

SUMMARY OF DECISION

AGENT	Hari Pokharel
COMPLAINT NUMBERS	CMP-40906, CMP-41887, CMP-42206 and CMP-53497
DECISION	Cancellation
DATE OF DECISION	13 March 2025

Background

Registered Migration Agent (RMA), Mr Hari Pokharel (the Agent), was first registered as a migration agent on 6 May 2015 and was allocated the Migration Agents Registration Number (MARN) 1571651.

The Office of the Migration Agents Registration Authority (the Authority) received four complaints about the Agent's conduct as an RMA from former clients between 4 December 2018 and 15 June 2020.

The Authority's Investigation

On 4 December 2018, the Agent's former client alleged that the Agent:

- Offered to arrange the client's visa sponsorship through a close friend of the Agent.
- Did not inform the client that the sponsoring employer had withdrawn its Regional Sponsored Migration Scheme (RSMS) nomination.
- Did not issue an Agreement for Services and Fees to the client.
- Did not provide a refund to the client as agreed.

On 27 January 2019, a second former client alleged that the Agent:

- Offered to arrange the client's visa sponsorship through an employer known to the Agent.
- Held client money in a personal bank account.
- Did not inform the client that the sponsoring employer had withdrawn its Regional Sponsored Migration Scheme (RSMS) nomination in a timely manner.
- Did not issue an Agreement for Services and Fees, invoices or receipts to the client.
- Created a fraudulent Agreement for Services and Fees and forged the client's signature.
- Did not provide a refund to the client as agreed.

On 10 February 2019, a third former client alleged that the Agent:

- Provided his services through two commissioned intermediaries, which resulted in the client losing a large amount of money.
- Did not issue an Agreement for Services and Fees, invoices or receipts to the client.

- Only informed the client that the sponsoring employer had withdrawn its Regional Sponsored Migration Scheme (RSMS) nomination after the client's visa application had been refused.
- Advised the client that they could appeal the Department's decision to refuse the visa application, even though the appeal had no prospects of success.
- Created a fraudulent Agreement for Services and Fees and forged the client's signature.

On 15 June 2020, a fourth former client alleged that the Agent:

- Offered to arrange the client's visa sponsorship through a restaurant owned by the Agent's friend.
- Did not issue an Agreement for Services and Fees, invoices or receipts to the client.
- Advised the client that even though he was applying for a visa under the Regional Sponsored Migration Scheme, he did not need to work for the sponsoring employer in a Regional location.
- Continuously sought money from the client but failed to lodge a visa application on the client's behalf.
- Threatened to file a court case against the client if they ever spoke to anyone about their financial arrangement.
- Withheld a portion of the client's tax refund in the Agent's capacity as a registered tax agent.
- Used the company's EFTPOS machine to make false transactions.
- Pressured the client to sign a loan agreement and a statutory declaration in September 2019, designed to deflect blame for the Agent's part in the alleged payment for visa sponsorship arrangement.

Findings

In reaching the finding of facts, the Authority considered the following evidence:

- Information held by the Authority in relation to the Agent.
- Records held by the Department.
- The Agent's submissions and supporting documents provided to the Authority in response to the section 305C, 308 and 309 notices.

Having considered the information before the Authority, it was found that the Agent had:

- Been involved in an arrangement where payment was exchanged for a sponsorship related event and in doing so failed to act in accordance with the law (being section 245AR of the Act).
- Failed to act in the legitimate interests of clients and to deal with clients competently, diligently and fairly.
- Failed to have due regard to a client's dependence on the agent's knowledge and experience.
- Held out unsubstantiated or unjustified prospects of success when advising clients in relation to a merits review application.
- Failed to keep clients fully informed in writing on the progress of their application.

- Made statements in support of applications, or encouraged the making of statements, which he knew or believed to be misleading and/or inaccurate.
- Exerted undue pressure on clients.
- Failed to take all reasonable steps to maintain the reputation and integrity of the migration advice profession.
- Failed to comply with his confidentiality obligations.
- Failed to give clients written confirmation (in an Agreement for Services and Fees) of the services to be performed.
- Carried out work in a manner that unnecessarily increased the cost to a client.
- Failed to comply with client monies handling obligations.
- Engaged in conduct in breach of their obligations under:
 - The former Code of Conduct for RMAs (the former Code) being Schedule 2 to the *Migration Agents Regulations 1998* (the Agents Regulations) as in force prior to 1 March 2022.
- Is not a person of integrity or otherwise a fit and proper person to provide immigration assistance as per paragraph 303(1)(f) of the Act.

Decision

On 13 March 2025, the Authority decided to cancel the Agents' registration as a migration agent under subparagraph 303(1)(a) of the Act.

The Authority was satisfied for the purposes of subparagraphs 303(1)(f) and (h) that:

- the Agent is not a person of integrity, or is otherwise not a fit and proper person to give immigration assistance.
- the Agent has not complied with clauses 2.1, 2.4, 2.7(c), 2.8, 2.9, 2.9A, 2.15, 2.23, 3.1, 3.2, 5.2, 5.3 and 7.2 of the former Code.

In accordance with section 292 of the Act, an agent who has had their registration cancelled must not be registered within five years of the cancellation.

Accordingly, this cancellation will be in effect for a period of five years from 13 March 2025.