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DECISION RECORD

AGENT	Barry Pike
COMPLAINT NUMBER	CAS-20677-K8D3
DECISION	Suspension two (2) years
DATE OF DECISION	10 December 2024
TERMS USED FOR REFERENCE	Refer Appendix A

JURISDICTION

1. The Migration Agents Registration Authority (the Authority) performs the functions set out in 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 (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 agent's application for registration was known by the agent to be false or misleading in a material particular (paragraph 303(1)(d); or
 - the agent becomes bankrupt (paragraph 303(1)(e); or
 - the agent 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 agent is not a person of integrity (paragraph 303(1)(g); or
 - the agent 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 an 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 RMAs in force at the time of the conduct that is the subject of this decision was:
- 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; and
 - 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 Agent was first registered as a migration agent on 8 October 2012 and was allocated the MARN 1280137. The Agent's registration had been renewed annually to date, with the most recent registration commencing on 26 August 2024.
8. The Register lists the Agent's current business name as Western Australian Migration Services with the ABN 28432754002.

Prior disciplinary action

9. The Agent has not had prior disciplinary action.

BACKGROUND

Allegations – the Authority's investigation

10. On 8 November 2023, the Authority received a complaint about the Agent from the Administrative Appeals Tribunal¹ (AAT) which alleged that the Agent failed to respond to requests made by the Department for further information on behalf of the Agent's clients Ms LK (Ms [K]) and Mr MT (Mr T) and as a result the Department refused Ms [K]'s Partner Combined (subclass 309/100) visa application for which Mr [MT] was the sponsor.

¹ now known as Administrative Review Tribunal (ART)

11. Ms [K] and Mr [MT] were not aware of the Department's requests for further information until some five weeks after the Department had made a decision on the subclass 309/100 visa application when the Agent provided them with the decision record.
12. Within the AAT's decision record the Member stated that it was apparent from the visa processing officer's record of decision that the Department's requests for additional information, which were sent to the review applicant's representative (the Agent), were not actioned. At the review hearing, the applicant advised that they had relied upon the Agent's advice and assistance as an RMA, and the Agent had failed to inform them of correspondence received from the Department and therefore they were unaware of the request for information. Within the AAT's decision, the Member notes that the knowledge that the Agent failed to respond to requests for information took an emotional toll on both the applicant and sponsor.
13. The Authority reviewed the Agent's caseload and identified further similar cases, included in this decision.

Departmental systems

14. On 9 August 2020, the Agent lodged a subclass 309/100 visa application with the Department for Ms [K]. The Agent was declared as the RMA representing the client.
15. On 23 November 2020, the Department emailed the Agent a request for further information pursuant to section 56 of the Act. The Department did not receive a response to this request.
16. On 24 December 2020, the Department emailed a second request for information pursuant to section 56 of the Act, and again the Department did not receive a response to this request.
17. On 27 October 2021, the Department refused the subclass 309/100 visa application and sent the refusal notification to the Agent by email to his declared email address, wa.migration@gmail.com.
18. On 9 December 2021, an application for review of the decision to refuse the subclass 309/100 visa application was lodged with the AAT. The Agent was the authorised RMA for the review application.
19. On 3 October 2023, the AAT remitted the decision to the Department.

Notice under section 309 of the Act and the Agent's response

20. On 14 August 2024, the Authority sent to the Agent a notice pursuant to section 309(2) of the Act, advising the Agent that it was considering cautioning him, or suspending or cancelling the Agent's registration under section 303(1) of the Act.
21. The Agent was notified that having regard to the information before the Authority, it appeared that the Agent:
 - had engaged in conduct that breached the Agent's obligations under clauses 2.1, 2.4, 2.8(c), 2.8(d), 2.18 and 2.21 of the former Code and sections 39 and 40 of the Code
 - 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.
22. Pursuant to section 309(2) of the Act, the Authority invited the Agent to provide written submissions on the matter by 4 September 2024.

23. On 3 September 2024, the Agent emailed and requested an extension of time until 30 September 2024, in which to respond to the matter citing a pending Freedom of Information (FOI) request with the AAT that was relevant to his response.
24. The Authority granted the Agent an extension until 30 September 2024.
25. On 1 October 2024, the Agent provided a response by written argument. In summary, the Agent's response included the following:

Ms [K]

- Due to Mr [MT]'s employment as a fly in fly out (FIFO) worker, it was difficult to contact him and obtain information from him. Communication was predominately conducted over the telephone for which he does not hold records.
- He has evidence which may explain why Mr [MT] was non-communicative however the Code of Conduct prohibits him from sharing this information.
- He was informed in September 2023 that Mr [MT] had made a submission to the AAT and would be attending the hearing alone.
- He does not know what Mr [MT] advised the AAT but he is '*concerned that [Mr [MT]] MAY have libelled [him] with no chance to defend*' [sic] himself to the tribunal prior to the complaint being made.
- When the matter was remitted Mr [MT] still failed to act. Ms [K] reached out to him via WhatsApp seeking assistance and he agreed to assist her.
- Ms [K] '*complained*' to the Agent that Mr [MT] was not doing anything with regards to her case.
- Due to Mr [MT]'s habit of not responding, he advised Ms [K] that he will now communicate with her directly.
- The Agent provided several screen shots of his communication with Ms [K]. In the WhatsApp messages with Ms [K], he advises her on what the Department requires and instructs her to complete her medical examinations. In her responses, Ms [K] advises that documentation has been emailed to him to upload.
- The Agent asked Ms [K] to speak to Mr [MT] to obtain his police clearance. He submitted all the required documents to the Department in a timely manner and after this the visa was granted.

Ms [JJ] (Ms [JJ])

- He informed Ms [JJ] immediately that she was required to do her medical examination. However due to her being unwell with COVID, he advised her to contact him once she had recovered. He informed the Department of this immediately.
- Ms [JJ] provided a statutory declaration attesting that she had long COVID and her visa was refused prior to her recovery as she was unable to undertake the medical examination.

Mr DJK (Mr [DJK])

- After the Agent failed to see the email from the Department dated 9 February 2024, Mr [DJK] contacted him and they agreed for the Department to carbon copy in Mr [DJK] in any future correspondence.
- His ImmiAccount reveals that he uploaded information in February 2024 which resulted in the matter being finalised, as opposed to Mr [DJK] emailing the information to the Department, as alleged by the Authority in the section 309 notice.

Ms EOS (Ms [EOS])

26. The Agent provided a snip of what was submitted to the AAT where he claimed that:
- The online sponsorship form was generated and completed at the same time as the Form 888's were completed in his ImmiAccount
 - Afterwards, the sponsorship form could not be located in his ImmiAccount.
 - He thought that the request from the visa processing officer was in error as he had already uploaded the sponsorship form.
 - When the matter was at AAT he reconstructed another version of the sponsorship form and uploaded it to his ImmiAccount. This generated a different date and Transaction Reference Number (TRN).
27. He stated the AAT Member noted in their decision record that there is no legal requirement for the sponsorship form to be provided with the application. The Member noted that as policy is not legislation it does not mandate a refusal.

Ms ECA (Ms [ECA])

- He filed the required documents via his ImmiAccount however they did not appear when the delegate assessed the application.
- He has noticed similar complaints on migration agent social media forums regarding files and documents disappearing from ImmiAccount. He has enquired with 'Tech Support' and they did not know how the issue occurred.
- The Department has modified ImmiAccount more recently to improve the reliability and stability. He has not seen such problems lately.

Mr RMM (Mr [RMM])

- He requested the work reference a number of times and each time Mr [RMM] assured him that he was working on obtaining it.
- The previous employer had been on leave and Mr [RMM]'s family were unable to contact him to obtain the reference.
- Mr [RMM] has provided a statutory declaration to this effect and Mr [RMM]'s employer has provided a letter of support.

Reliability of Electronic Media

- He has had several cases where '*electronic media*' has not been stable and reliable and emails have gone to his spam folder.
- He provided an example of when he emailed documents to the AAT however they were never received. After the matter had been reported to the AAT Associate, '*Tech Support*' found the email in the '*spam filter*' although they did not know why it had been intercepted.

Professionalism and the Code of Conduct

- His habit is to notify his client immediately of communications received from the Department and he does this primarily via telephone, unless it is for biometrics requests. While he notifies his client, he does not '*always*' update the Department.
- The Department's automatic response to emails received '*discourages one from contact unless the matter is beyond advertised schedules, or alike*'. Which was the case in Mr [RMM] and Ms [JJ]'s matters
- He mentioned the Authority's investigation into his conduct to some clients who were in '*disbelief*' and have provided letters of support.
- He is not trying to make excuses and has taken these allegations on notice. He acknowledged that he needs to double check his spam folder prior to deleting any emails.
- He has started checking his ImmiAccount '*periodically*', especially in instances where it has been sometime between communication. He has discovered a few missed emails from the Department in the message section of his ImmiAccount.
- He is considering to '*decrease the person touch*' by emailing correspondence to his clients so that there is a written record. However it is in his nature to contact first via telephone.
- He prides himself on his customer service and goes the extra mile for his clients to ensure they are happy. However sometimes, and as is the case of Ms [JJ], he did not '*push too much*' as she was unwell and he considered it would be '*bad form*' to '*harass*' her for medicals knowing she was unwell.
- His clients want to continue their matters with him due to the rapport he has with them.

Documents provided by the Agent in support of his response

- Screenshots of WhatsApp messages between the Agent and Ms [K].
- Copy of the email thread with the AAT Associate and AAT case notes – dated 4 November 2015 and 4 December 2015.
- Statutory Declarations from Ms [JJ] and Mr [RMM].
- Letter of Support from [CG].
- Professional References from [SB] and [MPC].

DECISION: FINDINGS ON MATERIAL QUESTIONS OF FACT

28. In reaching the findings of fact discussed in this decision record, the Authority considered the following evidence:
- Documentation contained in the Authority's complaint file for CAS-20677-K8D3;
 - Information held by the Authority in relation to the Agent;
 - Records held by the Department; and
 - The Agent's submission and supporting documents provided to the Authority in response to the section 309 notice.
29. Having considered the information before me, I am satisfied the Agent:
- has engaged in conduct in breach of the Agents obligations under **clauses 2.1, 2.4, 2.8(c), 2.8(d)** of the former Code and **sections 39 and 40** 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.
30. My findings and full reasons for the decision are set out below.

THE AUTHORITY'S INVESTIGATION

Failure to notify Ms [K] of requests for further information and advise her of a decision

31. Mr [MT] wrote a submission to the AAT, explaining that neither he nor Ms [K] received notification of the subclass 309/100 visa refusal decision until five weeks after the Department had refused the application. Additionally, he and Ms [K] only became aware of the two requests for information sent by the Department upon receiving the refusal decision. He stated in the submission that:
- '[w]hen Mr Pike sent the refusal letter to me, I studied the letter and realised the fact that the Department of Home Affairs (DHA) had requested for more information on two different occasions to support my visa application. Mr Pike informed me the emails from the DHA must have been lost in his junk mail.'* [sic]
32. Mr [MT] and Ms [K] stated in the submission that after lodging the subclass 309/100 visa application with the Department the Agent regularly contacted them via telephone and email.
33. Mr [MT] further stated that the Agent advised him that due to the COVID pandemic the Department was not operating its normal business hours and that he would be in touch with them should the Department contact him regarding to the subclass 309/100 visa application.
34. Email correspondence, pertaining to the AAT matter, reveals that on 4 September 2023, Mr [MT] contacted the AAT directly and requested that the Agent no longer represent them with their review of the subclass 309/100 visa refusal decision. Mr [MT] further requested that the AAT directly notify him of any correspondence. I am of the view that this request was made on the basis that the Agent had failed to keep Mr [MT] and Ms [K] informed of the progress of their subclass 309/100 visa application and therefore they believed the same may occur with their AAT matter.

35. In his submission to the Authority the Agent stated that he was unable to have the requested documentation provided to the Department because of difficulties contacting Mr [MT]. The Agent claimed that this was in part due to Mr [MT]'s health considerations and employment as a FIFO worker. The Agent claims that most of his communication with the clients were over the telephone, and he made no record of these conversations.
36. Furthermore, the Agent stated that even after the AAT remitted the matter back to the Department for consideration, Mr [MT] was not contactable. The Agent claims Ms [K] reached out to him and sought his assistance in progressing the matter. As evidenced by the screenshot of WhatsApp messages provided by the Agent in communication dated 6 November 2023, Ms [K] states to the Agent that he put attention to this so that things are not missed again. To which the Agent responds that he *'immediately'* started contacting Mr [MT] when the request was received however was unable to reach him so *'please don't blame [him] for the delay'*. Furthermore the Agent was noted in the screenshots as stating that he was liaising with Ms [K] *'because you answer'*.
37. While I acknowledge that the Agent was quick to provide assistance and information to the AAT, who then were able to remit the visa application back to the Department for consideration, this was not the case when he first lodged the application. Had the Agent provided timely notifications to the clients they likely would not have needed to have their matter reviewed by the AAT as the Department may have been able to make an affirmative decision in the first instance.
38. Given the Agent did not provide a service agreement as part of his client files, I am unable to make a comment on what he was contracted to provide to Ms [K] and whether that extended to the AAT matter. I am satisfied that Ms [K] was his client given that a visa application was lodged with the Department on her behalf and as such she is owed certain obligations under the Code. One being timely communication with regards to her ongoing immigration matters.
39. Email correspondence forms a large part of an RMA's client engagement and communications. In the AAT submission, Mr [MT] stated that the Agent advised him that the email requests for further information sent by the Department went to his junk email folder. Department records reveal that in 2020 the Agent lodged in total five partner visa applications, including the one subject of this decision.
40. The Agent, in support of his submission to the Authority, provided an email chain between himself and the AAT regarding a case for which he was the representative in 2015. As discussed above, documents that he submitted via email were not received by the AAT and the AAT technical support identified that the emails went to the 'spam' folder however could not determine the reasons for this.
41. While I understand that this information was provided to support the Agent's claim that emails tend to go into his 'spam' folder, I note the example provided by the Agent relates to the AAT wherein the emails he sent went to the spam folder of the AAT. This is not entirely the same as emails sent by the Department to the Agent going into his spam folder. The Agent can adjust his email settings to control what is sent to his spam folder and can check his spam folder. If anything this example in 2015 should have highlighted to the Agent the importance of regularly checking his spam folder.

42. As an RMA he should be mindful that emails come from multiple departmental officers and therefore may end up in his spam folder. It is his responsibility, and in the interests of his client's ongoing matters, that he regularly checks his spam folder. It appears that this was not the case.
43. As an RMA, the expectation is that the Agent would check the status of lodged visa applications frequently via the Agent's ImmiAccount, as this is the primary method for the lodgement of visa applications with the Department. Moreover, the Department's requests for further information would have been available for the Agent to view in his ImmiAccount. It is unclear how the Agent received the decision record from the Department for Ms [K]'s subclass 309/100 visa application, but not the requests for further information, noting they were sent to the same email address.
44. Given all the above discussed in relation to Ms [K]'s case I find that the Agent engaged in conduct that is in breach of **clause 2.8** of the former code as he failed to notify his client of request for information and further failed to advise her, within a timely manner, of an outcome on her visa application.

Formal Warning issued by the Authority (the warning notice)

45. A review the Authority's records reflects that in January 2021, the Authority issued the Agent with a warning notice in relation to his conduct as an RMA. Specifically, the warning notice outlined conduct similar to that discussed within this decision, including failure to respond to departmental requests for further information, resulting in the refusal of visa applications and causing serious detriment to clients.
46. The Authority made recommendations to the Agent to address the conduct that was the subject of the warning notice. The Agent was advised to ensure that his dealings with clients, complied with the obligations as outlined in the Code. The warning notice specifically stated that the Agent should:
 - Enter into service agreements with client and issue invoices and receipts;
 - Consult the Ethics toolkit with reference to the client relationship, taking into account of dual representation and confidentiality;
 - Appropriately research legislative requirements to enable the provision of accurate advice;
 - Promptly advise clients of the outcome of their visa applications and
 - Appropriately monitor the progress of any relevant visa application.
47. The warning notice outlined that should additional matters come to the attention of the Authority in the future, which would indicate a pattern of behaviour, that the previous investigation may be taken in to account by the Authority.
48. A part of this investigation the Authority undertook a review of the Agent's previously lodged applications, focusing on the Agent's partner visa caseload. The review revealed that in addition to Ms [K]'s subclass 309/100 visa application, there were other visa applications refused on the basis that departmental requests for information were not provided within the timeframes, or at all.

49. Given the discussion to follow in this decision on the Agent's conduct, I find that the Agent did not implement the recommendations as per the warning notice issued by the Authority. The failure to implement these recommendations has allowed poor business practices to continue and for breaches against the Code both former and current by the Agent.

Failure to notify the Agent's clients of requests for further information since the warning notice and failure to respond to departmental requests within prescribed timeframes

50. Departmental records indicate that the Agent was the appointed RMA for Ms [JJ], Mr [DJK], Ms [EOS], Ms [ECA] and Mr [RMM].
51. Regulation 2.15 of the *Migration Regulations 1994* (the Regulations) outlines the prescribed timeframes to respond to requests for information pertaining to section 56 notices. I note that the prescribed times do not apply to requests that are obtained from a third party such as, health and character checks. For each of the above named applicants, for whom the Agent was the appointed RMA, the Department afforded a 28 day period in which to provide the requested information.

Ms [JJ]

52. In February 2020, the Agent lodged Ms [JJ]'s subclass 309/100 visa application with the Department. A review of the correspondence relating to the application reveals that the Department contacted the Agent via email on seven occasions, as outlined in the table below, prior to the partial request fulfilment on 15 February 2024.

Date	Request Checklist and Details ²
4 March 2021 ³	Australian Federal Police (AFP) check, police clearance certificates, Form 888, evidence of relationship with spouse, marriage certificate, health examinations, copies of passports and marriage certificate.
21 April 2021	AFP check, police clearance certificates, evidence that sponsor is an Australian citizen, permanent resident or eligible New Zealand citizen, evidence of relationship with spouse, marriage certificate, health examinations, copies of passports and birth certificates.
11 August 2021	AFP check, police clearance certificates, evidence of relationship with spouse, marriage certificate, health examinations, copies of passports and birth certificates.
11 October 2021	Police clearance certificates, evidence of relationship with spouse, marriage certificate, health examinations, copies of passports and birth certificates.
9 November 2021	The Agent provided a response to the request, seeking an extension of time until February 2022.
8 August 2022	Sponsor's identity, AFP check, police clearance certificate and evidence of the relationship.
15 November 2022	AFP check, police clearance certificates, birth certificate, national identity card, evidence of relationship with spouse.

² Under Section 56 of the Migration Act the request included but was not limited to

³ An additional email was also sent to the sponsor requesting a national police check

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12 January 2024	AFP check, police clearance certificates, marriage certificate, evidence that sponsor is an Australian citizen, permanent resident or eligible New Zealand citizen, health examinations, child's birth certificate.
15 February 2024	The Agent advised the Department, in an email response, that the applicant was unwell due to COVID and could not undergo the health examination.

53. On 21 May 2024, the Department refused Ms [JJ]'s partner visa application and the refusal notification and decision record were emailed to the Agent, as the appointed RMA on file. The decision record issued by the Department noted the following reasons for the refusal of the application:

'A delegate of the minister sent you a letter on 4 March 2021, 21 April 2021, 11 August 2021, 11 October 2021, 8 August 2022, 15 November 2022 and 12 January 2024, requesting further information, which included a request for police certificates. You were afforded 28 days to respond on each occasion..... To date, you have not provided the requested police certificate for [removed for privacy].'

'In order to meet PIC 4007, you are required to complete specified medical examinations with the Department's migration medical services provider..... To date, you have not completed your health examination, nor have you provided evidence of having made an appointment.'

54. As evidenced in the above table, the Department gave the Agent numerous opportunities in which to provide the outstanding documentation. The Agent failed to provide the information within the prescribed period or at all, resulting in a negative outcome for his client. The Agent emailed the Department on 15 February 2024 and advised that Ms [JJ] was unwell and unable to undergo her medicals, however the Agent provided no evidence to support his claims nor sought to follow up with the Department with regards to a possible extension in which to provide the requested information.
55. Furthermore, upon receiving the refusal notice the Agent submitted an enquiry⁴ and was provided a response by a manager of the Partner Migration program. The Agent requested that the decision to refuse to grant the visa be 'vacated' as the client was to undergo her medicals in two weeks as she had finally recovered from COVID.
56. The program manager in the response advised the Agent that no error was made in the decision that would warrant it being revisited. The manager further stated that *'...no additional contact, information or evidence of arranging the outstanding examinations and police certificate was provided in the 3 months after this contact was made.'* Additionally that *'[the Agent's] client failed to provide satisfactory evidence that she met the requirements, the visa was refused...'*

⁴ Dated 21 May 2024

57. The response by the manager to the Agent reflects the Agent's failure to provide timely responses to the Department, resulting in negative outcomes for his clients. It would be reasonable to conclude that in the three months after the email in February 2024 that Ms [JJ] would have been able to book an appointment for the medicals to be undertaken. This evidence could then have been provided to the Department to demonstrate that she was attempting to provide the required documentation. However, this was not the case and as a result the Department refused the visa application. The Agent himself has stated in his response to the Authority that he does not regularly update the Department with ongoing matters. Given Ms [JJ]'s health issues it would be expected that the Agent should be providing regular updates to the Department about her circumstances.

Mr [DJK]

58. On 29 November 2023, the Agent emailed the Department from his email address, wa.migration@gmail.com, with an '*urgent request*' that Mr [DJK]'s partner visa application be prioritised on the basis that Mr [DJK]'s family member was unwell and he needed to travel outside of Australia.
59. On 6 December 2023, the Department emailed the Agent, at the same email address as at paragraph 59, a request for further information under section 56 of the Act. On 30 January 2024, a reminder email was sent to the Agent, advising that the Department had not received any of the requested information within the specified timeframe. Additionally, the visa processing officer telephoned the Agent, on the same day, in regards to the request, however the call went unanswered.
60. On 9 February 2024, a second reminder email was sent to the Agent with Mr [DJK] copied into the email. The Agent responded to this email and advised the visa processing officer that the email had '*escaped [his] attention*', as the Agent was overseas⁵ in December and that '*a few (small number) emails taken by the Spam filter*' [sic]. The Agent also stated that he had '*recently been hacked in social media.*'
61. Mr [DJK] responded personally to the email sent by the Department stating:
- 'I was completely unaware that [the Department had] been requesting further information, myself and my partner have spoken to Barry regarding this and moving forward we would like all further correspondence be sent to us direct and for Barry Pike to be CC'd into any future communication to ensure we are responding to the department within a timely manner.'*
62. In his response Mr [DJK] attached the documentation that was requested by the Department and the visa application was able to be progressed.
63. The Agent in his response to the section 309 notice stated that it was agreed between him and Mr [DJK] that as the Agent had not seen the earlier emails the Department should carbon copy Mr [DJK] into the correspondence. The Agent did not provide any further detail as to why he emailed the Department initially and made a request for urgent processing of the visa application only then to fail to act upon the requests by the Department to progress the visa application or follow up the urgent request for processing.

⁵ Departmental records reveal that the Agent [removed for privacy]

64. The Agent in his submission did dispute who uploaded the requested documentation to enable the Department to proceed with the application. The Agent stated that *'A check of [his] ImmiAccount reveals in fact [he] uploaded information during February 2024 and the matter was finalized in receipt of that information.'*
65. A review of the ImmiAccount reveals that the Agent shared the visa application with Mr [DJK] in early February 2024. Mr [DJK] then viewed the visa application via his own private ImmiAccount and over the course of a few days Mr [DJK] uploaded the requested documents.
66. On 21 February 2024, Mr [DJK] then checked a button within the application indicating that all documents had been attached to the visa application. On 18 April 2024, the visa was granted and correspondence sent by the Department to the Agent. The Agent's ImmiAccount does not access the visa application file until 29 June 2024, four months after the Agent claims he uploaded the documentation that led to the finalisation of the application.
67. I am of the view that this reflects the Agent's failure to provide a response to the Department or his client. Mr [DJK] felt obligated to respond to the Department directly to ensure that the documentation was received despite the services of the Agent being engaged. Mr [DJK]'s case is another example that the Agent failed to provide timely responses to both his client and the Department resulting in negative outcomes for his client.

Ms [EOS]

68. In relation to Ms [EOS]'s partner visa application, the Department requested information pursuant to section 56 of the Act on three separate occasions 15 February 2021, 15 March 2021 and 13 May 2021. The decision record states that on 13 May 2021, the visa processing officer contacted the Agent as the RMA on file via telephone, and advised the Agent of the required information, one such document being the sponsorship Form 40SP⁶.
69. In September 2021, some four months later, as the Department had not been provided with the requested information within the prescribed timeframe, or prior to the decision being made, the visa processing officer made the decision to refuse Ms [EOS]'s partner visa application. Ms [EOS] sought review of the refusal decision at the AAT. Email correspondence between Ms [EOS]'s partner and the AAT reveals that he provided the Form 40SP to the AAT and stated:

'I am sending this document to you directly because this week I became aware this document was missing from [EOS]'s 820 Visa Application and was sighted as the main reason for refusal in the official Refusal Notice my Migration Agent received in 2021. To the best of my knowledge I was not asked to complete this document prior and I was definitely not asked to provide it as the request was made for it prior to the refusal This would also mean that if I have ever completed this form it must not have been included with [EOS]'s original application. It is heart breaking this form was missed for all of my family.'

⁶ Sponsorship for a partner to migrate to Australia

70. This email correspondence between Ms [EOS]'s partner and the AAT again demonstrates the Agent's shortcomings in relation to providing updates to his clients about their visa applications and requests by the Department for information, and the Agent's competence as an RMA in submitting all required documentation for consideration.
71. The Agent in his response to the section 309 notice does not provide any reasons as to why there was a delay in responding or providing the information as requested by the Department three times for Ms [EOS]'s visa application.
72. The Agent in his response to the section 309 notice refers to his wording submitted in the Statement of Facts, Issues and Contentions (SoFIC) to the AAT. Wherein it is stated that the online sponsorship form was generated and filed on his ImmiAccount however he was unable to locate it on ImmiAccount. The Agent reconstructed the form and provided it to the AAT. The Agent in the SoFIC further adds that
- 'Because the Sponsorship form disappeared from the ImmiAccount without any knowledge or explanation how this happened; and because I know absolutely that and indeed when I personally lodged the Sponsorship on my ImmiAccount; it is contended that the form 956 signed by the Sponsor indicated the intent of the Sponsor. It is therefore submitted that, on the balance of probabilities, the sponsorship form was indeed lodged'*
73. I do not accept the Agent's statement above that the uploading of the Form 956 signed by the sponsor is evidence that the Form 40SP was also uploaded into ImmiAccount. Throughout his responses to the Authority the Agent has continuously blamed technology for his deficiencies as an RMA.
74. There is no record that the Form 40SP was commenced at the initial lodgement of the visa application as claimed by the Agent. Departmental records reveal that the Form 40SP was not commenced until June 2023 whilst the matter was at the AAT and when it had become known to the sponsor that the form was a requirement.
75. On 13 May 2021, the visa processing officer contacted the Agent via telephone and advised the Agent that that there was no Form 40SP, this conversation should have prompted the Agent to take action to either locate the 'missing' form or submit a new one. However the Agent took no action.
76. Further, the Agent's statement as quoted paragraph 73 that the sponsor signed a Form 956 shows the intent of the sponsor in regards to the partner visa application is incorrect. The signing of a Form 956 is to appoint an RMA to act on behalf of a client in relation to a visa application before the Department. The Form 956 it is not a visa application form and should not be used in place of relevant forms as per legislative or procedural requirements.
77. Whilst there is no legislative basis requiring the Form 40SP to be provided at the time of lodgement for an application to be valid, it is a policy requirement that the form is included with the completed Form 47SP. The sponsor's intentions are not the only consideration that the Department needs to take into account. The purpose of the Form 40SP is to allow the Department to assess the sponsor's eligibility and whether they meet the criteria to sponsor a visa applicant.
78. The Agent's lack of action in Ms [EOS]'s resulted in the visa refusal and caused unnecessary delays and further expenses to the client.

Ms [ECA]

79. The Agent lodged Ms [ECA]'s partner visa application on 26 January 2021. According to departmental records, the Agent was contacted on seven occasions to provide further information pursuant to section 56 of the Act as outlined in the table below:

Date	Request Checklist and Details ⁷
7 April 2021 ⁸	Police clearance certificate, health examinations, birth certificate, marriage certificate, Form 888, relationship statements, evidence that the sponsor is an Australian citizen, permanent resident or eligible New Zealand citizen, evidence of relationship with spouse, evidence that prior relationships have ended.
24 June 2021	Police clearance, copy of passport, relationship statements, evidence of relationship with spouse, evidence that prior relationships have ended, health examinations.
1 October 2021	Police clearance certificate, health examinations, birth certificate, marriage certificate, Form 888, relationship statements, evidence that the sponsor is an Australian citizen, permanent resident or eligible New Zealand citizen, evidence of relationship with spouse, evidence that prior relationships have ended.
15 November 2021	Other requirements – the delegate notes in the request for information that the Department has given 'ample time to comply, please be advised that this letter serves as our final reminder for you to comply, otherwise we would make a decision on your applications based on the available information' and health examinations.
25 January 2022	As per the request letter – <i>'Request letters were sent to your nominated contact on 07 April 2021, 24 June 2021, 01 October 2021 and 15 November 2021. To this date, you have not provided all of the requested information.'</i>
10 February 2022 ⁹	Police clearance certificate, health examinations, birth certificate, marriage certificate, relationship statements, evidence that the sponsor is an Australian citizen, permanent resident or eligible New Zealand citizen, evidence of relationship with spouse, evidence that prior relationships have ended.
15 February 2023	Evidence of relationship with spouse.

80. In addition to the seven written requests, sent via email, the visa processing officer also attempted to contact the Agent on 15 November 2021 via telephone, but was unsuccessful. The visa processing officer contacted the sponsor on the same day and the sponsor advised that they were aware of the requests for information and they had provided documentation to the Agent for submission to the Department. The decision record outlined that the Agent did not respond to any of the seven requests within the prescribed or specified timeframes or at all. On this basis, amongst other things, the Department refused the partner visa application.

⁷ Under Section 56 of the Migration Act the request included but was not limited to

⁸ An additional mail was also sent to the sponsor requesting a national police check

⁹ On 17 February 2022, an additional request for extra information was emailed to the RMA

81. The Agent in his response to the section 309 notice stated that the '*required documents were filed via ImmiAccount in this matter*'. However he has '*no idea nor explanation*' why the documents did not appear when the visa processing officer was assessing the case. The Agent claims that he had noticed similar complaints on a number of migration agent social media forums.
82. The Agent does not in his response provide any more detail as to why he failed to respond to the requests for information by the Department specifically with regards to Ms [ECA]'s visa application. As it was brought to the Agent's attention (on seven separate occasions) that the processing officer required these documents, then it would be reasonable for the Agent to respond and resubmit the documents via Immi Account or email them to the processing officer.
83. As the Agent took no such action, I am satisfied that the Agent's inaction once again caused unnecessary delays to his client. The Agent has again apportioned blame onto technological issues rather than deficiencies in his practice.

Mr [RMM]

84. On 11 October 2023, the Agent lodged an application for a Temporary Skill Shortage (subclass 482) visa on Mr [RMM]'s behalf. On 18 October 2023, the Department emailed the Agent a request for further information under section 56 of the Act, seeking further information pertaining to the relevant skills, qualifications and experience of the applicant.
85. On 17 November 2023, a decision to refuse the subclass 482 visa application was made by the Department as 'there was insufficient information to demonstrate that the applicant met the requirements of clause 482.212, the applicant was given the opportunity to provide further information in this regard, and was afforded the prescribed period of time to do so. The specified timeframe has now passed, and to date, no response has been received from the applicant.' The matter is currently before the Administrative Review Tribunal (ART)¹⁰.
86. In the Agent's submission in response to the section 309 notice, the Agent states that the work reference was requested prior to the lodgement of the application. However, Mr [RMM]'s family were unable to provide the reference letter within the timeframe, as they were unable to contact Mr [RMM]'s former employer, and therefore the application was refused.
87. In support of the Agent's submission he included a statutory declaration made by Mr [RMM]. In his statutory declaration Mr [RMM] notes that the Agent requested a lot of information prior to the lodgement of his application with the Department. One such document being a reference letter from his employer in [redacted for privacy]. Mr [RMM] requested his family obtain this document for him as he was located in Australia. However his previous employer was not available. Mr [RMM] further states that the Agent requested this work reference a number of times and advised him that this was a requirement of the Department. Mr [RMM] further adds that he was '*surprised*' that the Department refused his application and he was advised by the Agent that they would seek review with the AAT.

¹⁰ As at the date of this Decision

88. Based on the statutory declaration provided by Mr [RMM], I accept that there were delays in receiving the reference letter from his former employer. In his subclass 482 application, Mr [RMM] had been nominated for position of Glazier, which is the same position he occupied in the [removed for privacy]. As such the overseas employer's reference letter would have been relevant to the visa processing officer's consideration of this application.
89. I do note that the application for the 482 was lodged on the very day that Mr [RMM]'s prior visa was due to cease. Furthermore, a review of the visa application file reveals that the Agent did not at any point in time email the Department and seek a request for an extension, in which to provide the requested information. I also note that other documentation requested by the Department was not provided, which also contributed to the refusal of the visa application.
90. The Department's website notes to gather skills and occupation documents prior to the application of the visa. If the reference letter from his former employer was delayed then it could have been open to the Agent to advise the client to delay the lodgement of the application until all the documents were available.
91. It is reasonable to conclude that the Agent would have been aware of Mr [RMM]'s employment history and visa expiry date, given the Agent represented him with previous visa applications. As the agent has not, as part of his response to the section 309 notice, provided Mr [RMM]'s client file it is unclear what advice, if any, was provided to Mr [RMM] and whether other possible visa pathways were discussed knowing that he was unable to obtain the overseas employer's reference letter.
92. In all the above cases, the applicants were reliant on the Agents knowledge and experience as an RMA. I doubt the validity of the Agent having so many IT issues and reject the notion that the Agent's failure or delay in responding to departmental requests is to blame on systems errors. I am satisfied that the failure or delays to respond are in fact a result of the Agent's actions or lack thereof.
93. It is apparent that where the Agent failed to respond to the Department's requests for information, the applicant was then able to provide the information to the AAT as part of the review process. This may be perceived as causing an unnecessary expense and delay to applicants. Given that the Agent then represents the clients at the AAT, I form the view that the Agent was using the review process as a means to rectify his negligence and the resulting visa refusal decisions for his clients.
94. The conduct discussed for all the clients outlined in this decision reveals what appears to be a systemic pattern of behaviour of the Agent failing to provide his clients with updates on their visa applications, and failing to respond to the Department's requests for information within the prescribed or specified timeframes. This behaviour does not appear to be a one-off irregularity or mere oversight on the Agent's behalf. Additionally, it also appears that the Agent failed to provide the Department with the requested information once the clients, as evidenced in Ms [ECA]'s case, provided it to him.
95. Given the evidence before me, and all of the above points discussed, I find that the Agent failed to act on, and in many instances failed to notify his clients of, the Departments requests for information. The Agent's inaction has resulted in the visa applications being refused and has negatively impacted the applicants. I therefore find that the Agent has **breached clauses 2.1, 2.4, 2.8(c) and 2.8(d)** of the former Code and **section 39** of the current Code.

Unnecessary delays and expenses to clients

96. It is an expectation of an RMA to act in accordance with the law and the legitimate interests of their clients, and to deal with their clients competently, diligently and fairly. Clients generally engage the services of RMAs for the purpose of immigration assistance because they are dependent upon the advice, knowledge and expertise of the agent.
97. As discussed earlier in this notice, that on more than one occasion, it has been identified the Agent failed to respond to departmental requests for information. Because of the Agent's inaction, the visa applications were refused. The applicants then sought review of the refusal decisions at the AAT. Once at review, all the necessary documentation, including the additional information initially requested by the Department, was provided to the AAT. With all the necessary information before it, the AAT has remitted the matters back to the Department for consideration.
98. If the Agent had provided the information requested by the Department within a timely manner, it is unlikely that the applications referred to in this notice would have progressed to the AAT. The Agent's failure to act on the departmental requests, caused delays in the processing of the applications and his clients have incurred further expenses associated with the review process at the AAT, which they otherwise may not have sustained.
99. I also note that many of the visa applicants in their correspondence with the Department and the AAT, express frustrations with the Agent's inaction and the delay, and the anguish this caused them with their migration matters.
100. I find that the Agent caused unnecessary delays and expenses to his clients be in breach of **section 40** of the current Code.

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

Integrity

101. Pursuant to paragraph 303(1)(f) of the Act, the Authority may caution an RMA, or suspend or cancel their registration, if it becomes satisfied that the agent is not a person of integrity or is otherwise not a fit and proper person to give immigration assistance.
102. 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.
103. The Macquarie Dictionary defines 'integrity' as 'soundness of moral principle and character, uprightness and honesty'.

Fitness and Propriety

104. 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: *Hughes and Vale Pty Ltd v New South Wales (No 2)* (1955) 93 CLR 157 at 156-157; *Kraues v Migration Agents Registration Authority* [2016] AATA 1086 at [104].

105. 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 paragraph 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.'

106. The expression 'fit and proper' person (and 'person of integrity') must be construed in light of the particular legislative context: *Frugtniet v Australian Securities and Investments Commission* [2022] AATA 295 at [40]-[45]. This includes the registration scheme underpinning the migration advice profession.

107. 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 a fit and proper person 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) an RMA acting diligently, ethically, honestly and with integrity, treating persons with appropriate respect, and properly managing and maintaining client records and maintaining client confidentiality.

108. Key elements of the fitness test are:

- the honesty of the person (*Re 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; *Patel v Migration Agents Registration Authority* [2018] AATA 4277).

109. The reference in section 303(1)(f) to an RMA not being a 'person of integrity' is primarily concerned with a person's reputation, moral principle and character, including their honesty (*Tejani and Migration Agents Registration Authority* [2009] AATA 240).

110. Having regard to the body of case law cited above, a consideration of whether the Agent is a fit and proper person or a person of integrity to provide immigration assistance can legitimately include the following:

- that the Agent's past conduct can be an indicator of the likelihood of the improper conduct occurring in the future;
- the Agent's honesty and competency towards clients, the Department and the Authority;

- a consideration of the context in which the agent works, for example whether or not the Agent is an employee or owner of the business through which immigration assistance is provided;
- the Agent's knowledge and competency in immigration law and practice;
- the reputation of the Agent as a result of their conduct and the public perception of that conduct; and
- the perception of the conduct by the Agent's 'professional colleagues of good repute and competency'.

111. Having regard to the totality of the matters discussed within this decision, I am satisfied that the Agent has:

- Failed to provide updates to his clients and maintain open lines of communication with them in regards to their immigration matters, as would be expected of an RMA.
- Failed to address systematic business practices which have led to further poor business practices and breaches against both the former and current Code.
- Caused unnecessary expense or delay to his clients. In consideration of the discussion on the Agent's conduct in this decision and my findings above, I am satisfied that the Agent is not a person of integrity and is otherwise not a fit and proper person to give immigration assistance.

CONSIDERATION OF APPROPRIATE DISCIPLINARY ACTION

112. In deciding to discipline the Agent under section 303 of the Act, I have taken into account all of the circumstances of the case, including the following:

- Whether the Agent'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 Agent's culpability including but not limited to previous conduct.
- Any mitigating factors that decrease the Agent's culpability including but not limited to evidence that the Agent's health has contributed to the Agent's culpability or where the Agent has undertaken steps to remedy the situation.

Seriousness of behaviour

113. In deciding to discipline the Agent under section 303 of the Act, I have taken into account all of the circumstances of the case, including the severity of the Agent'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 Agent's livelihood;
 - the circumstances of the clients, including any vulnerability; and
 - any wider issues pertaining to consumer protection or the national interest.
114. Having regard to the matters before me, I consider that the Agent's adverse behaviour is of a serious nature because:
- The Agent's conduct demonstrates repeated breaches of the Code of Conduct over a protracted period of time, even after the conduct had been brought to his attention.
 - The Agent's conduct has had a detrimental impact on his clients, causing unnecessary delays, further expenses and anguish.
 - I have found that the Agent is not a person of integrity, or a fit and proper person to provide immigration assistance.

Aggravating factors

115. I consider the Agent's conduct falls short of the standard expected of an RMA.
116. The Agent has breached numerous clauses of the former Code and sections of the current Code.
117. The Agent received a warning from the Authority in 2021, highlighting the deficiencies in his practice yet failed to take adequate measures to ensure the conduct was not repeated. I also note that the Agent has not provided any evidence to support the implementation of the recommendations.
118. The Agent was unable to be contacted by several clients and in turn failed to contact his clients and provided them with updates on their matters in a timely manner.
119. The Agent caused unnecessary delays to his clients by not notifying them of requests and outcomes within a timely manner or in line with the Department's timeframes.
120. The Agent has not taken accountability for his actions and has repetitively blamed his shortcomings on errors to do with IT systems.

Mitigating Factors

121. In his submission the Agent noted the following mitigating factors:
122. He is not trying to make excuses. He has taken serious notice of these allegations and possible shortcomings.
123. He prides himself on his customer services and goes the extra mile to ensure his clients are 'happy'. He has built rapport with his clients and is aware of them wanting to continue having him represent them rather than having to seek out another RMA.
124. As part of his submission, the Agent provided statutory declarations from clients mentioned in this decision:
125. Ms [JJ] attested that she was unwell and unable to do the visa medical examinations and that the Agent advised her of the Department's decision and that review was sought immediately.
126. Mr [RMM] explained that he was unable to obtain the employment reference as his family were unable to contact his former employer, and that he was advised by the Agent to seek review of the matter.
127. Additionally, the Agent also included three character references from businesses he has worked with in his capacity as an RMA.
128. Mr [RMM]'s employer states that the Agent was '*very quick to contact*' and kept them '*well informed*'. Mr [RMM]'s family were unable to obtain the work reference, despite this being requested by the Agent prior to the visa being lodged. The employer states that they have also found the Agent '*quite professional, friendly and helpful*'.
129. A reference was received from the Accounts Administrator for [SB], who stated that the Agent assisted with a sponsorship application for an employee. The Agent '*consistently demonstrated exceptional dedication to timely communication*' and that the Agent's '*knowledge of migration laws and processes is commendable... Importantly [the Agent] is personable.*' That the complaint against the Agent is '*at odds with the exemplary professionalism, punctuality and reliability*' that has been experienced in her dealings with the Agent. Further that any sanction against the Agent would adversely affect the company, namely the two employees who are sponsored by them, and the rapport that they have built with the Agent.
130. A reference was received from the director of [MPC] who stated that the Agent assisted them with the sponsorship of an employee. He found the Agent '*to be very professional, friendly and helpful*'. Further that he will consider using the Agent in future immigration matters. The complaint against the Agent regarding communications is '*contrary*' to his dealings with the Agent.
131. I have taken into consideration the references provided by the Agent in support of his character and I afford little weight to them, as I note they are from current clients with ongoing matters before the Department or ART. Furthermore, Ms [JJ] is a friend of the Agent.

OFFICIAL

132. I have also considered the fact that the Agent 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.
133. Additionally, I do not accept the statement that the Agent is not '*trying to make excuses*', as in his response to the Authority he continued to blame IT systems for his failure to notify his clients of requests and outcomes. He also failed to rectify the issues, when brought to his attention, by not resubmitting the required documentation as requested, causing detriment to the clients he was representing.
134. I accept that any disciplinary decision will have an impact on the Agent's future livelihood. However, I am of the view that any loss in earnings from the provision of immigration assistance is outweighed by the public interest given the seriousness of the Agent'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 Agent's integrity and on the Agent's fitness to remain in the migration advice industry.

Consumer Protection

135. 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.
136. The behaviour demonstrated by the Agent falls short of the standards expected of RMAs. I consider that the Agent 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 Agent were to continue to practice as an RMA, the Agent would not demonstrate the requisite skills expected of an 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.
137. I expect that a decision to sanction the Agent 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

Suspension

138. I have turned my mind to the appropriate sanction action to impose on the Agent. I consider that the Agent 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 Agent would maintain the interests of consumer protection and the migration program in general.
139. Following consideration of the information before me, I have decided to suspend the Agent from being registered as a migration agent from the date of this decision for a period of **two (2) years**, and until the Agent has met the below conditions.

140. The conditions are to be completed within the period of suspension or no more than four (4) 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 Agent's registration.

Conditions

- (a) Evidence that the Agent has completed 10 Continuing Professional Development (CPD) points for each 12 months that the suspension is in force. The CPD activities should cover:
- Client Services and effective communication
 - Ethics for Migration Agents and
 - Record Keeping Practices.
- (b) A statutory declaration in Commonwealth form stating that the Agent has not made immigration representations for a fee, has not advertised the provision of immigration assistance and has not given immigration assistance whilst suspended.

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

Date of Decision: 10 December 2024

APPENDIX A: TERMS USED FOR REFERENCE

The following abbreviations may have been used in this decision:

ABN	Australian Business Number
ART	The Administrative Review 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 <i>Migration Act 1958</i>
The Regulations	<i>Migration Agents Regulations 1998</i>
The Agent	Mr Barry Pike
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 – 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