

**IMMIGRATION ADVISERS COMPLAINTS AND DISCIPLINARY TRIBUNAL**

Decision No: [2019] NZIACDT 69

Reference Nos: IACDT 025/18 & 09/19

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

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

**BETWEEN** **IMMIGRATION NEW ZEALAND  
(STEPHANIE GREATHEAD)**  
Complainant

**AND** **MARIA SOCORRO ANGELA  
(ANJI) ORTIZ**  
Adviser

---

**DECISION  
(Sanctions)  
Dated 7 October 2019**

---

**REPRESENTATION:**

Registrar: J Perrott, counsel  
Complainant: Self-represented  
Adviser: Self-represented

## INTRODUCTION

[1] The Tribunal upheld this complaint against Ms Ortiz, the adviser, in a decision issued on 29 August 2019 in *Immigration New Zealand (Greathead) v Ortiz*.<sup>1</sup>

[2] It found that Ms Ortiz had not established a professional relationship with her client, had given false information to Immigration New Zealand and had been convicted of criminal charges. Her conduct was dishonest and misleading, and a breach of the Licensed Immigration Advisers Code of Conduct 2014 (the Code).

[3] It is now for the Tribunal to determine the appropriate sanctions, if any.

## BACKGROUND

[4] The narrative leading to the complaint is set out in the decision of the Tribunal upholding the complaint and will only be briefly summarised here.

[5] Ms Maria Socorro Angela (Anji) Ortiz was a licensed immigration adviser, based in Christchurch. She was a director and shareholder of NZ Lifeways Group Ltd, trading under the name, NZ Lifeways Immigration. Ms Ortiz's licence had been suspended by the Tribunal on 10 September 2018, following criminal charges laid in the District Court. As she was convicted, the Registrar refused to renew her licence on 21 June 2019.

[6] The complaint concerned a client of Ms Ortiz who held a visa allowing him to work as a dairy farm assistant for a specific farm employer. In June 2015, the client was employed as a hairdresser in a beauty salon owned by Ms Ortiz and her husband. He lived in the salon and worked seven days a week for up to 10 hours daily, without being paid wages, though he was given some food and cash by Mr Ortiz.

[7] A work visa application was filed in July 2015 with Immigration New Zealand by Ms Ortiz on behalf of the client. It sought permission for him to work in the salon. Ms Ortiz advised the agency that he was a volunteer working at the salon without compensation. She then asked the client to write a letter stating that he had worked at the salon voluntarily. At no time did Immigration New Zealand give permission for the client to work at the salon.

[8] Both Ms Ortiz and her husband were convicted in the District Court of multiple charges of exploiting the client, an unlawful employee. Ms Ortiz was sentenced to four months of community detention, 100 hours of community work and ordered to pay

---

<sup>1</sup> *Immigration New Zealand (Greathead) v Ortiz* [2019] NZIACDT 59.

reparation of \$8,850, which was half of what the client was owed. Her husband had been ordered to pay the other half.

#### *Decision of the Tribunal*

[9] In its decision, the Tribunal found that Ms Ortiz had been grossly unprofessional, as she did not establish a professional relationship with her client. She had been more concerned with benefiting the business interests of herself and her husband and then saving the two of them in the face of Immigration New Zealand's investigation, than with assisting the client. Ms Ortiz had no written agreement with the client, had failed to take his informed lawful instructions, had failed to confirm in writing to him when his work visa was lodged and had failed to make ongoing timely updates regarding his work visa application.

[10] In addition, it was found that Ms Ortiz had been dishonest and misleading, since she had falsely advised Immigration New Zealand that the client was a volunteer working without compensation. Furthermore, her convictions under the Immigration Act 2009 amounted to a breach of the Code. Ms Ortiz was found to have satisfied two statutory grounds of complaint, being dishonest or misleading conduct and a breach of the Code. She had breached cls 1, 3(c), 18(a) and 26(b) of the Code.

#### *Submissions*

[11] Counsel for the Registrar, Mr Perrott, in his submissions of 20 September 2019, contends that Ms Ortiz should be censured and ordered to pay a financial penalty. He noted the more serious ground of complaint upheld was dishonest or misleading behaviour concerning the false information given to Immigration New Zealand and then attempting to procure a letter from the client confirming this. Her conduct needs to be denounced and other advisers need to be deterred from similar conduct. The public also needs to be protected from any future conduct by Ms Ortiz as an immigration adviser.

[12] There are no submissions from Immigration New Zealand or Ms Ortiz.

#### **JURISDICTION**

[13] The Tribunal's jurisdiction to impose sanctions is set out in the Immigration Advisers Licensing Act 2007 (the Act). Having heard a complaint, the Tribunal may take the following action:<sup>2</sup>

---

<sup>2</sup> Immigration Advisers Licensing Act 2007.

## **50 Determination of complaint by Tribunal**

After hearing a complaint, the Tribunal may—

- (a) determine to dismiss the complaint:
- (b) uphold the complaint but determine to take no further action:
- (c) uphold the complaint and impose on the licensed immigration adviser or former licensed immigration adviser any 1 or more of the sanctions set out in section 51.

[14] The sanctions that may be imposed are set out at s 51(1) of the Act:

## **51 Disciplinary sanctions**

(1) The sanctions that the Tribunal may impose are—

- (a) caution or censure:
- (b) a requirement to undertake specified training or otherwise remedy any deficiency within a specified period:
- (c) suspension of licence for the unexpired period of the licence, or until the person meets specified conditions:
- (d) cancellation of licence:
- (e) an order preventing the person from reapplying for a licence for a period not exceeding 2 years, or until the person meets specified conditions:
- (f) an order for the payment of a penalty not exceeding \$ 10,000:
- (g) an order for the payment of all or any of the costs or expenses of the investigation, inquiry, or hearing, or any related prosecution:
- (h) an order directing the licensed immigration adviser or former licensed immigration adviser to refund all or any part of fees or expenses paid by the complainant or another person to the licensed immigration adviser or former licensed immigration adviser:
- (i) an order directing the licensed immigration adviser or former licensed immigration adviser to pay reasonable compensation to the complainant or other person.

[15] In determining the appropriate sanction, it is relevant to note the purpose of the Act:

## **3 Purpose and scheme of Act**

The purpose of this Act is to promote and protect the interests of consumers receiving immigration advice, and to enhance the reputation of New Zealand as a migration destination, by providing for the regulation of persons who give immigration advice.

[16] The focus of professional disciplinary proceedings is not punishment, but the protection of the public.<sup>3</sup>

It is well established that professional disciplinary proceedings are civil and not criminal in nature. That is because the purpose of statutory disciplinary proceedings for various occupations is not to punish the practitioner for misbehaviour, although it may have that effect, but to ensure that appropriate standards of conduct are maintained in the occupation concerned.

...

The purpose of disciplinary proceedings is materially different to that of a criminal trial. It is to ascertain whether a practitioner has met appropriate standards of conduct in the occupation concerned and what may be required to ensure that, in the public interest, such standards are met in the future. The protection of the public is the central focus.

...

Lord Diplock pointed out in *Ziderman v General Dental Council* that the purpose of disciplinary proceedings is to protect the public who may come to a practitioner and to maintain the high standards and good reputation of an honourable profession.

[17] Professional conduct schemes, with their attached compliance regimes, exist to maintain high standards of propriety and professional conduct not just for the public good, but also to protect the profession itself.<sup>4</sup>

[18] While protection of the public and the profession is the focus, the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty.<sup>5</sup>

[19] The most appropriate penalty is that which:<sup>6</sup>

- (a) most appropriately protects the public and deters others;
- (b) facilitates the Tribunal's important role in setting professional standards;
- (c) punishes the practitioner;
- (d) allows for the rehabilitation of the practitioner;

---

<sup>3</sup> *Z v Dental Complaints Assessment Committee* [2008] NZSC 55, [2009] 1 NZLR 1 at [97], [128] & [151] (citations omitted).

<sup>4</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724–725 & 727; *Z v Dental Complaints Assessment Committee*, above n 3, at [151].

<sup>5</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at [28].

<sup>6</sup> *Liston v Director of Proceedings* [2018] NZHC 2981 at [34], citing *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354 at [44]–[51] and *Katamat v Professional Conduct Committee* [2012] NZHC 1633, [2013] NZAR 320 at [49].

- (e) promotes consistency with penalties in similar cases;
- (f) reflects the seriousness of the misconduct;
- (g) is the least restrictive penalty appropriate in the circumstances; and
- (h) looked at overall, is the penalty which is fair, reasonable and proportionate in the circumstances.

## DISCUSSION

[20] The starting point is the seriousness of the complaint. I agree with Mr Perrott that the most serious head of complaint to be sanctioned by the Tribunal is the false information Ms Ortiz gave to the Immigration New Zealand and then attempting to procure a letter from the client to confirm this. While her criminal convictions can be regarded as more serious, she has already been punished by the Court, so the Tribunal cannot impose additional sanctions for that conduct.

[21] I also agree with Mr Perrott that the gravity of the complaint is such that Ms Ortiz should be censured. Her conduct in providing false information to Immigration New Zealand must be denounced. The agency depends on the competence and honesty of licensed advisers which provides an important assurance as to the accuracy of the information that it relies on.<sup>7</sup>

[22] As Ms Ortiz no longer has a licence and is prohibited from holding one in the future as a result of her convictions, it is not necessary to consider cancellation or preventing her from reapplying for a licence.<sup>8</sup>

[23] I accept that a financial penalty is appropriate, as Mr Perrott contends. The conduct of Ms Ortiz would ordinarily warrant a financial penalty in the upper range. Despite the failure of Ms Ortiz to file submissions, I will take into account the observation of the District Court on sentencing as to her financial circumstances. According to the Judge, she is of very limited means and has a low income while raising two children.<sup>9</sup> In light of her circumstances, I will direct a penalty of \$3,500.

---

<sup>7</sup> *Sparks v Immigration Advisers Complaints and Disciplinary Tribunal* [2017] NZHC 376 at [51] & [53].

<sup>8</sup> Immigration Advisers Licensing Act 2007, s 15(1)(c).

<sup>9</sup> *R v Ortiz* [2019] NZDC 9407 at [6].

**OUTCOME**

[24] Ms Ortiz is:

- (1) censured; and
- (2) ordered to immediately pay to the Registrar a financial penalty of \$3,500.

---

D J Plunkett  
Chair