

**IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL**

Decision No: [2020] NZIACDT 41

Reference No: IACDT 012/19

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

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

**BETWEEN** **TBE**  
Complainant

**AND** **SHANNON PROUDMAN**  
Adviser

**SUBJECT TO SUPPRESSION ORDER**

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**DECISION**  
**Dated 30 September 2020**

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**REPRESENTATION:**

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

## **PRELIMINARY**

[1] Ms Shannon Proudman, the adviser, acted for TBE, the complainant, in seeking visas for him and his family. The student visa for the complainant's daughter was declined because, at 21 years of age, she was too old to be a dependent child under the immigration criteria. Ms Proudman did not advise the complainant of Immigration New Zealand's decision until two months later, instead giving him various reasons for delays by the agency.

[2] The complainant's complaint to the Immigration Advisers Authority (the Authority) was referred by the Registrar of Immigration Advisers (the Registrar) to the Tribunal. It is alleged that Ms Proudman was negligent and/or dishonest or misleading and/or breached the Licensed Immigration Advisers Code of Conduct 2014 (the Code).

[3] The essential issue is whether Ms Proudman knew Immigration New Zealand had declined the daughter's visa at the time of the agency's decision and deliberately withheld it from the complainant.

## **BACKGROUND**

[4] At the relevant time, Ms Proudman was a provisionally licensed adviser, her licence having been issued on 21 October 2016. She obtained a full licence on 21 October 2018, after the events giving rise to the complaint. Ms Proudman was an employee of Fragomen Global Pty Limited (Fragomen) of Auckland. Her licence expired on 20 October 2019 and was not renewed. She appears to have relocated to Australia.

[5] The complainant, a national of South Africa, was offered a position in New Zealand while working in Australia. He was contacted by Ms Proudman on 10 April 2018, who had been instructed by his prospective employer in New Zealand, to assist in obtaining a visa.

[6] The complainant sent copies of the family's passports to Ms Proudman on 11 April 2018. He said his daughter was a dependent child who was studying and would continue to do so in New Zealand.

[7] In an email to the complainant on 8 June 2018, Ms Proudman set out a long list of evidence required for the family's visa applications. In respect of his daughter, Ms Proudman said that, as discussed with him, financial dependency had to be demonstrated as she was over the age of 18. This required a letter from himself confirming that he paid for her accommodation, food, school and medical fees.

[8] On 10 July 2018, Ms Proudman filed with Immigration New Zealand work visa applications for the complainant and his wife, and dependent child student visas for their daughter and son.

[9] Immigration New Zealand approved visas for the complainant and his son on 18 July 2018.

*Immigration New Zealand decline daughter's student visa*

[10] On the following day, 19 July 2018, the agency wrote to the complainant's daughter advising her of the decline of her dependent student visa as she did not meet the age requirement of the instructions. The definition of dependent child was set out in the letter, the maximum age being 19 (the daughter was 21).

[11] On 24 July 2018, the agency wrote to the complainant's wife stating that it required further medical evidence concerning her.

[12] On 30 July 2018, the complainant asked Ms Proudman by email whether there was any update on approval for the visas. She responded saying that the feedback was being reviewed and she would be in touch shortly. Later that day, she sent another email to the complainant stating that the visas for him and his son had been approved, a further medical examination was required for his wife, but there had been no feedback on the daughter's application.

[13] On the next day, 31 July 2018, Ms Proudman again informed the complainant of the success of the grant of his visa and that of his son and gave more details. In a separate email, she advised him that Immigration New Zealand required a further medical examination for his wife. Furthermore, they had followed up on his daughter's application and would come back to him as soon as they had any feedback.

[14] Ms Proudman advised the complainant on 3 August 2018 that the medical referral process for his wife could be completed quickly once the medical report had been received.

[15] On 7 August 2018, the complainant sent an email to Ms Proudman asking her to follow up on his daughter's position. They were a family and any decline would cause a huge problem. Ms Proudman replied the same day saying she had followed it up with Immigration New Zealand and the application was pending allocation to a case officer. This was expected to occur within a week.

[16] A week later, on 15 August 2018, the complainant once again asked Ms Proudman about feedback on the visas of his wife and daughter, as time was getting closer to relocation. She replied the next day to say that medical concerns take weeks to complete and the answer on his daughter's application should not be far away as there had been no further requests.

[17] The same request of Ms Proudman was made by the complainant on 27 August 2018. He said he had resigned his position and was planning the final stages of his move, so a problem with either visa would cause a major conflict. Ms Proudman replied on the same day stating she had followed up with the case officer and expected to have a response concerning his wife the next day. As for his daughter, the officer had been on leave so the processing should resume and be completed quickly.

[18] Later on the same day, 27 August 2018, Immigration New Zealand granted the complainant's wife a work visa.

[19] On 10 September 2018, Ms Proudman advised the complainant that his wife's visa had been approved. His daughter's application was still being processed and it had been escalated to a practice lead for an urgent response. She anticipated receiving a response the following morning.

[20] The complainant asked again about his daughter's application on 18 September 2018. Ms Proudman responded the next day to say that her application had been recommended for a decision and was undergoing a second person check. It was expected to be finalised at any time.

[21] The complainant arrived in New Zealand on 20 September 2018. It is not known when his family arrived.

*Ms Proudman advises decision on daughter's visa*

[22] There was another email from Ms Proudman to the complainant on 21 September 2018 saying she had received feedback on his daughter's application and asking him whether he was available for a telephone discussion. The phone call took place that day.

[23] Ms Proudman then sent the complainant on 21 September 2018 an email confirming their discussion. She stated that the application had been declined as the case officer was not satisfied that his daughter was financially dependent on him. Ordinarily, they would be given an opportunity to provide additional documents to address concerns, but in this instance the officer declined the application outright. She

recommended obtaining a visitor visa so his daughter could travel quickly. As the complainant was interested in seeking residence, he could begin addressing the concerns surrounding his daughter's dependency, using documents such as transfers to her bank account. The maximum age for a dependent child was 24, so she did not anticipate any concerns regarding residence for his daughter.

[24] The complainant says that he contacted Immigration New Zealand on about 23 September 2018 and found out that his daughter's visa had been declined because she was older than 19.<sup>1</sup>

[25] An application for a visitor visa for the daughter was made by Ms Proudman on 26 September 2018.

[26] On 3 October 2018, Ms Proudman met with the complainant and his New Zealand employer. She explained her misinterpretation of the definition of dependent child, apologised, discussed remedial action and offered reduced fees.

#### *Visitor visa granted to daughter*

[27] The daughter's visitor visa was granted on 5 October 2018. Ms Proudman informed the complainant a few days later on 8 October. She also sent an email to the employer that day offering reduced fees "given the issue with the initial application".

## **COMPLAINT**

[28] On about 21 February 2019, the complainant made a complaint to the Authority against Ms Proudman. She was accused of negligence, incompetence and dishonest or misleading behaviour.

[29] According to the complainant, Fragomen had advised him that his daughter's visa was declined due to a lack of supporting evidence, but Immigration New Zealand had informed him that it was because she was over the age of 19 and could not apply for a dependent visa. She needed to return to South Africa. Furthermore, his employer had now cancelled his contract. His family was being ripped apart. He would have rejected the job offer if accurate information had been provided.

[30] The Authority formally informed Ms Proudman of the details of the complaint on 24 June 2019 and sought her explanation.

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<sup>1</sup> Registrar's documents at 3 & 5.

[31] The complainant advised the Authority on 17 July 2019 that his daughter had been forced to return to South Africa, a crime ridden third world country. This had placed a huge strain on her and the family. If his daughter's age had been picked up, they would have stayed in Australia.

*Explanation from Ms Proudman*

[32] Mr Logan, then counsel for Ms Proudman, replied to the complaint on 19 July 2019.

[33] According to Mr Logan, Ms Proudman did not receive any emails from Immigration New Zealand advising her directly of the outcome of the daughter's application. With her high workload, she did not have the capacity to regularly check her account (presumably with the agency) for the agency's correspondence on every application. She did not personally contact the agency as to the progress of the daughter's application, instead delegating this to temporary staff. She relied on information from the staff as to the updates.

[34] Ms Proudman had informed counsel that she did not become aware of Immigration New Zealand's decision concerning the daughter until she logged into her account on 20 September 2018. She then saw the agency's letter. Until then she was not aware a decision had been made. She did not review the decision closely but assumed that financial dependency had not been established. Her immediate focus was on remedial action as she was aware of how important it was to the complainant that his daughter could travel to this country with the rest of the family. She called him on 21 September 2018 and related her limited understanding of the reason for the refusal.

[35] It was only when preparing for a meeting with the complainant and his employer on 3 October 2018 that she read Immigration New Zealand's decline letter closely and realised she had provided incorrect information to the complainant. She explained to him at the meeting that she had misinterpreted the definition of "dependent child" and apologised. She outlined a strategy for the family to be together in New Zealand. He was satisfied with the proposed solution. In recognition of her errors, reduced fees were discussed.

[36] Mr Logan acknowledged that the daughter was not eligible for a dependent child visa. Ms Proudman inadvertently misinterpreted the "dependent child" definition. This was a simple human error. It was out of character. She had a consistent record of positive results for her clients. It came about during a particularly busy period due to

staff shortages. She was very remorseful and had put in place processes to ensure the error did not reoccur.

[37] It was accepted by Ms Proudman that she did not notify the complainant in a timely manner of the decision to decline his daughter's visa application. She was primarily responsible for the unreasonable delay. This was an isolated incident and not her usual practice. Furthermore, a lag of one to two weeks in notifying him of progress on his wife's application was less than ideal. It was understood by her that it was vital that clients were notified of the agency's decisions and other correspondence in a prompt and timely manner. She had put in place processes to ensure timely notification. A breach of cl 1 of the Code was accepted. She had gained a better understanding of cl 1 and appreciated the significance of the breach.

[38] Ms Proudman denied that she had acted dishonestly and maintained that she had never knowingly misled the complainant. She had relied on temporary staff. She acknowledged not providing the complainant with Immigration New Zealand's decision regarding the daughter. This was a standard practice at Fragomen. The rationale was that clients would be disgruntled by a negative outcome and might contact the immigration officers to vent their frustrations. Ms Proudman now appreciated that she had an obligation to provide decline decisions to her clients and had put processes in place to ensure this. She accepted a breach of cl 1 and understood the significance of the breach.

[39] In summary, Ms Proudman accepted that she had fallen short in several areas. This was the first complaint against her. She was very remorseful and had put in place processes to ensure the errors did not reoccur. She was prepared to undergo further training.

[40] In support of counsel's submissions, a brief statement (19 July 2019) from Ms Proudman was produced to the Authority. It recorded the measures (11 in total) she had set up to avoid similar issues occurring, such as; focusing on correctly reviewing the instructions, contacting her colleagues or Immigration New Zealand for guidance on the immigration instructions, following up with the agency personally on applications lodged where there had been no action, checking her Immigration New Zealand account, providing all decisions to the client as soon as possible, implementing calendar reminders, making a record of meetings, setting out conversations in a follow up email and attending the Authority's webinars relating to client files and Code obligations (having attended one on 15 May 2019 and with another one scheduled for 31 July 2019).

[41] Counsel also produced to the Authority:

- (1) A schedule of Ms Proudman's workload at 31 May 2018 (114 cases), with 198 "new initiations" in the period June to September 2018;
- (2) An internal Fragomen email from Ms Proudman on 19 July 2018 asking for an update on a number of applications, including the applications for the complainant's wife and daughter, with a reply to her on the same day concerning his wife only; and
- (3) A brief statement (19 July 2019) from Ms Sally Lisle, Fragomen's practice leader and Ms Proudman's supervisor (for the purpose of her provisional licence). Ms Lisle stated that temporary staff were given the task of seeking updates from Immigration New Zealand.

*Complaint filed in Tribunal*

[42] The Registrar filed a statement of complaint (30 July 2019) with the Tribunal, together with supporting evidence. It is alleged that Ms Proudman satisfied the grounds of complaint of negligence and/or dishonest or misleading behaviour and/or breached the Code, in the following ways:

1. Negligence, or alternatively breach of cl 1 –
  - 1.1 Provided the complainant with incorrect advice regarding the definition of dependent child under the immigration instructions;
  - 1.2 Failed to inform the complainant of Immigration New Zealand's decisions in a timely manner, particularly the decision refusing the daughter's dependent student visa; and
  - 1.3 Failed to provide the complainant with correct updates regarding the progress of the daughter's dependent student visa.
2. Dishonest or misleading behaviour, or alternatively breach of cl 1 –
  - 2.1 Advised the complainant that his daughter's visa was declined because it fell short of the financial dependency requirements, when the actual reason was that she was over the age to be a dependent.

## JURISDICTION AND PROCEDURE

[43] 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.

[44] The Tribunal hears those complaints which the Registrar decides to refer to the Tribunal.<sup>2</sup>

[45] 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>3</sup> It has been established to deal relatively summarily with complaints referred to it.<sup>4</sup>

[46] 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>5</sup>

[47] The sanctions that may be imposed by the Tribunal are set out in the Act.<sup>6</sup> The focus of professional disciplinary proceedings is not punishment but the protection of the public.<sup>7</sup>

[48] 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>8</sup>

[49] The Tribunal has received the statement of complaint (30 July 2019) and supporting documents from the Registrar.

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

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

<sup>4</sup> *Sparks v Immigration Advisers Complaints and Disciplinary Tribunal* [2017] NZHC 376 at [93].

<sup>5</sup> Section 50.

<sup>6</sup> Section 51(1).

<sup>7</sup> *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97], [128] & [151] (citation omitted).

<sup>8</sup> *Z v Dental Complaints Assessment Committee*, above n 7, at [97], [101]–[102] & [112].

[50] The complainant sent an email to the Tribunal on 11 August 2019 stating that his daughter's visa was declined two months prior to him being notified. The communications on multiple occasions were deceiving. He was not told prior to his arrival in New Zealand on 20 September 2018 that her visa had been declined in July. The complainant filed a statement of reply (27 August 2019) repeating the information given to the Authority. As for the meeting on 3 October 2018, Ms Proudman did discuss her errors and planned remediation.

[51] The statement of complaint was provided to Ms Proudman's counsel by the Tribunal on 30 July 2019, the date it was filed in the Tribunal. She was invited to file a statement of reply if she did not agree with any part of it. Her former counsel advised the Tribunal on 30 August 2019 that all correspondence had been forwarded to her since 30 July 2019, but he had been unable to get hold of her until that morning to confirm her instructions. She had not responded to any calls or emails since 30 July 2019. Her private email address and mobile telephone number were provided.

[52] The Tribunal's case manager telephoned Ms Proudman at Fragomen on 30 August 2019 as she had not filed a reply. She advised him she intended to file a statement of reply. A copy of the complainant's statement of reply was then resent to her Fragomen email address. No reply or submission were produced by Ms Proudman. Finally, on 11 September 2020, the Tribunal sent the statement of complaint to her private email address as advised by her former counsel. She did not reply.

[53] No statement of reply, submissions or evidence have been received from Ms Proudman. I record that I am satisfied that Ms Proudman has notice of the complaint filed in the Tribunal.

## **ASSESSMENT**

[54] The Registrar relies on cl 1 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.

1. *Negligence, or alternatively breach of cl 1 –*

- 1.1 *Provided the complainant with incorrect advice regarding the definition of dependent child under the immigration instructions;*

- 1.2 *Failed to inform the complainant of Immigration New Zealand's decisions in a timely manner, particularly the decision refusing the daughter's dependent student visa; and*
- 1.3 *Failed to provide the complainant with correct updates regarding the progress of the daughter's dependent student visa.*

[55] Turning first to the alternative complaint of breach of cl 1 of the Code, it is alleged by the Registrar that Ms Proudman was not diligent, nor did she conduct herself with due care or in a timely manner, in advising the complainant about the eligibility of his daughter for a visa or in communicating decisions and updates from Immigration New Zealand to him.

[56] In the explanation given to the Authority, Ms Proudman admitted misinterpreting the definition of dependent child in the immigration instructions. It is difficult to see how it occurred, as the instructions could not be clearer.<sup>9</sup> The maximum age is 19 years.

[57] It is contended by her former counsel that it was a simple human error. Such errors can be excusable and do not always justify disciplinary consequences, but that would not be appropriate in the circumstances here.<sup>10</sup> This was not a mistake which a competent adviser exercising due care would make. Furthermore, as can be seen from the assessment of the second head of complaint below, Ms Proudman did not 'own' her mistake when she discovered it on about 19 July 2018 (the date of Immigration New Zealand's decision), but deceived the complainant for about two months by pretending there was no decision. Even then, she gave him a false explanation as to the reason for the decline of the visa.

[58] Ms Proudman's advice to the complainant that his daughter was eligible for a visa as a dependent child was neither diligent nor given with due care. It is not an adequate reason that Ms Proudman was very busy. That does not reduce the level of care expected from a professional. Item 1.1 of the complaint is upheld.

[59] Ms Proudman also admitted to the Authority that she failed to notify the complainant in a timely manner of the decline of his daughter's student visa. The decision was made on 19 July 2018, but he was not told of the decline until 21 September 2018 (and even then was not given the true reason until 3 October 2018). While I will formally uphold item 1.2 of the complaint, as Ms Proudman's notification was not timely, I see this failure in terms of dishonesty (deliberate withholding of information) rather than

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<sup>9</sup> Set out in Registrar's documents at 103.

<sup>10</sup> *DMX v Guich* [2020] NZIACDT 19 at [53]–[55].

as mere inadvertence or carelessness or negligence. This infringement will not sound in sanctions, as in effect it will be covered by the sanctions for item 2.1.

[60] It is alleged by the Registrar that Ms Proudman did not correctly update the complainant as to the progress of his daughter's student visa. She provided him with updates on 30, 31 July, 7, 15, 27 August, 10 and 18 September 2018. As assessed below, Ms Proudman knew that the visa had been declined, so her updates were false. Again, I see this unprofessional conduct as deliberate and dishonest, rather than in terms of a lack of diligence or due care. Item 1.3 of the complaint is upheld, but will not sound in sanctions.

[61] As the alternative breach of cl 1 of the Code has been upheld in relation to items 1.1 to 1.3 of the complaint, the negligence complaint is dismissed.

2. *Dishonest or misleading behaviour, or alternatively breach of cl 1 –*

2.1 *Advised the complainant that his daughter's visa was declined because it fell short of the financial dependency requirements, when the actual reason was that she was over the age to be a dependent.*

[62] The Registrar alleges that the advice given to the complainant by Ms Proudman on 21 September 2018, that his daughter's visa was declined because it was not established that she was financially dependent on him, was false and dishonest. It was declined on 19 July 2018 because she was too old for such a visa, being 21, with the maximum age being 19.

[63] Ms Proudman has declined the invitation made more than once to her (by both the Tribunal directly and her former counsel) to respond to the complaint referred to the Tribunal. While I will consider her reply to the Authority, the weight to be given to it is undermined by the lack of any supporting affidavit from her and by her failure to provide any explanation or evidence to the Tribunal.

[64] Through her then counsel, Ms Proudman told the Authority that she was not aware of the decline of the daughter's visa on 19 July, until checking her Immigration New Zealand account on 20 September 2018. She then saw the letter but misread it and assumed the application had been declined because financial dependency had not been proven. This arose because she was too focussed on remedial action. It was not until checking the letter closely before the meeting with the complainant on 3 October 2018 that she realised she had misinterpreted the definition in the instructions and had also given the complainant incorrect information.

[65] I reject Ms Proudman's explanation as implausible and as inconsistent with the chronology. A review of her conduct step by step makes it clear just how improbable is her explanation.

[66] Immigration New Zealand's letter of 19 July 2018 was not addressed or emailed directly to her, but she would have had access to it immediately upon being uploaded by the agency. It is true that, apparently coincidentally, she asked a staff member that day to check on the visa's progress with the agency. The employee replied to her almost immediately, but did not respond in relation to the daughter, so Ms Proudman cannot blame the employee for any incorrect information or failure to tell her of the decision (which may not have been made or uploaded at the time of the employee's check).

[67] Then in answer to the complainant's query about progress on 30 July, Ms Proudman advised him there was no feedback. There is no evidence she asked an employee to check on that day.

[68] On the following day, 31 July, Ms Proudman told the complainant she had followed up in relation to the daughter's application and would come back to him when they had any feedback. Again, there is no evidence she or a staff member made any enquiry of the agency at that time. If she had truly followed up, she would have known of the decision. The same can be said for her advice of 7 August 2018 that she had followed up and the application was pending allocation to a case officer. That cannot possibly be true, given a decision had already been made.

[69] Ms Proudman next advised the complainant on 15 August that the answer on the application should not be far away as there had been no further requests for information. Once again, there is no evidence of any enquiry being made. This was followed on 27 August by advice to him that the officer had been on leave, so processing should resume and be completed quickly. Yet again, there is no evidence of any enquiry and it cannot be true that she or an employee were told the officer was on leave and therefore no decision had been made. No immigration officer would have given such advice, since a decision had been made.

[70] Then on 10 September, Ms Proudman told the complainant the application had been escalated to a practice lead for an urgent response which was anticipated the next morning. There is no evidence of any enquiry then. Nor can it be true. Any contact with the agency in relation to the daughter's application would have elicited the response that it had already been decided.

[71] Ms Proudman next told the complainant on 18 September that a recommendation had been made, it was undergoing a second person check and it was expected to be

finalised at any time. No person at the agency would have replied to an enquiry in that way, whether the enquiry came from her or an employee.

[72] Finally, on 21 September, Ms Proudman told the complainant she now had the letter, informing him that the visa had been declined because financial dependency had not been established. The letter, however, plainly said the daughter did not meet the age requirement. Suspiciously, Ms Proudman did not send the letter to him.

[73] The complainant did not learn of the true reason for the decline until two days later, 23 September, when he asked Immigration New Zealand himself.

[74] It is implausible that Ms Proudman did not check her Immigration New Zealand account on these many occasions when the complainant asked her about progress, nor make any enquiry of Immigration New Zealand as to progress, nor ask an employee to do so (except on 19 July). She actually gave the complainant specific information about the application on 10 September (escalation to a practice lead) and 18 September (recommendation made and undergoing a second person check), yet there is no evidence whatsoever, even from her, of any such information or communication from the agency. Indeed, as noted above, no officer would have given her or an employee any such information, as the decision had already been made.

[75] Nor do I accept that Ms Proudman misread the short letter of 19 July when she first read it, so she says, on 20 September. It states clearly that the application was declined because of the daughter's age. It says nothing about financial support, except to the extent it sets out the criteria. It is also suspicious that Ms Proudman did not send a copy of the decline letter to the complainant then. The explanation given by counsel, on instructions, that decline letters were not copied by Fragomen to clients in case they vented their frustration to the officer is not credible. Nor is it supported by any statement from Ms Lisle of Fragomen or even from Ms Proudman herself.

[76] Ms Proudman is accused of dishonest conduct. This requires explanation, yet on receipt of the complaint filed in the Tribunal, she has chosen not to engage with her former counsel or the Tribunal. Even in her statement given to the Authority, she chose not to address the substance of the complaint or set out her version of the events. On the balance of probabilities, noting the higher evidential standard for dishonesty allegations, I find that Ms Proudman knew about the decline on or about 19 July 2018, deliberately withheld the decline letter from the complainant and dishonestly told him on 21 September that the application had been declined because of a failure to prove dependency.

[77] I make no finding as to Ms Proudman's motive for concealing the correct position. One possibility is embarrassment about making such an obvious mistake regarding the daughter's eligibility.

[78] Item 2.1 of the complaint is upheld. Having found Ms Proudman to have been dishonest, there is no need to assess the alternative breach of the Code.

## **OUTCOME**

[79] The complaint is upheld. Ms Proudman's advice to the complainant concerning the eligibility of his daughter was neither diligent nor given with due care. Nor did she notify him of the decline in a timely manner. Her updates were unprofessional and dishonest. These are breaches of cl 1 of the Code. Furthermore, in falsely advising the complainant that the reason for the decline was insufficient evidence of financial dependency, her behaviour was dishonest, a ground of complaint under the Act.

## **SUBMISSIONS ON SANCTIONS**

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

[81] A timetable is set out below. Any request that Ms Proudman undertake training should specify the precise course suggested. Any requests for repayment of fees or the payment of costs or expenses or for compensation must be accompanied by a schedule particularising the amounts and basis of the claim.

[82] As Ms Proudman has been found to have been dishonest, the Tribunal will consider whether she should be prevented from holding a licence for a period. The parties are asked to address this possible sanction. Ms Proudman is urged to seek legal advice, or at least to engage with the Tribunal even at this late stage of the process.

### *Timetable*

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

- (1) The Registrar, the complainant and Ms Proudman are to make submissions by **21 October 2020**.
- (2) The Registrar, the complainant and Ms Proudman may reply to submissions of any other party by **5 November 2020**.

**ORDER FOR SUPPRESSION**

[84] The Tribunal has the power to order that any part of the evidence or the name of any witness not be published.<sup>11</sup>

[85] There is no public interest in knowing the name of Ms Proudman's client.

[86] The Tribunal orders that no information identifying the complainant is to be published other than to Immigration New Zealand.

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D J Plunkett  
Chair

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<sup>11</sup> Immigration Advisers Licensing Act 2007, s 50A.