disciplinary sanctions. Regardless, there is an element of punishment that serves as a deterrent to discourage unacceptable conduct (*Patel v Complaints Assessment Committee* (HC Auckland CIV-2007-404-1818, 13 August 2007).
- [43.4] Rehabilitation: it is an important object to have the practitioner continue as a member of the profession practising well, when practicable (*B v B* HC Auckland HC4/92, 6 April 1993).

Background to regulating this profession

- [44] In *ZW v Immigration Advisers Authority* [2012] NZHC 1069, Priestley J observed at [41]:
- In passing the Act, Parliament has clearly intended to provide a system of competency, standards, and a Conduct Code to clean up an industry which hitherto had been subject to much justified criticism. The Registrar and Tribunal have a Parliamentary mandate to enforce standards.
- [45] The Act has established a regime in which, with limited exceptions, licensed advisers have an exclusive right to provide immigration advice. That exclusive right is enforced by criminal sanctions.

- [46] Until the profession was regulated, the great majority of advisers were professional people acting responsibly and providing skilled services. A small minority of unskilled and unscrupulous people provided immigration services. Immigrants are a vulnerable group and, in some instances, suffered serious harm from such people. Immigration advisers have an important professional role in assisting clients. Their honesty, professionalism, and competence are fundamental requirements.
- [47] The Act records its purpose in section 3 as:
- [T]o promote and protect the interests of the 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.
- [48] When the Act came into force, many people had experience of giving immigration advice. There were no professional qualifications specifically targeted at New Zealand immigration advisers; though, of course, there were various relevant qualifications that some advisers held.
- [49] To establish the profession, a relatively low threshold was applied. It required a person demonstrate competent handling of immigration applications in the past, knowledge and understanding of the new professional environment, and language and communication skills. A significant number of people who had relied on providing immigration advice for their livelihood could not meet those standards. They lost their livelihoods.
- [50] The inevitably low threshold for entry into the profession, in that entry has not required a long period of academic training with mentored experience, has resulted in some people entering the profession with no real commitment to maintaining professional standards. It is important that this Tribunal exercises the power to remove people from the profession who are in this category.
- [51] In a sense, the transitional entry has put a correlative obligation on entrants to the profession to ensure they attain professional standards, having been entrusted with the privilege of entry to the profession.

Alternatives short of cancellation of licence

- [52] Section 51 provides for various sanctions. The key options short of cancellation or suspension of a licence are punishments intended to effect deterrence; namely censure, and financial penalties not exceeding \$10,000.
- [53] In relation to licences there are three options:
- [53.1] cancellation and a direction that the person may not apply for a licence for up to two years;
- [53.2] suspension; or
- [53.3] cancellation of a full licence and the holder of the licence permitted to apply for a different class of licence. In this way a person may be prevented practising on their own account, and put in a situation where they are practising under supervision while they hold a provisional licence.
- [54] Other possibilities include training and specified conditions. There are also powers relating to imposing costs and compensation.
- [55] In this decision I am satisfied the range of possibilities to weigh are:
- [55.1] cancellation of Ms Chase-Seymour's licence and a prohibition on reapplying for a licence for a period;
- [55.2] cancellation of Ms Chase-Seymour's full licence, and allowing an application for a provisional licence (with supervision conditions);

- [55.3] training requirements;
- [55.4] a financial penalty on its own, or in combination with the preceding directions.
- [56] Suspension has a potential role in ensuring that a proportional consequence is imposed: *A v Professional Conduct Committee* HC Auckland CIV-2008-404-2927, 5 September 2008, and would potentially bring home to Ms Chase-Seymour the nature of the professional obligations she carries.
- [57] However, restriction to a provisional licence would likely be more effective in rehabilitation than suspension, as mentoring in professional standards would likely be of more benefit.
- [58] In making this decision the Tribunal is required to weigh the public interest against Ms Chase-Seymour's interests.
- [59] When dealing with integrity issues there is never any certainty that, short of exclusion from a profession, a person will not reoffend. This Tribunal must carefully weigh the circumstances. It is appropriate to place an element of considered trust in a practitioner who has shown the capacity and willingness to rehabilitate.
- [60] A significant factor in this case is that it involves dishonesty. It is serious dishonesty, involving misrepresentations to both her client and Immigration New Zealand.
- [61] Dishonesty points to the need to remove a practitioner from a profession. In *Shahadat v Westland District Law Society* [2009] NZAR 661 the High Court commented:
- [29] A finding of dishonesty is not necessarily required for a practitioner to be struck off. Of course, dishonesty inevitably, although not always, may lead to striking off. But as said in *Bolton v Law Society* [[1994] 2 All ER 486; [1994] 1 WLR 512 (CA)] at pp 491–492:
- If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends upon trust. A striking-off order will not necessarily follow in such a case, but it may well. The decision whether to strike off or to suspend will often involve a fine and difficult exercise of judgment, to be made by the tribunal as an informed and expert body on all the facts of the case.
- [30] As a Full Court observed in *McDonald v Canterbury District Law Society* (High Court, Wellington, M 215/87, 10 August 1989, Eichelbaum CJ, Heron and Ellis JJ) at p 12:
- Even in the absence of dishonesty, striking-off will be appropriate where there has been a serious breach of a solicitor's fundamental duties to his client.
- [31] It is important to bear in mind that "dishonesty" can have different connotations. (It may describe criminal acts. But it may comprise acting deceitfully towards a client or deceiving a client through acts or omissions.)
- [62] As observed by the Court in *Shahadat*, dishonest conduct "inevitably, although not always, may lead to striking off". It is important to look carefully at whether rehabilitation is realistic.

Weighing the alternatives

- [63] First Ms Chase-Seymour's circumstances are no doubt such that loss of her licence and the consequent loss of the ability to continue to practice as a licensed immigration adviser are considerable.
- [64] However, the consequences of breaching professional standards are inevitably going to impact harshly. Ms Chase-Seymour was well aware of the consequences when she chose to conduct herself in the manner she did, as she had to demonstrate an understanding of professional obligations before she was licensed. Her conduct has a strong element of putting

her own interests before her client's interests; she cannot expect to be immune from the consequences.

- [65] The primary issue is whether it can be reasonably considered that Ms Chase-Seymour will in the future discharge her professional duties in a manner that does "promote and protect the interests of consumers receiving immigration advice", as section 3 of the Act contemplates.
- [66] This complaint is one of three that the Tribunal has upheld against Ms Chase-Seymour, however the other complaints are different and do not involve dishonesty. One of them does involve a failure to give appropriate advice regarding migration prospects. It is appropriate to consider cancellation, and other orders relating to Ms Chase-Seymour in relation to this complaint alone, and I will do so.
- [67] I have had to conclude that Ms Chase-Seymour has exhibited none of the qualities that could lead to an expectation she will commit to meeting professional standards in the future.

Ms Chase-Seymour's attitude to the grounds of the complaint

- [68] Ms Chase-Seymour has made it clear to the Tribunal she rejects the Tribunal's findings against her, and does not accept the obligations of professionalism the Tribunal has determined she has breached.
- [69] I am satisfied:
- [69.1] Ms Chase-Seymour was guilty of a serious professional offence on clear evidence. It has elements of both dishonesty and undermining New Zealand's immigration system as it included a misrepresentation to Immigration New Zealand.
- [69.2] She was aware of her professional obligations when she offended; the only apparent alternative explanation would be, both then and now, she has no understanding of the obligations of professionalism. Each possibility is equally concerning as to future conduct.
- [69.3] In the course of the complaint being addressed by the Tribunal, she has shown lack of respect for the regulatory processes that govern her profession. She is entirely unwilling to accept the findings against her. This is not a case of taking a reasoned and principled difference of view which is respectfully articulated; Ms Chase-Seymour clearly thinks she is entitled to her view, and the Tribunal is wrong. She appears to have no concept of being bound by statutory processes unless and until they are overturned.

Ms Chase-Seymour's licence will be cancelled

- [70] Ms Chase-Seymour's offending was serious; it is typical of the conduct the Act was intended to eradicate.
- [71] The statutory disciplinary process has brought Ms Chase-Seymour neither insight, nor a determination to rehabilitate herself. On the contrary, she says the complaint has put her to trouble and expense, implying that is the fault of her client.
- [72] I am accordingly satisfied disciplinary sanctions will not be sufficient to cause Ms Chase-Seymour to accept and maintain professional standards. The public will only be adequately protected, and the objectives of the Act achieved, by cancelling her licence.
- [73] I have considered whether allowing Ms Chase-Seymour to hold a provisional licence, after establishing a regime of appropriate supervision, is an option. I am satisfied that is not appropriate. When Ms Chase-Seymour will not accept error on her part in the face of a reasoned disciplinary finding against her, which is evident in her submissions addressing sanctions, it is unrealistic to expect her to be willing to respect, accept, and learn from a mentor.

- [74] The financial penalty will be moderated having regard to Ms Chase-Seymour's loss of ability to continue as a member of the profession. A penalty of \$5,000 will be imposed. Any lesser penalty would not adequately reflect the sums of money that Ms Chase-Seymour induced Ms Moctezuma to pay using misrepresentations, notwithstanding that the financial penalty is only part of the total sanctions.
- [75] Ms Chase-Seymour appears to be the only person holding a licence in her practice. She may have a substantial number of active files, and it will take time to arrange for substituted licensed immigration advisers to take over such files.
- [76] It is a matter of some concern Ms Chase-Seymour should undertake that process without supervision, however there is no jurisdiction to impose conditions.
- [77] The Tribunal will formally warn Ms Chase-Seymour pursuant to section 51(a) of the Act, that she is required to meet the standards of the profession while she continues to hold a licence. Any failure to do so in the face of that warning will be addressed sternly.

Compensation and refund of fees

- [78] It has been a longstanding criticism of some professional disciplinary processes that they do not include jurisdiction to require a professional who is at fault to compensate the client. That required a separate, and potentially, expensive second process.
- [79] The Act addresses such a perceived shortcoming by providing that this Tribunal may require an adviser to refund fees and pay reasonable compensation when a complaint has been upheld.
- [80] Section 51 of the Act confers these powers using general language. The application of the power is relatively uncomplicated where the grounds on which the complaint has been upheld would establish a civil claim for breach of contract, negligence or another tort, given the standard of proof before this Tribunal is no less than would be the case for bringing the claim in a civil proceeding. Accordingly, in such circumstances, the Tribunal will ordinarily apply the same principles as in a civil claim, including causation, quantum and the other principles that regulate entitlement.
- [81] Ms Moctezuma has sought compensation under three heads:
- [81.1] Her father's travel to New Zealand.
- [81.2] Disbursements in pursuing visa applications, also criminal record checks and medical examinations for the same purpose.
- [81.3] Accommodation after returning to New Zealand.
- [82] She has also sought a refund of fees paid to Ms Chase-Seymour.
- [83] Ms Chase-Seymour has contended that Ms Moctezuma is not entitled to compensation, as she performed her professional duties properly, and Ms Moctezuma chose to incur costs for her private purposes.
- [84] The total of these expenses claimed is NZ\$15,331.09, Ms Chase-Seymour has not challenged the figure, and Ms Moctezuma provided documentation to support the figures.
- [85] I am satisfied that Ms Moctezuma is entitled to the claim in full.
- [86] Each of these losses was the direct and foreseeable result of the conduct that has led to this complaint being upheld. Ms Chase-Seymour misled Ms Moctezuma, and caused her to believe she was reasonably likely to qualify to migrate to New Zealand.
- [87] In fact, Ms Moctezuma could not migrate to New Zealand unless she obtained a suitable position of employment. That was something she had not been able to do, and Ms Chase-

Seymour had no reason to suppose that situation would change; she actively misled Ms Moctezuma by saying she was offering a qualifying position of employment.

- [88] Ms Moctezuma would never have gone to the expense of engaging Ms Chase-Seymour or incurred the expenses of applying for visas unless she had been misled by Ms Chase-Seymour. Ms Moctezuma is entitled to recover the costs she incurred in reliance on the misrepresentation.
- [89] The other category is the cost of returning to New Zealand with her father and the accommodation until it became clear she could not migrate to New Zealand.
- [90] I accept Ms Moctezuma's statement that this was not a family holiday; it was an important step to seek to migrate to New Zealand.
- [91] I also accept that given the difficulties she had faced as a result of Ms Chase-Seymour's dishonesty, it was reasonable that Ms Moctezuma's father should accompany her as a support person. I am satisfied that all of the costs of returning to New Zealand were the result of Ms Chase-Seymour misleading Ms Moctezuma, and she is entitled to recover the costs. They were reasonable and foreseeable. When a relatively young and vulnerable migrant faces difficulties in New Zealand, it is not unusual or unreasonable to expect them to incur expenses in securing family support. Migration is a major issue in the lives of families.

Publication

- [92] Ms Chase-Seymour has sought non-publication of her name. She refers to her good standing in the community and she has identified various referees she says will attest to that. She says publication will harm her practice and affect her family.
- [93] There is no specific statutory direction concerning the power to direct either publication or suppression. Directions to limit or prohibit publication are a matter within the scope of the Tribunal's power to regulate its own procedure (section 49(1)). However, for a professional disciplinary body in contemporary New Zealand to operate without its decisions being available to the public would be a truly exceptional situation.
- [94] The Court of Appeal in *R v Liddell* [1995] 1 NZLR 538 at 546 per Cooke P said, in relation to the question of name suppression:
- [T]he starting point must always be the importance in a democracy of freedom of speech, open judicial proceedings, and the right of the media to report the latter fairly and accurately as 'surrogates of the public'.
- [95] While the *Liddell* case dealt with a criminal conviction and attendant publication issues, the principles apply to a professional disciplinary body. The function of a professional disciplinary body is concerned with accountability of members of the profession to the public. Public confidence in a disciplinary body achieving fair outcomes, and accountability, is not well served by a process that is not open, and there is nothing in the Act indicating that it does create such a process. For the Tribunal to operate without being open and publicly accountable would not be in the interests of either the public or the profession.
- [96] Publication of the Tribunal's decisions will follow as a matter of course. There can be cases where decisions are published, and identities are withheld. However, it is necessary to establish that it is appropriate to derogate from the open justice, at least to that extent.
- [97] Ms Chase-Seymour has relied on her standing in the community and the impact on her family. However, I cannot regard either factor as of significant weight.
- [98] Ms Chase-Seymour cannot expect to have her conduct hidden from the community. She is offering professional services to the community, and has engaged in misleading and dishonest behaviour. The community is entitled to be aware of her behaviour.

- [99] The impact on Ms Chase-Seymour's family, unfortunate as it is, is an inevitable consequence of her behaviour. It does not reflect on them; it may of course embarrass them, but that was in Ms Chase-Seymour's hands.
- [100] As Ms Chase-Seymour's licence is not cancelled immediately, it is of particular importance for clients have access to her status and disciplinary history.
- [101] Accordingly, the decision upholding the complaint and the present decision will be published in the usual way.

Determination and orders

[102] Ms Chase-Seymour is:

[102.1] Censured.

[102.2] Ordered to pay a penalty of \$5,000.

[102.3] Directed to pay Ms Moctezuma the sum of \$15,331.09 in compensation and for the refund of fees.

- [103] Any licence presently held under the Act by Ms Chase-Seymour is cancelled, with effect from Friday, 12 July 2013.
- [104] Ms Chase-Seymour is prevented from reapplying for any category of licence as a licensed immigration adviser for a period of two years from the date her licence is cancelled.
- [105] Ms Chase-Seymour is cautioned that during the period she continues to hold a licence, she is bound by the Code of Conduct. She will be accountable for ensuring she conducts herself in a professional manner, including providing refunds of fees to the extent they are payable, as required by the Code.

DATED at WELLINGTON this 26th day of June 2013

G D Pearson
Chairperson