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DECISION RECORD

AGENT	Jackie Lyon
COMPLAINT NUMBERS	1. CAS-19710-S8V0 2. CAS-20235-M3Q0 3. CAS-20374-Q7S7 4. CAS-20629-G5V9
DECISION	Barring for 5 years
DATE OF DECISION	18 June 2024
TERMS USED FOR REFERENCE	Refer Appendix A
ATTACHMENTS TO THIS DECISION	Refer Appendix B

Jurisdiction

1. The Office of the Migration Agents Registration Authority (the Authority) performs the functions prescribed under section 316 of the *Migration Act 1958* (the Act).
2. The functions and powers of the Authority under Part 3 of the Act and *Migration Agents Regulations 1998* (the Agents Regulations) may only be exercised by the Minister or by a delegate of the Minister. The Minister has delegated the powers under Part 3 of the Act and the Agents Regulations to officers of the Authority. I am delegated under the relevant Instrument to make this decision.

Relevant Legislation

3. The functions of the Authority under the Act include:
 - to investigate complaints in relation to the provision of immigration assistance by registered migration agents (paragraph 316(1)(c)); and
 - to take appropriate disciplinary action against registered migration agents or former registered migration agents (paragraph 316(1)(d)); and

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- In performing its function under paragraph 316(1)(c), the Authority may start, or complete, an investigation of a complaint about a person at a time when he or she is no longer a registered migration agent (paragraph 316(1A)).
4. Section 311A(1) of the Act provides that the Authority may decide to bar a former registered migration agent from being a registered migration agent for a period, if after investigating a complaint about him or her in relation to his or her provision of immigration assistance while he or she was a registered migration agent, it is satisfied that the subject matter of the complaint is made out.

AGENT BACKGROUND

Agent Registration

5. The Former Agent was first registered as a migration agent on 24 September 2004 and was allocated the migration agent registration number (MARN) 0401336. The Former Agent's registration had been renewed annually from this date until 26 November 2007. Repeat registration applications were then lodged on the following dates:

Application lodged	Date approved
17 November 2009 (late repeat)	16 February 2010
11 February 2011	25 February 2011
12 February 2013 (late repeat)	27 February 2013
2 February 2015 (late repeat)	18 February 2015

6. The Former Agent returned to lodging annual repeat applications from 17 February 2016 to 9 February 2023.
7. The Former Agent's registration lapsed on 17 February 2024¹ and it has not been renewed to date.
8. The Register lists the Former Agent's most recent business relationship with One Stop Sydney Pty Ltd (OSS) with an Australian Business Number (ABN) of 91638507865. The Register also lists the Former Agent having prior business relationships with the following businesses:

Business Name	ABN	Role	Start Date	End Date
Sliic Australia Pty Ltd	32608398296	Employee	05/02/2018	17/02/2021
AVCS Pty Ltd	69165089421	Consultant	18/02/2015	06/02/2018
Australian Visa Consultation Service	35337156029	Consultant	05/02/2014	18/02/2015
The University of Sydney	15211513464	Employee	26/11/2013	05/02/2014

¹ The Former Agent was advised of this by email from the Authority on 18 February 2024.

Prior disciplinary action

9. No disciplinary action has previously been taken against the Agent.

BACKGROUND

Allegations – the Authority’s investigation

10. The Authority received four complaints about the Former Agent’s conduct as a registered migration agent (RMA) from:
- The Department of Home Affairs (the Department) on 1 September 2023 (CAS-19710-S8V0)
 - Mr W on 9 October 2023 (CAS-20235-M3Q0)
 - Mr D on 16 October 2023 (CAS-20374-Q7S7)
 - Mr M on 30 December 2023 (CAS-20629-G5V9)
11. The complaints about the Former Agent were in relation to her provision of immigration assistance within the meaning of section 276 of the Act.
12. The allegations about the Former Agent’s conduct as an RMA forming the subject matter of the complaints are that she:
- Added unknown secondary applicants to visa applications without her clients’ (the primary applicants) knowledge or consent, and attempted to conceal this from the primary applicants for as long as possible;
 - Significantly deviated in what she submitted to the Department from what was discussed/agreed between the Former Agent and the primary applicants regarding their visa applications;
 - Submitted false personal information to the Department on visa applications regarding relationship status, employment and residential address details for the primary applicants, and bogus documents in order to support false relationships.
13. The Authority reviewed visa applications submitted to the Department by the Former Agent and identified concerns in respect to the Former Agent’s conduct.
14. The review commenced with a focus on the four Employer Nominated Scheme (ENS) (subclass 186) visa applications related to complaints CAS-19710-S8V0, CAS-20235-M3Q0, CAS-20374-Q7S7 and CAS-20629-G5V9 and extended to a further subclass 186 visa application and two associated Temporary Skilled Shortage (TSS) (subclass 482) Subsequent Entrant visa applications.
15. Based on a review of records held by the Department, the Authority identified five visa applications for which it found that the Former Agent added a secondary applicant to a visa application without the primary applicant’s knowledge and provided false or misleading statements and documents throughout the application and assessment process. The details of these applications are listed in the following table.

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16. In addition, two further visa applications were identified where it was alleged that the Former Agent lodged two TSS (subclass 482) Subsequent Entrant visa applications and included the associated substantive visa holder without their permission or consent, and provided false or misleading statements and documents throughout the application and assessment process. The Former Agent was the RMA declared for these cases for which the former Code is relevant. The details of these applications are listed in the following table:

Case	Main applicant	Lodgement date	Visa subclass	TRN
1	Ms P	31/12/2019	186	EGOOFZEMQW
2	Mr P	11/11/2022	186	EGOSQ4DVVB
3	Mr W	27/06/2022	186	EGOS9R9DB0
4	Mr D	22/11/2022	186	EGOVC55PS9
5	Mr M	16/06/2022	186	EGOSJ0J3KL
6	Mr M (associated substantive visa holder)	30/11/2020	482	EGOQI0VPJD
7	Ms P (associated substantive visa holder)	04/07/2019	482	EGOMLRUEGS

Submissions to the Department

17. A review of information before the Authority showed that submissions were provided to the Department and/or the Authority by each of the five main visa applicants listed above. Each applicant stated that a secondary applicant was included in their visa application without their knowledge. Details of these submissions are listed below.

Ms P (Case 1)

18. Ms P provided a Statutory Declaration to the Department, dated 11 January 2023. In this, she stated that she recently consulted with another RMA and discovered an unknown secondary applicant, Ms F, had been included on her subclass 186 visa application. She stated that she did not know this person or why they were listed on her application and believes the Former Agent 'cheated' her.
19. On 11 January 2023, Ms P provided a *Form 1023 Notification of incorrect answer(s)* to the Department stating that the *de facto* relationship with the secondary applicant was incorrect information. Ms P stated that she only found out about the secondary applicant after contacting a new RMA to assist her. She confirmed that her marital status was never married/single and she does not know Ms F.
20. Departmental records confirm that one day later, on 12 January 2023, Ms P submitted a *Form 956A Appointment or withdrawal of an authorised recipient* withdrawing the Former Agent's appointment as her RMA.

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Mr P (Case 2)

21. Mr P provided a statement to the Department, dated 12 February 2023 claiming that:

- There was significant deviation between what was discussed with the Former Agent and what was provided to the Department on his behalf.
- The Former Agent's services were to include making a skills assessment application. Evidence provided by Mr P, suggests the Former Agent's knowledge of this, however Mr P became aware, after talking to the Former Agent on the phone, that she had not lodged a skills assessment application.
- In January 2023, he logged in online to check the status of his application. During this process he found that his application had been lodged. He checked the invoice attached and became aware that an unauthorised individual had been added as a secondary applicant.
- He provided a *Form 80* to the Former Agent's business, OSS, with details of his genuine *de facto* partner (an Australian citizen).
- His personal information such as contact number and home address were listed as the '*unauthorised individual's*' contact details.
- He called the Former Agent and she responded, 'trying to explain that OSS had outsourced / hired in help with visa submissions and using OSS's company credentials.'
- The Former Agent offered to repay him \$2000 and waive the remaining third payment of \$6574.50.

22. Departmental records, specifically phone calls made by Mr P to the Department on 23 January 2023 and 13 February 2023, support the claims made with regards to an incorrect/unknown secondary applicant being added to his subclass 186 visa application.

Mr W (Case 3)

23. Mr W provided a Statutory Declaration to the Authority dated 6 October 2023 stating that he had no knowledge of the addition of a secondary applicant, Mr B, to his subclass 186 visa application. He further stated that he did not know the secondary applicant and had never lived in Burwood with the secondary applicant.

24. Departmental records, specifically a phone call made by Mr W to the Department on 3 October 2023, and a *Form 1022 Notification of a change in circumstances*, lodged on the same day, support his claims regarding incorrect information provided by the Former Agent on his subclass 186 visa application.

25. Mr W ended the Former Agent's appointment as his RMA on 1 October 2023.

Mr D (Case 4)

26. Mr D provided a declaration to the Authority on 23 November 2023. In his declaration he stated that he had no knowledge of the addition of a secondary applicant, Mr H, to his subclass 186 visa application. Further he stated he had never been in a *de facto* relationship, did not know the person, and never lived in Waterloo with them. He stated that he became aware of the secondary applicant after being informed by a colleague that the same had happened to him.

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27. Departmental records, specifically a phone call made by Mr D to the Department on 3 October 2023 and a *Form 1023 Notification of incorrect answer(s)*, signed 16 October 2023, support his claims regarding incorrect information provided by the Former Agent on his subclass 186 visa application. On the *Form 1023*, he further stated there was incorrect information provided regarding his employment details, specifically dates of his current employment and a former employer listed, HCM, who he has never worked for.
28. On 21 November 2023, the Department notified the Former Agent of the refusal of Mr H's subclass 186 visa application due to providing false and/or misleading information on the application with regards to his claimed relationship with the primary applicant (Mr D).

Mr M (Case 5)

29. Mr M provided a Statutory Declaration to the Authority dated 26 November 2023. In his declaration, he stated that he contacted the Former Agent following a phone call he received from the Department asking questions about his visa application and relationship status. He said that the Former Agent's advice was to not answer any further questions if '*Immigration*' called again which made him suspicious.
30. Mr M further stated that on 23 October 2023 he accessed his visa application online and discovered that a secondary applicant, Ms Y, had been included whom he had never heard of, as well as forged documents claiming he was in a *de facto* relationship, and false address details.
31. Departmental records support the timeline of events stated by Mr M, specifically a phone call he made to the Department on 26 October 2023, his submission of a *Form 956A Appointment or withdrawal of an authorised recipient* ending the Former Agent's appointment as his RMA on 30 October 2023 and his submission of a *Form 1023 Notification of incorrect answer(s)* on 14 January 2024. In this form he vehemently denies knowing Ms Y and provides detail of his actual relationship with a French National which started in May 2021, before the lodgement of his 186 visa application.
32. In Cases 2 and 3, the complainants alleged that the Former Agent acknowledged her actions. In Case 2, Mr P claims that the Former Agent offered to repay a fee paid and waive the remaining fee. In Case 3, Mr W claims that the Former Agent refunded money and indicated she would refund further fees already paid. These claims indicate that the Former Agent was aware of her actions.

Departmental checks

33. A review of the applications listed in Cases 6 and 7 further indicated a systemic practice of providing incorrect information and fraudulent documents on visa applications, and in turn circumventing migration law to secure visa outcomes for clients.

Mr M (Case 6)

34. On 7 May 2018, the Former Agent represented Mr M for a subclass 482 visa application, this visa was granted on 29 June 2018. On 30 November 2020 the Former Agent represented Ms Y on an application to add her to Mr M's aforementioned subclass 482 visa as a dependant.
35. A review of this application showed that one of Mr M's previous residential addresses was used by Ms Y as her own. Other documents were provided with this application including:
 - REST Superannuation statement, undated, with Mr M listed as the beneficiary;

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- Utilities (gas and electricity) plan document, undated, which lists Ms Y as the primary account holder and Mr M as the 'additional account holder';
 - BUPA health insurance statement, dated 8 December 2020, with Ms Y and Mr M both listed as 'covered';
 - Statement of relationship, dated 21 January 2021, signed by Ms Y only;
 - ING Interim bank statement, start date 25 January 2021 which listed Ms Y and Mr M. Ms Y transferred money into the account on 27 January 2021;
 - AAMI certificate of insurance, dated 27 January 2021, which listed Ms Y and Mr M;
 - Letter of support from 'head tenant', dated 27 January 2021, stating Ms Y and Mr M were his 'sub-tenants'.
36. Enquiries made through a phone interview conducted with Mr M on 29 September 2023, confirmed that Mr M's understanding was that he was the sole applicant on the subclass 482 visa application with no dependants added. Further, as stated in paragraph 31 above, Mr M vehemently denied knowing Ms Y.
37. This strongly suggested that the Former Agent added Ms Y to Mr M's subclass 482 without his knowledge or permission, and to achieve this the Former Agent provided false information on the visa application along with a large volume of bogus documents to the Department. It appeared that the Former Agent attempted to fabricate their relationship status in order to secure a visa outcome for Ms Y. It further suggested a considered, longer term strategy to secure permanent residence for Ms Y noting she was added to Mr M's subsequent subclass 186 visa application as a dependent (Case 5).

Ms P (Case 7)

38. On 7 April 2016, the Former Agent represented Ms P for a Temporary Work (Skilled) visa (subclass 457) application which was granted on 18 October 2016. The subclass 457 visa was replaced by the Temporary Skilled Shortage (subclass 482) visa in March 2018. On 4 July 2019 the Former Agent represented Ms F on a subclass 482 application to add her to Ms P's visa as a dependant.
39. A review of this visa application and its supporting documents had taken place. On 8 March 2024 an officer of the Authority conducted checks on the sponsorship obligation letter provided in support of the subclass 482 application. Contact was made with the sponsor who purportedly wrote and signed the letter of support. A copy of the letter was sent to the sponsor, who confirmed by reply email on 8 March 2024, that they had never seen the letter before, had never signed the letter and they were unaware that Ms. P had a partner. It was alleged that the Former Agent provided a fraudulent sponsorship obligation letter to support Ms F's application.
40. The documents provided in support of this application with regards to evidence of a relationship between the two parties were two hand written rent receipts, a birthday party invitation and a travel Itinerary/ticket.
41. Given Ms P stated she had no knowledge of Ms F (refer to Case 1), and the finding of a bogus sponsorship obligation letter as outlined in paragraph 39, it is found that the documents listed in paragraph 40 were bogus. This strongly suggested that the Former Agent added Ms F to Ms P's subclass 482 visa without her knowledge or permission, and to achieve this the Former Agent provided false information on the visa application and provided bogus documents to the Department. It appeared that the Former Agent attempted to fabricate their relationship status in

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order to secure a visa outcome for Ms F. It further suggests a considered, longer term strategy to secure permanent residence for Ms F noting she was added to Ms P's subsequent subclass 186 visa application as a dependent (refer to Case 1).

Notice pursuant to section 311D (1) of the Act (section 311D Notice)

42. On 3 April 2024, the Authority sent a section 311D Notice² to the Former Agent advising that the Authority was considering barring her from being a RMA for a period of up to five years pursuant to section 311A in Division 4A of Part 3 of the Act.
43. The Former Agent was advised in the notice that section 311D(3) of the Act, that if a response was not received by the due date, within 28 days of the notice being given, the Authority may decide the matter on the information before it.
44. On 30 April 2024, the Former Agent sent the Authority an email advising that due to her current mental health situation, she was unable to respond to the notice. The Former Agent did not provide any evidence to support this and no further information has been received by the Authority in relation to the section 311D Notice.

Evidence and other material

45. In reaching the findings discussed in this decision record, the Authority has considered the following evidence:
 - Documents contained in the Authority's complaint files CAS-19710-S8V0, CAS-20235-M3Q0, CAS-20374-Q7S7 and CAS-20629-G5V9;
 - Information held on Departmental records in relation to the matters raised in the complaints;
 - Information held by the Authority in relation to the Former Agent.

Findings on material questions of fact

46. Having regard to the relevant evidence before the Authority, I am satisfied that:
 - (a) the subject matter of the complaints made by the Department, Mr W, Mr D and Mr M has been made out; and
 - (b) while registered, the Former Agent failed to comply with her obligations under the former Code³ and the current Code⁴.
47. My findings and full reasons for my decision are set out below.

Provision of Immigration Assistance

48. The Former Agent has never disputed that Mr P (associated with the Department's complaint), Mr W, Mr D and Mr M were her clients and she provided immigration assistance to each individual when she was an RMA. As such I find that the complaints from the Department, Mr W, Mr D and

² Attachment A – Section 311D Notice

³ Attachment B - The former Code of Conduct for registered migration agents being Schedule 2 to the *Migration Agents Regulations 1998*, as in force prior to 1 March 2022

⁴ Attachment C - The Code of Conduct for registered migration agents being Schedule 2 to the *Migration Agents Regulations 1998*, as in force from 1 March 2022

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Mr M relate to the Former Agent's provision of immigration assistance as defined in section 276 of the Act.

The subject matter of the complaint

Duty not to make false or misleading statements

49. The Authority alleged that the Former Agent added secondary visa applicants to five subclass 186 visa applications and two TSS subclass 482 visa applications without the primary applicant's knowledge, and in doing so she provided false and misleading information. The Authority also alleged that the Former Agent provided the Department with documents that she knew to be false and misleading contrary to Sections 15 and 20 of the current Code for applications lodged after 1 March 2022 and clause 2.9 of the former Code for applications lodged prior to this date.

Failure in duty not to undermine the migration law

50. The Authority alleged that the Former Agent knowingly submitted applications and supporting evidence to the Department which contained false and misleading information. This practice served to undermine and defeat the integrity of the migration law in order to obtain a benefit to the secondary applicants referred to in Cases 1 to 7, namely substantive visa outcomes and/or Australian permanent residency, as well as a potential financial benefit to the Former Agent.

51. The Authority alleged that there appeared to be an established pattern of intentional fraud and deception where the Former Agent fabricated relationships with the specific goal of achieving migration outcomes for secondary applicants. In doing so, the Former Agent was alleged to have undertaken specific actions to circumvent the migration law.

52. In acting in a way that was intended to defeat the purpose of the migration law, for the purpose of obtaining a benefit or advantage for the Former Agent a client of hers or any other person, the Authority alleged that the Former Agent breached the requirements of Section 18 of the current Code for applications lodged after 1 March 2022 and clause 2.1 of the former Code for applications lodged prior to this date.

Failure to meet general duties

53. The information provided by the applicants in their submissions to the Department and/or the Authority, alongside information and evidence gathered through the Authority's investigation, including phone interviews, shows that the Former Agent did not act in the legitimate interests of her clients and that she did not act in accordance with their instructions.

54. Each of the primary visa applicant's claim that they did not know that a secondary applicant was added to their visa application. Each expressed frustration and surprise after becoming aware of the Former Agent's actions, which appear to have been deliberately concealed by the Former Agent. Each primary visa applicant has taken steps to correct their personal information and rectify her wrongdoing. This demonstrates the Former Agent failed to act in the legitimate interests of her clients, in accordance with her client's instructions and in accordance with the relevant service agreement, as such the Authority alleged the Former Agent had breached Section 33(a) of the current Code for applications lodged after 1 March 2022 and clauses 2.1 and 2.8 of the former Code for applications lodged prior to this date.

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Failure to meet general duty to act professionally, ethically etc.

55. The Former Agent lodged each application, and lodged applications which contained false and misleading information contrary to the main applicants' instructions and expectations. The evidence available shows that the Former Agent operated in a way that circumvented normal processes and brings into question her general duty to act professionally and ethically. Further, it is a criminal offence under section 234 of the Act to knowingly make or cause to be made a statement that is false or misleading in a material particular in connection with a visa application. This offence carries a penalty of imprisonment for 10 years or 1000 penalty units, or both.
56. The Authority alleged that the Former Agent failed to act professionally, competently, diligently and ethically, honestly and with integrity as per Section 13(1) of the current Code for applications lodged after 1 March 2022 and clause 2.1 of the former Code for applications lodged prior to this date.
57. In addition, the Authority alleged that the Former Agent engaged in conduct (whether in her capacity as a migration agent or in any other capacity) that is reasonably likely to damage the reputation of migration agents or the immigration advice industry thereby failing to meet Section 13(2) of the current Code for applications lodged after 1 March 2022 and clause 2.23 of the former Code for applications lodged prior to this date.
58. The actions of the Former Agent demonstrates her lack of professionalism and integrity. Such conduct indicates a disregard for the reputation of the migration advice profession, and a disregard for her obligations under the Code.

Findings

59. The Former Agent has not denied any of the allegations included in the section 311D Notice, nor did she provide any submissions in relation to these matters. In the absence of any evidence from the Former Agent to the contrary, I am satisfied that the subject matter of the complaints has been made out.
60. Accordingly, I am satisfied that the Former Agent has breached her obligations under sections **13(1), 13(2), 15, 18, 20** and **33(a)** of the Code and clauses **2.1, 2.8, 2.9** and **2.23** of the former Code whilst she was an RMA.

CONSIDERATION OF WHETHER OR NOT TO BAR THE FORMER AGENT

61. In reaching my conclusion with respect to being satisfied that the subject matter of the complaint is made out, I have considered the strength of the evidence and the level of satisfaction required in accordance with the grave and serious consequences for the person who is the subject of the decision in terms of his or her livelihood and reputation.
62. In deciding whether or not to bar the Former Agent under to subsection 311A(1) of the Act, I have taken into account all of the circumstances of the complaints, including the following.

Seriousness of behaviour

63. In reaching a decision that a barring sanction under subsection 311A(1) of the Act is appropriate in this case, I have taken the following factors into account.

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64. As a RMA, the Former Agent was obligated under the Code and former Code to possess and maintain a high standard of conduct in order to maintain the reputation and integrity of the migration advice profession.
65. The Former Agent has demonstrated behaviour of a serious nature, which was intended to defeat the purpose of the migration law and which was not in the in the legitimate interests of her clients, causing them unnecessary stress, cost and delay.
66. I am satisfied that the Former Agent has acted with a significant degree of indifference towards her clients, the Authority and her obligations as a member of the migration advice profession. I am further satisfied that if the Former Agent were to be registered again, vulnerable consumers would be subject to her unprofessional conduct.
67. I consider that the Former Agent's behaviour:
- Has resulted in emotional stress, additional expense and delay to her clients through additional costs of engaging another RMA and in one case, lodgement of a new visa application;
 - Has breached multiple clauses of the former Code and current Code, indicating systemic poor practices;
 - Has shown blatant disregard or significant degree of indifference to her professional responsibilities, the law, her clients, and the Authority; and
 - Has, or is likely to have an adverse impact on, or undermine the reputation of the migration advice profession.
68. Applying these factors, I have determined that a barring decision is appropriate as the Former Agent has engaged in conduct that has resulted in her showing no regard for her clients' interests or instructions and providing false and misleading information and documents on their visa applications, causing unnecessary mental stress and financial loss for her clients as they had no awareness of the secondary applicant being included on their applications. Moreover her conduct demonstrated a systemic practice of attempting to circumvent migration law to secure visa outcomes/ permanent residence for her clients who may not have otherwise been eligible for. I have also found that the Former Agent, while registered, breached multiple clauses of the Code on at least seven occasions in relation to the four complainants.

Aggravating Factors

69. I consider the Former Agent's conduct falls well below the standard expected of a RMA, particularly her apparent indifference towards her obligations to her clients and the Department, as well as her blatant dishonesty. I find the following are aggravating factors that increase the severity of the sanction:
- The Former Agent added unknown secondary applicants to visa applications without her clients' (the primary applicants') knowledge or consent, and attempted to conceal this from the primary applicants for as long as possible;
 - The Former Agent significantly deviated in what she submitted to the Department from what was discussed/agreed between the primary applicants and herself regarding their visa applications;
 - The Former Agent submitted false personal information to the Department on visa applications regarding relationship status, employment and residential address details for the primary applicants, and bogus documents in order to support false relationships.

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- The Former Agent has demonstrated misconduct of a serious nature by failing to deal with her clients competently, diligently and fairly and failing to act in their best interests, in-line with their instructions, which resulted in the clients' emotional stress and financial loss.
- The Former Agent acted in a way which intended to defeat the purpose of migration law.
- The Former Agent has demonstrated a poor standard of immigration assistance for multiple clients which was contrary to the Former Agent's obligations when she was an RMA.

70. I am satisfied that the Former Agent's conduct has the potential to tarnish the reputation of the migration advice profession, and would be viewed by other RMAs within the profession as unacceptable.

71. I consider the Former Agent's conduct falls short of the standard expected of a RMA, and that the conduct poses a serious risk to migration consumers and to the integrity of the migration advice profession.

72. Given the aggravating factors considered, I am satisfied that the Former Agent would continue to display the same unprofessional and reckless conduct if she was registered as a migration agent, posing an ongoing risk to consumers.

Mitigating Factors

73. In respect to the section 311D Notice, the Former Agent replied to the email from the Authority advising that due to her current mental health situation, she was unable to respond to the notice. No evidence was attached to support her mental health claims.

74. The Former Agent has not provided a further response and has therefore not provided any mitigating factors for consideration.

75. Nonetheless I have taken into account that the Former Agent has not previously been the subject of a sanction or disciplinary action by the Authority. However, I am not satisfied that this mitigates the seriousness of the conduct which is the subject of this decision

76. I have also taken into account that barring the Former Agent may impact her financial earning capacity and livelihood. I note that the Former Agent did not seek to renew her registration when it expired on 17 February 2024, I am therefore satisfied that barring the Former Agent from future registration would not impact further on her livelihood.

Consumer Protection

77. Consumers of professional services of RMAs are often vulnerable and place a high degree of trust in their RMA. Consumers are therefore entitled to a high level of professional service from their RMA.

78. The behaviour demonstrated by the Former Agent falls short of the reasonably expected standards of a RMA. I consider that the Former Agent would pose a serious risk to consumers if she was registered as a migration agent. I am satisfied that if the Former Agent were to practice as a RMA, she would not demonstrate the requisite competency expected of a RMA. I consider that a disciplinary decision is warranted to address the conduct that is the subject of this decision, and in the interests of consumer protection.

79. I expect that a decision to sanction the Former Agent would more likely than not deter other RMAs from engaging in similar conduct and ensure that public confidence in the migration agent profession is maintained.

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DECISION

80. I have decided to bar the Former Agent from being registered as a migration agent for a period of five (5) years that starts when she is taken to have been given this Notice under section 332H of the Act and ends at the expiration of five years after this date.

Regards,

C. Bowden

C Bowden
Investigations Officer
Office of the Migration Agents Registration Authority (OMARA)
Department of Home Affairs

APPENDIX A: TERMS USED FOR REFERENCE

The following abbreviations may have been used in this decision:

ABN	Australian Business Number
AAT	The Administrative Appeals Tribunal
BVA/B/E	Bridging Visa A, B or E
MARN	Migration Agent Registration Number
Section 308 Notice	Notice issued by the Authority under section 308 of the Act
Section 309 Notice	Notice issued by the Authority under section 309 of the Act
The Act	The Migration Act 1958
The Regulations	Migration Agents Regulations 1998
The Authority	The Office of the Migration Agents Registration Authority
The Code	The Migration (Migration Agents Code of Conduct) Regulations 2021 prescribed for the purposes of subsection 314(1) of the Migration Act 1958
The Former Code	Code of Conduct prescribed for the purposes of subsection 314(1) of the <i>Migration Act 1958</i> by regulation 8 and Schedule 2 of the <i>Migration Agents Regulations 1998 – repealed on 1 March 2022</i>
The Department	The Department of Home Affairs
The Register	Register of migration agents kept under section 287 of the Act
VEVO	Visa Entitlement Verification Online

APPENDIX B: ATTACHMENTS TO THIS DECISION

A copy of the following documents has been attached to this decision:

- Attachment A: Section 311D Notice
- Attachment B: Former Code of Conduct
- Attachment C: Code of Conduct