

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

Decision No: [2018] NZIACDT 13

Reference No: IACDT 004/17

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

**BY** **The Registrar of Immigration  
Advisers**

Registrar

**BETWEEN** **Darren Calder (Immigration New  
Zealand)**

Complainant

**AND** **Gaurav Soni**

Adviser

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**DECISION  
(SANCTIONS)**

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**REPRESENTATION:**

**Registrar:** Ms F Mohammed, lawyer, MBIE, Auckland.

**Complainant:** Ms C English, lawyer, MBIE, Wellington.

**Adviser:** Mr S Laurent, lawyer, Laurent Law, Auckland.

Date Issued: 9 May 2018

## DECISION

### Preliminary

- [1] This complaint was upheld in the Tribunal's decision *Calder v Soni* [2018] NZIACDT 6 (the substantive decision). That decision should be read with the present decision which imposes sanctions.
- [2] In the substantive decision, the more serious grounds of complaint were dismissed. However, the appellant's record keeping was inadequate and Mr Soni admitted that ground of complaint. Accordingly, that is the only matter for which sanctions can be imposed.

### The complainant's position

- [3] The complainant took the position that:
- [3.1] Mr Soni should be censured.
- [3.2] A financial penalty of \$1,000 to \$2,000 should be imposed.
- [3.3] A neutral position was taken in relation to imposing training requirements.
- [4] The Registrar did not take a position on sanctions.

### The adviser's position

- [5] Counsel for the adviser took the position that:
- [5.1] Censure was appropriate.
- [5.2] A modest financial penalty may be justified, but was not necessary due to the expense of defending the grounds of complaint that were not upheld.
- [5.3] Training was not necessary, and Mr Soni was already engaged in ongoing professional development.

### Discussion

- [6] Censure is inevitable as it is necessary and appropriate to denounce the conduct that has been upheld. In the substantive decision, there is an "observation".<sup>1</sup> The observation is to the effect that while Mr Soni faced a serious complaint which was not upheld; he brought that upon himself. The short point is that he failed to keep compulsory records that were required first, to protect his clients, and second, to protect him. Inevitably, Mr Soni faced allegations that he had not performed actions which he had failed to document; the Code of

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<sup>1</sup> *Calder v Soni* [2018] NZIACDT 6 at [107] – [110].

Conduct required him to document the actions. For that reason, my view is that the grounds that were dismissed, and the cost of defending them, should largely be put to one side. However, I do note that the Complainant and the Registrar had not sought costs, so the grounds that were dismissed have been recognised to that extent.

[7] I am satisfied that further training is not necessary. I note Mr Soni's ongoing commitment to professional development and the impact of this complaint on his career.

[8] I accept the complainant's view that the lack of record keeping is appropriately marked by censure and a financial penalty of \$1,000 to \$2,000. In this case, for two reasons I am satisfied that a financial penalty of \$1,000 is appropriate. First, the appellant admitted his deficiencies in record keeping. Second, while I have largely put the dismissed grounds of complaint to one side, I take account of them as a factor pointing to a penalty at the lowest end.

#### **Decision**

[9] Mr Soni is:

[9.1] censured, and

[9.2] required to pay a penalty of \$1,000.

**DATED** at WELLINGTON this 9<sup>th</sup> day of May 2018

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**G D Pearson**  
Chair