IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

Decision No: [2023] NZIACDT 5

Reference No: IACDT 010/22

IN THE MATTER	of a referral under s 48 of the Immigration Advisers Licensing Act 2007
BY	**THE REGISTRAR OF IMMIGRATION ADVISERS** Registrar
BETWEEN	**SM** Complainant
AND	**DAVID KIM** Adviser

SUBJECT TO SUPPRESSION ORDER

DECISION
Dated 15 February 2023

REPRESENTATION:

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

PRELIMINARY

[1] The adviser, David Kim, was approached in July 2017 by the complainant, SM, who wanted a job in New Zealand and a work visa. The complainant had previously been declined a visa, an application that had not involved Mr Kim. Mr Kim's employee found him a job with the same employer who had offered him the job linked to the earlier declined visa. Mr Kim invoiced the employer a substantial recruitment fee, in addition to invoicing the complainant a fee for the visa. Both fees were paid by the employer. Some years later, the complainant made a complaint against Mr Kim to the Immigration Advisers Authority (the Authority) about the size of the total fee. The complainant and the employer both deny that Mr Kim or his employee found the job.

[2] The Registrar of Immigration Advisers (the Registrar) has referred the complaint to the Tribunal. It is alleged that Mr Kim has been dishonest or misleading, and/or breached the Licensed Immigration Advisers Code of Conduct 2014 (the Code), both being grounds of complaint under the Immigration Advisers Licensing Act 2007 (the Act).

BACKGROUND

[3] Mr Kim, a licensed immigration adviser, is a director of Wealand International (NZ) Ltd (Wealand International), of Auckland. BX is his employee. In addition to immigration services, Wealand International provides overseas recruitment (sources foreign employees) and employment dispute advocacy.

[4] The complainant is a national of [Country]. In 2014, he had applied (through solicitors) for an essential skills work visa based on employment as a [Job title] at a particular restaurant in a provincial city (the employer). It was declined by Immigration New Zealand (Immigration NZ) on 16 February 2015. A visitor visa was declined on 23 December 2015. The complainant remained in [Country].

[5] In June and July 2016, at the request of the employer, BX sent the CVs of other [Job titles] to the employer.[1]

[6] In July 2017, the complainant approached BX to find a job for him in New Zealand and then to apply for a work visa. Mr Kim told him by text on 31 July 2017 that he would look after the immigration matters and BX would be responsible for his employment. An authorisation letter to sign was sent by text to the complainant on 1 August 2017. It was addressed to Immigration NZ and stated that Mr Kim was authorised to represent him

[1] See attachments to Mr Kim's amended statement of reply (3 August 2022) at 129–133.

for the "relevant immigration matter". He returned it signed to BX that day.[2] She then asked him by text on the same day about his work experience. He replied he knew a lot of things as a [Job title].

[7] Mr Kim requested from Immigration NZ the visa decline "letters" on 1 August 2017. The agency sent a decline "letter" to him on 1 and/or 3 August. On 2 August, Mr Kim told him by text or phone that BX would find a job for him. On the same day, the complainant sent the completed job application form to Mr Kim as an attachment to a text.

[8] Starting on 4 August 2017, BX sent the CVs of the complainant and other candidates to various prospective employers. She emailed three CVs, including that of the complainant, to the employer on 24 October 2017.

[9] On 31 October 2017, the complainant forwarded BX's [Messaging App] contact to the employer. Then on 2 November, there was a voice discussion between BX and the employer using [Messaging App]. This had followed BX's approval of a [Messaging App] verification request from the employer's friend. The employer said he wanted to recruit an overseas [Job title]. The content of the call is not otherwise known. On 13 November, the employer sent an email to BX agreeing to employ the complainant.

[10] On 14 November 2017, Mr Kim sent a text to the complainant saying BX had arranged a job for him. He was qualified to apply for a work visa as a [Job title] under Immigration NZ's special instructions. Mr Kim would send a checklist for the visa documents.

[11] The complainant immediately asked BX to be told the fee. She replied the same day to say the visa service fee was $3,000, with the fees for Immigration NZ, the courier, translation and administration being [Currency]3,800. In addition, there was a "service fee for overseas recruitment" (as translated from [Language]) which was 20 weeks' wages. She noted that some employers paid the total fee, some shared it with the employee and some employers wanted the employee to pay. BX also spoke to him about the pay and leave arrangements for the job. He agreed to the job and BX said she would draft the employment agreement.

[12] BX spoke to the employer on 2 February 2018. She told him he needed to sign an employment contract and job offer letter. BX asked him some details about the company and the restaurant. She wanted a photo of the "partnership licence" issued by the council. He said he would organise it.

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[2] Mr Kim's amended statement of reply (3 August 2022) at 98.

[13] An employment agreement and job offer letter were emailed by BX to the employer later on the same day. The offer was signed by the employer on 3 February 2018. On 3 and 4 February, the employer texted BX to confirm he had signed the employment agreement. He emailed the signed agreement to her. BX then sent it by text to the complainant on 5 February. He signed it the same day.

Client agreement for immigration signed

[14] On 5 and 6 February 2018, the complainant and Mr Kim signed the latter's client agreement. Mr Kim would seek a work visa for the complainant. The fee was $3,000, together with [Currency]3,800 in disbursements.

[15] On 9 February 2018, Mr Kim sought from Immigration NZ a copy of the visitor visa application made by the complainant in 2015. He was informed on 12 February 2018 it had been purged.

[16] An invoice (dated 19 February 2018) from Wealand International was addressed to the complainant. It was for [Currency]3,800, covering disbursements and an administration fee.

Work visa application filed

[17] On 23 February 2018, Mr Kim filed a work visa application for the complainant with Immigration NZ. It was approved on 9 April 2018 (valid for three years from first arrival).

[18] The complainant texted BX on 18 April 2018 stating that the employer wanted him to pay the recruitment fee and seeking a discount. BX offered to charge only [Currency]100,000 as the total service fee for the visa application and the recruitment. As it was not a small amount of money, she suggested he discuss it with his employer. The complainant also spoke to BX. The nature of their discussion is not known.

[19] The employer sent a text to BX on the same day, 18 April 2018, to say he would pay the application fees and asking how much. There was a series of texts and voice communications between them. She said on 19 April that converted to $NZ, it was $21,697.[3] Later, she said $21,505. He asked her to send the account and he said he would transfer the money immediately. There were further texts about the bank, GST and the like. BX said the invoice would have to be in the name of the complainant.

[3] This is understood to be a reference to the conversion of [100,000].

Invoice issued to the employer

[20] On 19 April 2018, BX sent to the employer Wealand International's invoice (also 19 April). It was addressed to the employer and was for $21,505, comprising:

Overseas recruitment fee	$18,505
Visa service fee	$ 3,000

[21] The employer paid the visa and job seeking fees that day, 19 April 2018, in two instalments.

[22] The complainant arrived in New Zealand on 18 May 2018.

[23] There were texts and a voice communication between BX and the employer on 30, 31 May and 24, 25 December 2018 concerning the complainant's pay in the approved employment agreement.[4]

[24] On 6 September and again on 20 December 2019, the employer sent a text to BX enquiring as to whether she had any [Job title] to recommend.

Query from Immigration NZ

[25] On 19 October 2021, the complainant copied to Mr Kim an email (19 October 2021) from Immigration NZ. The email queried the large amounts of money going into and out of the complainant's bank account in January 2019. The complainant sent the bank statements to Mr Kim. The latter said to the complainant that the payments were not from or to his company. He could give no explanation. The complainant said they concerned amounts paid by the employer to Mr Kim and he (the complainant) returned the money to him.

[26] Mr Kim replied to the complainant that if Immigration NZ required an explanation, then he would do so. The complainant then asked for an invoice for the visa application fee paid to Immigration NZ. Mr Kim said they could only tell the truth to Immigration NZ, which was that they received two payments from the employer in April 2018, one for $5,000 and one for $16,505. He was prepared to send a letter to the visa officer saying that, if the complainant thought it would be helpful. According to the complainant, the visa officer wanted to know the position BX held in Wealand International. Mr Kim asked for the email from the officer so he could reply. The complainant said he would go to the Authority.

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[4] Attachment to Mr Kim's amended statement of reply (3 August 2022) at 120.

COMPLAINT

[27] On about 10 February 2022, the complainant made a complaint against Mr Kim to the Authority. He said he first contacted BX in January/February 2018 for a work visa application. She said the total fees were [Currency]100,000. He was no longer able to access his January to April 2018 [Messaging App] texts. He had transferred $21,505 to his employer in January 2019, which was paid by the employer to the adviser.

[28] According to the complainant, the visa officer raised an issue as to the amount paid. In October 2021, he therefore asked BX to explain the money paid in "April 2019". Her response was that she would be happy to reply to the visa officer. He asked her for the service agreement and the invoice. When he received them, he found them to be amended. It was his recollection that the original service agreement was for [Currency] 100,000, not $3,000. The recipient of the invoice was changed from his name to that of the employer. The complainant noted that the text record between BX and the employer stated that the invoice could only be issued to him. They were not supposed to charge him $18,505. They provided no recruitment service.

[29] The complainant wrote to the Authority on 9 June 2022 to say he had known the employer since 2014. He had applied for the position of [Job title] then, but the visa was declined. The employer contacted him again in 2018 when the same position became available.

[30] The complainant provided to the Tribunal a letter (21 June 2022) from the employer, who confirmed that the employment of the complainant had no involvement with Mr Kim. The employer said he contacted the complainant directly in 2018 and invited him to come to New Zealand to work for him. He did not contact Mr Kim or any of his employees for recruitment services.

[31] On 22 June 2022, the complainant sent an email to the Authority stating that neither Mr Kim nor BX provided recruiting services.

Explanation from Mr Kim

[32] At the request of the Authority, Mr Kim wrote on 13 June 2022 with an explanation. He said he had communicated many times with the complainant from July 2017 to February 2018 about the previous declined visa applications, to advise him and to obtain relevant information. In the period from August to November 2017, they promoted the complainant to many potential employers, including the employer. After the employer confirmed the job on 13 November, BX sent the complainant a text on 14

November informing him. The job offer and employment agreement were drafted by them and sent to the parties for signing.

[33] Mr Kim said he had no agreement with the employer. The recruitment service was not binding and the client could cancel the service at any time without obligation. There was no practical value in having an agreement with the client.

[34] Mr Kim further informed the Authority that both he and BX used the [Messaging App] account. She communicated for job seeking and administration work, and he used it for immigration matters.

[35] According to Mr Kim, it was not true that the complainant found the position. They had done so. Since July 2017, the complainant had never said he had found it until making the complaint in February 2022. On the contrary, he had accepted their service and the employment they found. Nor had the employer ever said he knew the complainant or offered employment. The complainant and the employer had no concerns about paying the recruitment fee when it was charged in April 2018.

[36] Mr Kim added that in October 2021, the complainant contacted them for an explanation of two payments for $35,415 made by him to his employer in January 2019. He wanted Mr Kim to tell Immigration NZ that this was the money he returned to his employer. They had no idea about these two payments. He then requested another invoice in his own name for the fee that had been paid by the employer in April 2018. They declined to issue two different invoices to two parties for one payment.

[37] Mr Kim said that the addressee of their invoice had been changed from the complainant to the employer at the latter's request, so the employer could claim GST back.

[38] There was a further explanation from Mr Kim on 16 June 2022. He referred to BX's text to the complainant on 14 November 2017 explaining the immigration and recruitment fees. The fees for the visa and job seeking services were clearly explained. It was in July 2017 that the complainant had requested them to find a job and apply for a visa. The amount of $18,505 was a service fee for job seeking, not a premium for employment. The employer did not complain about it being a premium.

[39] According to Mr Kim, the Code was for immigration matters and not for the overseas recruitment service, an independent business. It was not relevant to the immigration matters, so there was no requirement for the fee to be included in the client agreement. Whether that fee was reasonable was to be judged by the market, not the Code. The complaint was false and malicious.

[40] Mr Kim repeated his explanation in an email to the Authority on 20 June 2022. They were not informed by the complainant or the employer of the earlier employment offer or their knowledge of each other. The complainant contacted them on 31 July 2017 to find a job and seek a visa. They informed him of the job on 14 November 2017.

[41] On 22 June 2022, Mr Kim sent an email to the Authority to say it was a lie that he did not provide recruitment services. They had in fact been contacted by the employer to do so in 2016.

Complaint filed in the Tribunal

[42] The Registrar filed a statement of complaint in the Tribunal on 4 July 2022 alleging the following against Mr Kim:

(1) Dishonest or misleading behaviour concerning the purpose and justification for the fee of $18,505.

(2) Alternatively, the fee is not fair and reasonable, a breach of cl 20(a).

(3) Failing to provide the complainant with a written agreement and an invoice, in breach of cls 19(e), 19(f) and 22.

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 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.[5]

[5] Immigration Advisers Licensing Act 2007, s 45(2) & (3).

[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.[6] It has been established to deal relatively summarily with complaints referred to it.[7]

[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.[8]

[47] The sanctions that may be imposed by the Tribunal are set out in the Act.[9] The focus of professional disciplinary proceedings is not punishment but the protection of the public.[10]

[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.[11]

[49] The Tribunal has received from the Registrar the statement of complaint (4 July 2022), with supporting documents.

From the complainant

[50] There is a statement of reply (28 July 2022) from the complainant, with supporting documents.

[51] The complainant says the text on 14 November 2017 is misleading and might be a fake, though he has lost his [Messaging App] records for that period. He can remember he never received that text and nor was he informed that they had found him a job. To prove that they did not find the job for him, he was sending the 31 October 2017 text which shows that he was the person who introduced BX to the employer. The email of 24 October 2017 might also be a fake. The employer has found emails from "NZ Job Service" with CV's, but none relate to the complainant.[12] The complainant said he might have asked BX to assist finding him a job, but his employment with the employer had nothing to do with them.

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[6] Section 49(3) & (4).
[7] *Sparks v Immigration Advisers Complaints and Disciplinary Tribunal* [2017] NZHC 376 at [93].
[8] Section 50.
[9] Section 51(1).
[10] *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97], [128] & [151].
[11] *Z v Dental Complaints Assessment Committee*, above n 10, at [97], [101]–[102] & [112].
[12] This is an email address used by Wealand International's for its recruitment business.

From the adviser

[52] There is an amended statement of reply (3 August 2022) from Mr Kim, with further supporting documents.

[53] Mr Kim repeats that BX found the complainant a job, at his request in July 2017. She looked for the job and he (Mr Kim) looked after the immigration matters. For more than three months, BX contacted many restaurants, including the employer. She sent the employer his CV on 24 October 2017.

[54] The employer informed BX on 13 November 2017 that he would employ the complainant. The latter was told the following day and his remuneration and statutory entitlements were explained by her. The employment agreement was drafted by them and sent to the employer on 2 February 2018. It was signed by the employer and then sent to the complainant on 5 February. The employer contacted BX on 18 April 2018 to confirm he would pay the fees, which he did the following day.

[55] BX never advised the complainant that the fee was [Currency]100,000. The fees were explained by her on 14 November 2017. It was on 18 April 2018 that [Currency] 100,000 was offered as a discounted fee.

[56] According to Mr Kim, the evidence shows that from June 2016, BX started sending the CVs of [Job title] candidates to the employer. None of the complainant, the employer or Immigration NZ told them that the employer had supported the 2014 visa application.

[57] Mr Kim denies the breaches of the Code alleged. As for cls 19(e), 19(f) and 22, the recruitment/job seeking service is independent and separate from the immigration service and it is charged separately. The complainant chose both services, but that does not mean they are bundled. The Code does not state that other businesses operated under a company owned by an adviser should be regulated. The recruitment fee is based on the value created, the time spent and other matters set out by Mr Kim.

ASSESSMENT

[58] The Registrar relies on the following provisions of the Code:

> **Written agreements**
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> …
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> 19. A licensed immigration adviser must ensure that a written agreement contains:

…

e. a full description of the services to be provided by the adviser, which must be tailored to the individual client

f. where fees are to be charged, the fees for the services to be provided by the adviser, including either the hourly rate and the estimate of the time it will take to perform the services, or the fixed fee for the services, and any New Zealand Goods and Services Tax (GST) or overseas tax or levy to be charged

…

Fees

20. A licensed immigration adviser must:

a. ensure that any fees charged are fair and reasonable in the circumstances

…

Invoices

22. A licensed immigration adviser must, each time a fee and/or disbursement is payable, provide the client with an invoice containing a full description of the services the fee relates to and/or disbursements that the invoice relates to.

(1) Dishonest or misleading behaviour concerning the purpose and justification for the fee of $18,505

(2) Alternatively, the fee is not fair and reasonable, a breach of cl 20(a)

[59] Mr Kim charged $18,505 as a recruiting or job seeking fee for finding the complainant, who was in [Country], the job in New Zealand with the employer. They both deny he provided any such service. They point to the employer being the one who supported the complainant's failed visa application in 2014/2015 and assert that he contacted the complainant when the same position became available. The complainant also refers to the introduction of BX to the employer on 31 October 2017, facilitated by him. Mr Kim says the complainant's version of the events is a lie.

[60] The narrative of the complainant and the employer is false. It is inconsistent with the contemporary documentation and is implausible:

1. A complaint about the recruitment fee of $18,505 was not made until February 2022, almost four years after the payment was made. It is inconceivable that the employer would have paid $21,505 for an immigration service had he thought the fee was merely for such a service.

He has owned the business since at least 2014 and it is apparent from the 2016 communications that he has experience in recruiting overseas [Job title]. He would be aware of a market fee for a straightforward immigration service.

2. The justification for the late complaint appears to be Immigration NZ's query in October 2021 about the amounts paid by the complainant allegedly to the employer in January 2019. It is unsurprising that the officer queried the payments of more than $35,000. Whether or not they were paid to the employer and included the $21,505 paid earlier by the employer to Mr Kim, Immigration NZ's query in October 2021 and the payments themselves provide no explanation for a late complaint or explain why the employer did not question the total fee when he paid it in April 2018.

3. There is considerable contemporary correspondence corroborating Mr Kim's version of the events (emails, texts and voice communication records). I do not intend to repeat the narrative in detail. I reject the complainant's allegation that multiple communications produced by Mr Kim are fake. Mr Kim presents a comprehensive, consistent and coherent narrative. The documentation is patently inconsistent with the complainant's story.

4. While the employer offered the complainant a job in 2014 and supported an unsuccessful visa application (unknown to Mr Kim), I find that the two of them had lost contact. It has been proven that the employer contacted BX in 2016 to find out if she could recommend a [Job title], so the employer was known to BX when the complainant engaged Wealand International in July 2017. I am satisfied that BX sent the complainant's CV to the employer on 24 October 2017, BX and the employer then communicated by [Messaging App] on 2 November, he agreed to hire the complainant on 13 November and he signed an offer letter and employment agreement drafted by BX on 3 February 2018.

5. The 31 October 2017 [Messaging App] introduction by the complainant is merely the verification protocol of that service. It was not an introduction of BX to the employer, as they had been in communication (by email) in 2016.

6. The complainant has been inconsistent as to when he first contacted BX seeking a work visa. In his complaint to the Authority, he said it was in January/February 2018. He said the same in his email of 9 June 2022 to

> the Authority. The employer confirms in his letter of 21 June 2022 to the Authority that he contacted the complainant in 2018 and never contacted Mr Kim or any of his employees. Yet the complainant told the Tribunal that he introduced BX to the employer on 31 October 2017.

[61] I find that Wealand International provided a recruitment service to the complainant and charged $18,505 for finding him the job with the employer, as Mr Kim asserts. The first head of complaint is dismissed.

[62] The second head alleges that the fee of $18,505 is not fair and reasonable, as required by cl 20(a) of the Code. Mr Kim contends that the Code is not applicable to his recruitment business. I will deal with that submission under the third head of complaint. The second head will be dismissed on the basis that there is no evidence from the Registrar as to what would be a reasonable fee for recruiting, if such a service is regulated by the Act and the Code as the Registrar submits.

(3) Failing to provide the complainant with a written agreement and an invoice, in breach of cls 19(e), 19(f) and 22

[63] The Registrar says that the recruitment service giving rise to the fee of $18,505 was relevant to the complainant's immigration matters since it related to finding employment to satisfy the conditions of a visa. He says that the total fee of $21,505 was to obtain the visa.

[64] Mr Kim denies the professional obligations set out in the Act or the Code are relevant to the separate and independent business of recruitment. The fee was not relevant to immigration matters.

[65] The Act and hence the Code regulate the provision of "immigration advice", as defined in the Act.[13] It is a wide definition. In summary, it captures the use of knowledge or experience in immigration to advise or assist another person in regard to an immigration matter. The Registrar says that finding a job, in order to satisfy the visa criteria, as a precursor to making a visa application, is caught by the statutory definition.

[66] The Tribunal has dealt before with the issue of the boundary between what might be considered unequivocally an immigration matter (such as a visa application) and related work necessary to satisfy the visa criteria, including finding a job which meets such criteria.[14]

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[13] Immigration Advisers Licensing Act 2007, s 7.
[14] *Immigration New Zealand (Calder) v Cleland* [2019] NZIACDT 25 at [78]–[79].

[67] It is conceivable that an immigration adviser could operate a separate and independent business of recruiting which was not caught by the Act and the Code, as do those operating such a business who are not licensed advisers.

[68] However, Mr Kim did not operate a separate business. As part of his full service for the complainant, he bundled the recruiting service with the immigration service. While he had a separate fee, he did not have a separate company or different staff or a separate written agreement for each service. Wealand International provided both services to the complainant in parallel.

[69] As for a written agreement for the recruiting service, Mr Kim says there is no practical value. While it may not be practical for the recruiting service itself, such an agreement would be of value in separating the recruiting and immigration services. One way to make separation clear is by contracting with the employer for the recruitment service, not the employee or immigration client. In the case of the complainant, it is apparent from the approach of Mr Kim and BX particularly to the fees, that they regarded the complainant as the client, not the employer, although ultimately it was the latter who paid the total fees on behalf of the complainant.

[70] The evidence shows that BX was engaged in both services for the complainant over the same period of time. For example, the complainant sent to her the immigration authorisation letter on 1 August 2017. She explained to him the fees for both services on 14 November 2017 and also offered the discounted fee, again for both services, on 18 April 2018. Her work seeking information and documents from the complainant necessary for employment purposes, were largely required for immigration purposes as well. Whether or not her immigration work as an unlicensed person was permitted under the Act as "clerical work", is not material.[15] What is material is that she was patently involved in both immigration and employment matters on behalf Wealand International over the same period of time.

[71] Mr Kim himself was involved with the complainant in both immigration and recruiting matters over the same period as BX and before a client agreement for immigration was signed on about 6 February 2018. For example, Mr Kim says that from July 2017, he contacted the complainant many times about immigration matters and to give advice.[16] Some of this information would have been required to advise the complainant what type of job and employment conditions had to be obtained to satisfy the visa criteria. It was to Mr Kim that the complainant sent the completed job application

[15] Immigration Advisers Licensing Act 2007, s 7(b)(iii).
[16] Mr Kim's letter to the Authority (13 June 2022) at item 3 on p 1.

form on 2 August 2017.[17] It was Mr Kim who told him on 14 November 2017 that a job had been found for him.

[72] From the complainant's point of view, there is a bundling of the recruiting and immigration services, with both BX and Mr Kim involved in both services over the same period.

[73] Since Mr Kim did not clearly separate the services, his professional obligations as a licensed immigration adviser extend to the employment service. He was therefore required to set out a full description of his services, including the recruitment service, in the written client agreement. The failure to do so is a breach of cl 19(e). Nor did he set out in the written agreement the fee of $18,505, a breach of cl 19(f).

[74] Mr Kim did, however, provide an invoice dated 19 April 2018. It identifies the recruitment service, though provides no further details. It is not a full description of his services. In the circumstances, however, this breach of cl 22 does not cross the threshold warranting a disciplinary sanction.

[75] The third head of complaint is partially upheld.

OUTCOME

[76] The third head is partially upheld. Mr Kim has breached cls 19(e) and 19(f) of the Code.

SUBMISSIONS ON SANCTIONS

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

[78] A timetable is set out below. Any request that Mr Kim undertake training should specify the precise course suggested. Any request 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.

Timetable

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

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[17] See attachments to Mr Kim's amended statement of reply (3 August 2022) at 100.

(1) The Registrar, the complainant and Mr Kim are to make submissions by **9 March 2023**.

(2) The Registrar, the complainant and Mr Kim may reply to submissions of any other party by **23 March 2023.**

ORDER FOR SUPPRESSION

[80] The Tribunal has the power to order that any part of the evidence or the name of any witness not be published.[18]

[81] There is no public interest in knowing the name of Mr Kim's client or his employee.

[82] The Tribunal orders that no information identifying the complainant or BX is to be published other than to Immigration NZ.

D J Plunkett
Chair

[18] Immigration Advisers Licensing Act 2007, s 50A.