

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

Decision No: [2013] NZIACDT 47

Reference No: IACDT 027/11

IN THE MATTER

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

BY

Immigration Advisers Authority

Authority

BETWEEN

Amabelle Dablo

Complainant

AND

Alyssa Lopez Tan

Adviser

DECISION
IMPOSITION OF DISCIPLINARY SANCTIONS

REPRESENTATION:

Complainant: In person.

Adviser: Mr R Nand and Ms A Wu, Patel Nand Legal, Lawyers, Auckland.

Date Issued: 1 August 2013

DECISION

Introduction

- [1] In a decision dated 20 May 2013, this complaint was upheld. The grounds on which the complaint was upheld are outlined in that decision.
- [2] The Tribunal found Ms Tan failed to accurately identify her client's position and advise her of her immigration options. Instead, the Tribunal found Ms Tan embarked on lodging applications that had no hope of success without advancing a case for the exercise of Immigration New Zealand's discretion.
- [3] The Tribunal also found Ms Tan did not comply with the requirements in the Licensed Immigration Advisers Code of Conduct 2010 ("the Code") concerning client engagement.
- [4] The Tribunal further found Ms Tan encouraged Ms Dablo to believe that non-compliance with New Zealand's immigration requirements was an option for her to pursue.

The parties' positions on sanctions

Ms Dablo

- [5] Ms Dablo did not make submissions on sanctions.

Ms Tan's submission

- [6] Through her counsel, Ms Tan indicated she accepted the findings against her, and emphasised there was nothing fraudulent or dishonest. She also emphasised the events occurred in the context of a long-standing personal relationship with Ms Dablo.
- [7] Ms Tan indicated she would refund any disbursements that were not expended.

Discussion

- [8] As the complaint has been upheld, section 51 of the Immigration Advisers Licensing Act 2007 ("the Act") allows the Tribunal to impose sanctions.
- [9] Ms Tan's licence has been cancelled in relation to another complaint that has no connection with the present complaint and was of a different character.
- [10] I do not consider this present complaint could justify an order that affected Ms Tan's entitlement to hold a licence. The appropriate penalty is a financial one alone, given that she is no longer practising.
- [11] I accept Ms Tan's submission that the fact she was acting for a long-standing friend, and was not charging fees, affected her perception of her obligations.
- [12] I accept Ms Tan's expression of contrition and apparent insight into where she failed in her professional obligations.
- [13] The financial penalty will be moderated having regard to Ms Tan's loss of ability to continue as a member of the profession due to the other complaint.
- [14] A penalty of \$3,500 will be imposed. I am satisfied that a penalty of that level is necessary. First, the grounds of complaint were at least of an intermediate level of gravity. Second, there was a sustained course of conduct. It was not a single incident as Ms Tan failed to meet professional obligations at multiple points in the course of dealing with Ms Dablo.

Determination and orders

[15] Ms Tan is:

[15.1] Censured.

[15.2] Ordered to pay a penalty of \$3,500.

Leave reserved

[16] Ms Tan has indicated that she will refund any disbursements that have not been expended. The Tribunal reserves leave for the complainant to apply for an order that the disbursements be refunded if that does not occur or there is a dispute as to the quantum.

DATED at WELLINGTON this 1st day of August 2013

G D Pearson
Chairperson