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DECISION RECORD

AGENT	Li Lu KHOO
COMPLAINT NUMBER/S	CAS-19519-V2B8 and CAS-21889-G1S7
DECISION	Suspension - 18 months
DATE OF DECISION	15 August 2024
TERMS USED FOR REFERENCE	Refer to Appendix A

JURISDICTION

1. 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 RMA 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 RMA 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 (paragraph 316(1)(d)).
4. The Authority may decide to cancel the registration of a registered migration agent (RMA) by removing his or her name from the Register, or suspend his or her registration, or caution him or her under subsection 303(1), if it is satisfied that:
 - the RMA's application for registration was known by the RMA to be false or misleading in a material particular (paragraph 303(1)(d); or
 - the RMA becomes bankrupt (paragraph 303(1)(e); or
 - the RMA is not a person of integrity, or is otherwise not a fit and proper person to give immigration assistance (paragraph 303(1)(f); or

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- an individual related by employment to the RMA is not a person of integrity (paragraph 303(1)(g); or
 - the RMA has not complied with the Code prescribed under subsection 314(1) of the Act (paragraph 303(1)(h)).
5. Subsection 314(2) of the Act provides that a RMA must conduct himself or herself in accordance with the Code. The *Migration (Migration Agents Code of Conduct) Regulations 2021* made under the Act prescribes the Code.
6. The Code of Conduct for registered migration agents in force at the time of the conduct that is the subject of this decision was:
- *The Migration (Migration Agents Code of Conduct) Regulations 2021* is the prescribed Code of Conduct for the purposes of section 314(1) of the Act (the Code). The Code came into effect on 1 March 2022.

AGENT BACKGROUND

Agent Registration

7. The RMA was first registered as a migration agent on 2 May 2000 and was allocated the MARN 0001790. The RMA's registration had been renewed annually to date, with the most recent registration commencing on 13 May 2023.
8. The Register lists the RMA's current business name as AusAsia Migration Pty Ltd with the ABN 57097435311.

Prior disciplinary action

9. The RMA does not have a history of prior disciplinary action.

ALLEGATIONS

10. The Authority received two complaints from former clients about the RMA's conduct as a registered migration agent (RMA):
- On 27 August 2023 from Mr CWB (Mr CWB) allocated case number CAS-19519-V2B8; and
 - On 19 January 2024 from Mr TKN (Mr TKN) allocated case number CAS-21889-G1S7.
11. Following an investigation into the RMA's conduct, it is alleged that:

Case Number CAS-19519-V2B8 (Mr CWB)

- In March 2023, Mr CWB engaged the RMA's services to assist in the lodgement of a skilled migration visa application to be lodged with the Department of Home Affairs (the Department).

- On 27 March 2023, Mr CWB paid the first instalment of RM8500.00 to the RMA's account. On 2 April 2023, a second payment of RM510.00 was made to the RMA's account.
- On 6 July 2023, the RMA was provided with the documents required to commence the preparation and lodgement of a skills assessment on behalf of Mr CWB.
- During the months of July and August 2023, after the RMA had received payment and had been provided with the requested documents, she ceased communicating with Mr CWB and was uncontactable.
- The RMA failed to reply to queries from Mr CWB either at all or within a reasonable timeframe.
- The RMA failed to provide feedback on the documents that were provided to her which were necessary for his skills assessment.
- The RMA failed to lodge a skills assessment for Mr CWB despite being paid for this service.

Case Number CAS-21889-G1S7 (Mr TKN)

- In October 2022, Mr TKN engaged the RMA's services to assist in the lodgement of a skilled migration visa application to be lodged with the Department.
- On 25 November 2022, Mr TKN signed a service agreement and paid the first instalment of RM9328.00 to the RMA.
- On 25 November 2022, the RMA requested Mr TKN provide her various documents, outlined in an email with an attachment¹ for the preparation and lodgement of a skills assessment, which he later provided to her.
- On 27 November 2022, the RMA was provided with four employment reference letters, which would form part of the preparation for the skills assessment, drafted by Mr TKN for review. The RMA provided feedback for only one of the reference letters and not the other three letters.
- After the reference letters were provided to the RMA, she became uncontactable. Mr TKN attempted to contact the RMA on numerous occasions to which he was given a generic response from the RMA's administrative staff that she was unavailable or not responding to their requests.
- In late June 2023, Mr TKN made an unscheduled visit to the RMA's migration agency, where she verbally promised to provide him with a response to the reference letters by 15 July 2023.
- The RMA failed to provide feedback on the documents that were provided to her which were necessary for his skills assessment.

¹ Doc List - GSM 2020.doc

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- The RMA failed to lodge a skills assessment for Mr TKN despite being paid for this service.

Notice under section 308 of the Act

12. On 19 March 2024, a section 308 notice was sent to the RMA in which a summary of the allegations and supporting documentation were provided to her. The RMA's response to the notice was to be provided by 3 April 2024.
13. On 4 April 2024, the RMA emailed and requested an extension of two weeks in which to provide her response. On 15 April 2024, an extension until 18 April 2024 was granted to the RMA, to respond to the notice.
14. On 22 April 2024, a further extension of one week was provided to the RMA until 30 April 2024.
15. On 30 April 2024, the RMA emailed the Authority and advised that she would provide a response to the notice by the end of the day.
16. To date, the Authority has not received a response.

Notice under section 309 of the Act

17. On 9 July 2024, the Authority sent the RMA a Notice pursuant to section 309(2) of the Act, advising the RMA that it was considering cautioning her, or suspending or cancelling the RMA's registration under section 303(1) of the Act.
18. The RMA was notified that having regard to the information before the Authority, it was open to the delegate to be satisfied that she:
 - (a) had engaged in conduct that breached the RMA's obligations under sections 13, 15, 17, 20, 32, 33(c), 39, 40 and 45 as well as Division 5 of the Code.
 - (b) was 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.
19. Pursuant to section 309(2) of the Act, the Authority invited the RMA to provide written submissions on the matter.
20. To date, the Authority has not received a response.

DECISION: FINDINGS ON MATERIAL QUESTIONS OF FACT

21. In reaching the findings of fact discussed in this decision record, the Authority considered the following evidence:
 - Documentation contained in the Authority's complaint files for CAS-19519-V2B8 and CAS-21889-G1S7.
 - Information held by the Authority in relation to the RMA.
 - Records held by the Department.
22. Having considered the information before me, I am satisfied the RMA:

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- has engaged in conduct in breach of the RMAs obligations under **sections 13, 17, 32, 33(c), 39, 40 and 45** as well as **Division 5** of the Code.
- 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.

23. My findings and full reasons for the decision are set out below.

THE AUTHORITY'S INVESTIGATION

Failure to respond to requests from the Authority

24. On 19 March 2024, the Authority issued the RMA with a notice in accordance with section 308 of the Act. The notice required the RMA to answer questions in relation to the complaint allegations and to provide her answers by way of statutory declaration by 3 April 2024. The RMA was also required to provide client files to the Authority.
25. On 4 April 2024, the RMA emailed the Authority and sought an extension of two weeks to provide her response to the notice. The RMA advised that due [removed for privacy]. The RMA stated, '[removed for privacy]'.
26. On 15 April 2024, the delegate emailed the RMA and advised that the RMA's request for an extension was granted and she was required to provide a response to the notice no later than 18 April 2024.
27. On 22 April 2024, after the RMA failed to respond to the notice, the delegate emailed the RMA and granted her a further week in which to provide her response, by 29 April 2024.
28. On 30 April 2024, the RMA emailed the delegate and advised that due [removed for privacy] the week prior, she was unable to have her statutory declaration response witnessed in person however she would do so and have it sent by the end of day.
29. To date the Authority has not received the RMA's statutory declaration response to the section 308 notice or the client files, as requested.
30. RMA's are required under section 308 of the Act to provide information or documents that are requested by the Authority. Further, they are not excused from giving information or documents because the provision of such may incriminate them.² By failing to comply with a section 308 notice, a RMA not only acts contrary to the Code and the migration law, but undermines the purpose and intent of the migration agents' regulatory scheme.
31. RMAs have a duty under the Code to provide the Authority with requested information and documents including that requested under section 308 of the Act. As the RMA has not responded to the section 308 notice, I find that the RMA has failed to meet her duty under **section 17** and **section 32** of the Code.

² Refer section 308(1) and section 308(3) of the Migration Act 1958

Formal Warning issued by the Authority (the warning notice)

32. A review of the RMA's complaints history reveals that on 19 February 2018 the Authority warned the RMA about her conduct as a RMA. The nature of this conduct related to the RMA failing to respond to requests for information by the Authority and not completing work which she was contracted to undertake.
33. The Authority made recommendations to the RMA to address the conduct that was the subject of the warning notice. The Authority advised the RMA to ensure that her dealings with clients, complied with the obligations as outlined in the Code. The warning notice specifically recommended that the RMA:
- Ensure that where she will be unavailable, such as travelling overseas or on road shows that arrangements are in place where clients are informed on their options during the RMA's absence. Such may extend to transferring a case to another migration agent, with the agreement of the clients, in exceptional circumstances and in the event that she could not assist them.
 - Consider incorporating an automated response to ensure that clients³ are aware that an email has received by the RMA's office and additionally an estimated length of time for a response to be provided.
 - Ensure that the roles of employees are clearly explained to clients; that they are there to assist the RMA with administrative tasks and not provide immigration advice to clients.
 - When identifying possible visa pathways for clients, ensuring that the RMA provided accurate advice, based upon evidence provided to the RMA by complainants.
 - Provide a checklist, where appropriate, of potential documents required to undertake skills assessments to ensure clients are aware, as early as possible, of what documents need to be provided to apply for a skills assessment. Make firm decisions about suitable occupations so as to avoid protracted alternate that only one application has to be made.
 - Review communication mediums so as to ensure that the RMA was able to respond to, monitor, and record all significant communication exchanges with clients in a timely and efficient manner.
34. The warning notice outlined that should additional matters come to the attention of the Authority, which would indicate a pattern of behaviour, that the investigation may be taken in to account by the Authority.

³ In line with Part 4 of the former Code

35. In the section 308 notice issued to the RMA on 19 March 2024, the RMA was requested to provide evidence that the recommendations were implemented into her business practices, or if they had not been, to explain why and provide any supporting evidence. As the RMA has not responded to date, and given the discussion to follow in this Decision on the RMA's conduct, I find that the RMA did not implement the recommendations.

Failure to provide updates to clients on their matters

36. Both Mr CWB and Mr TKN have provided the Authority with correspondence they sent to the RMA in the form of either text or WhatsApp messages. I note that there are several days, weeks and even months before the RMA personally responded to their requests.
37. Mr CWB provided screenshots of WhatsApp conversations he had with the RMA. These messages show that Mr CWB contacted the RMA in July 2023 and provided reference letters for the RMA to review. Through WhatsApp, he follows up with the RMA on a weekly basis, asking if she had reviewed the documents and seeking that it be considered a priority as he did not wish to delay the process any longer.
38. Mr CWB contacted the RMA again in August 2023, on multiple occasions, seeking the same requests to which again the RMA did not reply. Mr CWB states in a WhatsApp message to the RMA on 11 August 2023:

*'Hi Ms Khoo, Another week is over and I have totally not heard back.
We can't afford to wait longer. The Migration Visa application process has delayed for reasons not due to us.*

Please let us know if you can't work on our case anymore. We are happy to get the refund of deposit. The poor service and lack of response is causing frustration.

If your team is still working keenly on our application, please kindly review the ref letters and documents. If there are changes required, please let us know.

I wish to see your reply by today'.

39. The RMA did not respond to this message.
40. Mr TKN as part of his complaint matter provided a number of screenshots of correspondence with the RMA's business/employees. There were multiple responses from the RMA's employees indicating that they had attempted to contact the RMA in relation to Mr TKN's requests. These messages stated:
- *'Sorry [name redacted] for the late, response had WhatsApp her but she didn't answer' (sic) – dated 18 May 2023.*
 - *'[name redacted], I tried to call Ms Khoo but she didn't answer. I have WhatsApp her as well, will follow up with her again and give you a reply once I manage to talk to her, thanks' (sic) – dated 2 June 2023.*
 - *'Will call her again later to check out this' – dated 12 June 2023.*
 - *'Called Ms Khoo but she didn't pick up my calls' – dated 14 June 2023.*

- *'Been WhatsApp her everyday and tried call her but cannot reached her this 2 days, can you also send her an WhatsApp, I will try to call her again'* (sic) – dated 16 June 2023.
- *'Ms Khoo not coming in this 2 weeks, and I tried to call her but she didn't pick up, I keep on have sending reminder regarding your references'* (sic) – dated 9 August 2023.
- *'Hi [name redacted], sorry for no update for your remaining ref letters, have keep on follow up with ms Khoo but she didn't revert back, call her just now but cannot reach'* (sic) – dated 11 September 2023.

41. To this last WhatsApp message Mr TKN responds *'... this can not be the repeated excuse. I've made full payment for your service. Please resolve this. When can I expect a reply? And What is the timeline?'*. The message was forwarded to the RMA from her employee. The RMA did not respond to this message.
42. Based on the above evidence, it appears that despite Mr CWB's and Mr TKN's multiple attempts to follow up with the RMA with regards to their ongoing matters, the RMA did not respond to them.
43. Furthermore, the evidence provided by Mr CWB and Mr TKN suggests that the RMA was also unresponsive to her employees' attempts to contact her in relation to these matters. There are many WhatsApp messages wherein the RMA's staff correspond with the complainants and advised them that they have forwarded their requests to the RMA and they are awaiting a response from the RMA or they are unable to get in contact with the RMA.
44. Clients are reliant on their migration agent to provide them with timely advice about their respective matters and for this reason migration agents are obliged to be contactable within business hours. Both Mr CWB and Mr TKN have alleged that the RMA was not contactable and that this had a negative impact on their respective migration matters.
45. Given the evidence before me, and no evidence to the contrary from the RMA, I find that the RMA has failed to provide her clients with updates pertaining to their matters and has failed to respond to their requests in either a timely manner or at all. I therefore find that the RMA has acted in contravention to **sections 33(c) and 39** of the Code.

Failure to complete work or services as per the agreement and cause unnecessary expense or delay

46. As a RMA, the RMA is expected to act in accordance with the law and the legitimate interests of her clients, and to deal with her clients competently, diligently and fairly. Clients generally engage the services of migration agents for the purpose of immigration assistance because they are dependent upon advice, knowledge and expertise of the migration agent.
47. In both the service agreements which the RMA provided to the complainants, it is noted at point 6 of page 2 that;
'Upon your payment of 1st instalment (sic), we shall start to collate, assess and prepare and lodge your documents to Skills Assessment body (Step 1). In the event that the Skills Assessment is approved, paragraph 8 onwards shall apply.'

48. As mentioned earlier in this notice, Mr CWB contacted the RMA in August 2023 and advised he was still waiting for a reply. Similarly, Mr TKN advised that he visited the RMA's office in person in January 2024 and the RMA advised that she would get back to him, however she did not respond to him. In their complaint matters, both Mr CWB and Mr TKN advised the Authority that the RMA failed to complete the Expression of Interest (EOI) and skills assessments for them as per their signed service agreements. The RMA has not provided any evidence that the RMA completed the EOI or skills assessment for Mr CWB or Mr TKN.
49. Furthermore, the complaints in their correspondence with the RMA and her office, express frustrations with the RMA's inaction and the delay this was causing them with their migration matters.
50. Given no evidence to the contrary from the RMA, I find that the RMA caused unnecessary delays and expenses to her clients and has failed to ensure that the work or services specified in the service agreements were completed. I therefore find that the RMA is in breach of **sections 40 and 45** of the Code.
51. Given all of the above discussed in this Decision, I also find that the RMA has failed to act professionally, competently, and with honesty and integrity as would be expected of a RMA. Therefore, I further find that the RMA's conduct is contrary to **section 13** of the Code.

Record keeping practices and client files

52. Since March 2024, numerous opportunities were provided to the RMA to submit her client files however she has failed to do so. I therefore conclude that the RMA does not hold such records and the RMA's actions are an attempt to withhold information.
53. Specifically, the RMA has provided no evidence to the Authority in relation to:
- the advice the RMA gave to her clients in relation to their immigration matters and potential visa pathways;
 - written confirmation of the RMA clients' instructions;
 - written confirmation of the relevant migration outcomes; and
 - any other written communication between the RMA and the RMA's clients.
54. Given no evidence from the RMA to the contrary, I find that the RMA has failed to maintain appropriate recording keeping and record management practices in line with the RMA's obligations and find the RMA in breach of **Division 5** of the Code.

Claims of [removed for privacy].

55. On 4 April 2024, in the RMA's email requesting an extension to the section 308 notice, the RMA stated to the Delegate that '[removed for privacy].' However the RMA did not provide any evidence to support this claim.
56. In the RMA's registration application submitted on 13 May 2024, in response to the question: *'Have you been involved in any event, inquiry or investigation, or any other matter, that is relevant to your role in providing immigration assistance which may be of interest to the OMARA when determining whether you are a person of integrity or a fit and proper person to provide immigration assistance?'*

The RMA answered 'Yes' and elaborated by stating:

'The nature of the complaint was about delayed reply by me (sic). The reason for the delay was due [removed for privacy] substantiated by [removed for privacy].' (sic).

57. A review of the RMA's registration application reveals that no [removed for privacy] was attached nor has one been provided to substantiate the RMAs claims. Therefore, it appears that the RMA is either [removed for privacy].
58. As the RMA has not provided any [removed for privacy] evidence to the Authority to support her claim that she has been [removed for privacy], I give little weight to this claim.

INTEGRITY, FITNESS AND PROPRIETY – SECTION 303(1)(F) OF THE ACT

Integrity

59. Pursuant to paragraph 303(1)(f) of the Act, the Authority may caution a RMA, or suspend or cancel their registration, if it becomes satisfied that the RMA is not a person of integrity or is otherwise not a fit and proper person to give immigration assistance.
60. There is a degree of overlap between 'fit and proper' and 'integrity' to the extent that fitness and propriety includes consideration of the honesty of the actions of an individual.
61. 'Integrity' means 'soundness of moral principle and character, uprightness and honesty'.⁴

Fitness and Propriety

62. Whether a person is a 'fit and proper person to give immigration assistance' is an enquiry which looks broadly at three factors – honesty, knowledge and competency.
63. In *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321, Toohey and Gaudron JJ indicated several factors that could be taken into account in determining whether a person was 'fit and proper.' These included, but were not limited to conduct, character and reputation. At 380 their Honours stated:
'[D]epending on the nature of the activities, the question may be whether improper conduct has occurred, whether it is likely to occur, whether it can be assumed that it will not occur, or whether the general community will have confidence that it will not occur. The list is not exhaustive but it does indicate that, in certain contexts, character (because it provides indication of likely future conduct) or reputation (because it provides indication of public perception as to likely future conduct) may be sufficient to ground a finding that a person is not fit and proper to undertake the activities in question.'
64. The formula 'fit and proper' (and 'person of integrity') must be construed in light of the particular legislative context at the registration scheme underpinning the migration advice profession.⁵

⁴ See *Re Peng and Department of Immigration and Multicultural Affairs* [1998] AATA 12 at paragraph [26].

⁵ See *Cunliffe v Commonwealth* (1994) 182 CLR 272

65. The context in which the reference to 'fit and proper' person occurs in section 303(1)(f) is the person's giving of immigration assistance. The context also includes:
- the Act, which creates offences for misleading statements and advertising, practicing when unregistered and misrepresenting a matter; and
 - section 290(2) of the Act, which provides that in considering whether it is satisfied that an applicant is not fit and proper or not a person of integrity, the Authority must take into account specified matters, including the person's knowledge of migration procedure; and any other matter relevant to the person's fitness to give immigration assistance.
 - the Code which refers to (among other matters) a registered migration agent acting diligently, ethically, honestly and with integrity, treating persons with appropriate respect, and properly managing and maintaining client records and maintaining client confidentiality.
66. Key elements of the fitness test are:
- the honesty of the person (*Peng and Department of Immigration and Multicultural Affairs* [1998] AATA 12); and
 - the person's knowledge of the migration scheme and ability to fulfill the position of a migration agent (*Mottaghi and Migration Agents Registration Authority* [2007] AATA 60).
67. The reference in section 303(1)(f) to a RMA not being a 'person of integrity' is not concerned with the person's knowledge of the migration scheme or ability as a migration agent, but is primarily concerned with a person's reputation, moral principle and character, including their honesty (*Tejani and Migration Agents Registration Authority* [2009] AATA 240).
68. Having regard to the body of case law cited above, a consideration of whether the RMA is a fit and proper person or a person of integrity to provide immigration assistance can legitimately include the following:
- that the RMA's past conduct can be an indicator of the likelihood of the improper conduct occurring in the future;
 - the RMA's honesty and competency towards clients, the Department and the Authority;
 - a consideration of the context in which the RMA works, for example whether or not the RMA is an employee or owner of the business through which immigration assistance is provided;
 - the RMA's knowledge and competency in immigration law and practice;
 - the reputation of the RMA as a result of their conduct and the public perception of that conduct; and
 - the perception of the conduct by the RMA's 'professional colleagues of good repute and competency'.
69. Having regard to the totality of the matters discussed within this decision, I am satisfied that the RMA has:
- Failed to be honest and frank with the Authority by failing to provide the information and documents prescribed in its statutory notices;

- Failed to provide updates to her clients and remain contactable as would be expected of a RMA;
 - Failed to complete work for which she was contracted and paid to complete;
 - Caused unnecessary expense or delay to her clients; and
 - Failed to maintain and keep adequate record keeping practices.
70. In consideration of the discussion on the RMA's conduct in this decision and my findings above, I am satisfied that the RMA is not a person of integrity and is otherwise not a fit and proper person to give immigration assistance.

CONSIDERATION OF APPROPRIATE DISCIPLINARY ACTION

71. In deciding to discipline the RMA under section 303 of the Act, I have taken into account all of the circumstances of the case, including the following:
- Whether the RMA's behaviour is of a minor or serious nature. Conduct that the Authority considers to be adverse, extremely serious and therefore likely to result in discipline at the higher end of the scale includes but is not limited to:
 - criminal behaviour;
 - fraudulent behaviour;
 - behaviour that demonstrates fundamental lack of knowledge of the law; or
 - involves a blatant disregard for or a significant degree of indifference to the law;
 - repeated occurrences of the conduct described in subsection 303(1) (d)-(h) and/or;
 - agent behaviour that has resulted in significant harm or substantial loss to clients.
 - Any aggravating factors that increase the RMA's culpability including but not limited to previous conduct.
 - Any mitigating factors that decrease the RMA's culpability including but not limited to evidence that the RMA's health has contributed to the RMA's culpability or where the RMA has undertaken steps to remedy the situation.

Seriousness of behaviour

72. In deciding to discipline the RMA under section 303 of the Act, I have taken into account all of the circumstances of the case, including the severity of the RMA's behaviour and any mitigating or aggravating circumstances which may exist. I have also considered:
- whether the behaviour in question could be the subject of rehabilitation;
 - the level of impact, if any, that a sanction would have on the RMA's livelihood;
 - the circumstances of the clients, including any vulnerability; and
 - any wider issues pertaining to consumer protection or the national interest.
73. Having regard to the matters before me, I consider that the RMA's adverse behaviour is of a serious nature because:

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- The RMA has failed to respond to a legal notice issued to her pursuant to section 308 of the Act, in doing so the RMA has demonstrated conduct which:
 - Is inconsistent with the qualities of honesty, morality and good character, which as discussed above are characteristics of an individual who is a person of integrity and fit and proper to give immigration assistance.
 - Involves a blatant disregard for, or a significant degree of indifference, to the law.
 - Is an attempt by the RMA to avoid responsibility for her conduct in respect to her clients' immigration matters by failing to respond to a statutory notice.
- The RMA's conduct demonstrates repeated breaches of the Code of Conduct.
- The RMA's conduct has had a detrimental impact on her clients, causing unnecessary delays, further expenses and anguish.

Aggravating factors

74. I consider the RMA's conduct falls short of the standard expected of a RMA.
75. The RMA hindered the investigation by withholding information and documents, inhibiting the Authority's investigation of the complaint matters against her and unnecessarily delaying the resolution of the complaints.
76. The RMA has attempted to distance herself from her personal responsibilities, as a RMA, and the obligations under the Code by failing to respond to the Authority's requests for information.

Mitigating Factors

77. The RMA has not provided any evidence of mitigating factors.
78. The RMA in her correspondence with the Authority has advised [removed for privacy]. However the RMA has not substantiated her claims with evidence. As such I have given little weight to this matter.
79. I have also considered the fact that the RMA has not previously been subject to a sanction or disciplinary action by the Authority. However, I am of the view that this alone does not mitigate the conduct, which is the subject of the Decision.
80. I accept that any disciplinary decision will have an impact on the RMA's future livelihood. However, I am of the view that any loss in earnings from the provision of immigration assistance is significantly outweighed by the public interest given the seriousness of the RMA's conduct in relation to the applications and the information submitted to the Department. I consider that the serious nature of the conduct reflects adversely on the RMA's integrity and on the RMA's fitness to remain in the migration advice industry.

Consumer Protection

81. Consumers of professional services of registered migration agents 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.

82. The behaviour demonstrated by the RMA falls short of the standards expected of RMAs. I consider that the RMA poses a risk not only to consumers but to the integrity of the Department's visa programs that are made available to visa product consumers. I am satisfied that if the RMA were to continue to practice as a RMA, the RMA would not demonstrate the requisite skills expected of a RMA. I therefore consider that a disciplinary decision is warranted to address the serious conduct the subject of this decision, in the interests of consumer protection, and in maintaining confidence the integrity of the Australian migration program.
83. I expect that a decision to sanction the RMA would more likely than not deter other RMAs from engaging in a similar practice and ensure that public confidence in the migration agent industry is maintained.

DECISION

84. I have turned my mind to the appropriate sanction action to impose on the RMA. I consider that the RMA requires a period of separation from the industry and have not imposed a caution for that reason. I am of the view that a suspension with conditions imposed on the RMA would maintain the interests of consumer protection and the migration program in general.
85. Following consideration of the information before me, I have decided to **suspend** the RMA from being registered as a migration agent from the date of this decision for a period of **18 months**, and until the RMA has met the below conditions.

Conditions

86. The conditions are to be completed within the period of suspension or no more than five (5) years from the date of suspension. The suspension cannot be lifted until all the conditions are met. Failure to meet the conditions within the specified timeframe may result in cancellation of the RMA's registration.
- (a) Evidence that the RMA has properly responded to the section 308 notice that was issued to her by the Authority:
- dated 19 March 2024
- (b) Evidence that the RMA has completed a total of 10 Continuing Professional Development (CPD) points for each 12 months that the suspension is in force. The CPD activities should cover:
- Ethics for Migration Agents;
 - Employer Nomination Scheme;
 - Record keeping; and
 - Client communications.
- (c) Evidence that the RMA has successfully completed the following private tuition sessions which are conducted by an individual or individuals approved by the Authority and who are accredited immigration law specialists:
- six hours of private tuition in relation to the current Code of Conduct;

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- three hours of private tuition in Ethics and Professional Practice; and
 - the RMA is not to accrue CPD points from this private tuition.
- (d) Evidence by way of a report from the Accredited Immigration Law Specialist or Specialists who provided the private tuition sessions indicating that:
- they were provided with a copy of this decision before the sessions were conducted; and
 - the RMA has successfully completed the relevant sessions.
- (e) A statutory declaration in Commonwealth form stating that the RMA has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

Ivana Buljubasic
Office of the Migration Agents Registration Authority
Department of Home Affairs

Date of Decision: 15 August 2024

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
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 <i>Migration Act 1958</i>
The Regulations	<i>Migration Agents Regulations 1998</i>
The RMA	<i>Ms Li Lu KHOO</i>
The Authority	The Office of the Migration Agents Registration Authority
The Code	The <i>Migration (Migration Agents Code of Conduct) Regulations 2021</i> prescribed for the purposes of subsection 314(1) of the <i>Migration Act 1958</i>
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</i> – repealed on 1 March 2022
The Department	The Department of Home Affairs
The Register	Register of migration agents kept under section 287 of the Act