

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

Decision No: [2017] NZIACDT 4

Reference No: IACDT 007/16

IN THE MATTER

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

BY

The Registrar of Immigration Advisers

Registrar

BETWEEN

Hon. Anthony George Malcolm

Complainant

AND

Apurva Khetarpal

Adviser

DECISION

REPRESENTATION:

Registrar: Mr Alastair Dumbleton, lawyer, MBIE, Auckland.

Complainant: No appearance at hearing.

Adviser: Mr Sam Wimsett, lawyer, Auckland.

Date Issued: 4 April 2017

DECISION

- [1] This Tribunal upheld a related complaint in *Prajapati v Khetarpal* [2016] NZIACDT 5. The present statement of complaint raises some of the factual issues in the *Prajapati* complaint, and in addition a separate matter (the Singh Complaint). The Singh complaint had not been progressed.
- [2] It suffices to say that the origins of this complaint lie in the complainant lodging a complaint that is separate from the respective complainants in the *Prajapati* and Singh Complaints.
- [3] Counsel for Ms Khetarpal raised the following points:
 - [3.1] To the extent the complainant properly raised new aspects not extinguished in the former complaints, his personal concerns had in fact been resolved;
 - [3.2] The merits of the current as they related to the *Prajapati* matter were extinguished by the decision on that complaint;
 - [3.3] Ms Khetarpal would consent to upholding the Singh Complaint, and the Tribunal taking no further action.
- [4] In relation to the complainant's personal interest, it arose out of a company in which he has an interest taking over the practice where Ms Khetarpal worked. The complainant personally settled with the persons affected by the matters complained of, and he sought compensation from Ms Khetarpal (though the Tribunal had addressed the compensation in relation to the *Prajapati* matter). Ms Khetarpal's counsel provided some evidence that the compensation issue was resolved, because when she ended her employment Ms Khetarpal's entitlements were subject to deductions, which took account of the compensation the complainant paid.
- [5] I understand that while he did not attend the hearing the Registrar has kept the Complainant informed, and he had not taken a position in relation to the disposition of the complaint before the Tribunal.
- [6] Ms Khetarpal and the Registrar have proposed the Tribunal:
 - [6.1] Pursuant to s 50(b), the Singh aspect of the complaint is to be upheld, but no further action taken.
 - [6.2] Pursuant to s 50(a), the *Prajapati* aspect of the complaint is dismissed.
 - [6.3] No order as to costs.
- [7] I am satisfied the Registrar has adequately considered the public interest aspects of the proposed disposition of this complaint. The Tribunal therefore makes orders accordingly.
- [8] For completeness, I record the Singh aspect of the Complaint relates to similar circumstances to the *Prajapati* complaint. However, there is no finding of any aggravating features. To the extent this complaint is upheld, it is because Ms Khetarpal failed to carry out

instructions in accordance with clauses 1.1(a) and (b) of the Code of Conduct 2010, and failed to deposit funds into a separate account in accordance with clause 4(a) and (c) of the Code.

- [9] However, upholding this complaint and taking no further action indicates the Tribunal has not made a finding that adds in a material way to the findings in the *Prajapati* complaint. The disposal of this complaint accordingly should not be viewed as adding adversely to Ms Khetarpal's disciplinary history.

DATED at WELLINGTON on this 4th day of April 2017.

G D Pearson
Chair