ACT CIVIL & ADMINISTRATIVE TRIBUNAL

MEDICAL BOARD OF AUSTRALIA v CDA (Occupational Discipline) [2023] ACAT 64

OR 2/2023

Catchwords	**OCCUPATION DISCIPLINE – HEALTH PRACTITIONER** – *Health Practitioner Regulation National Law (ACT)* – allegation of racially discriminatory conduct against peer – allegation of failure to maintain a culturally safe and respectful practice – professional misconduct – definition of 'discrimination' under clause 5.4 of *Good Medical Practice: A Code of Conduct for Doctors in Australia dated October 2020 clause 5.4* – misconduct
Legislation cited:	*Health Practitioner Regulation National Law (ACT)* ss 5, 195, 196, 201 *ACT Civil and Administrative Tribunal Act 2008* s 39
Subordinate Legislation cited:	*Good Medical Practice: A Code of Conduct for Doctors in Australia dated October 2020* clause 5.4
Cases cited:	*Health Care Complaints Commission v Cain (No. 2)* [2017] NSWCATOD 171 *Health Care Complaints Commission v Philipiah* [2013] NSWCA 342 *Medical Board of Australia v Giorgio* [2023] VCAT 50 *Medical Board of Australia v Lodhi* [2022] VCAT 439 *Medical Board of Australia v Pang* [2021] VCAT 1175 *Medical Board of Australia v Stone* [2023] ACAT 38 *Psychology Board of Australia v Roychowdhury* [2019] ACAT 50
Tribunal:	Senior Member T Kyprianou Senior Member L Drake
Date of Orders:	24 October 2023
Date of Reasons for Decision:	24 October 2023

AUSTRALIAN CAPITAL TERRITORY)
CIVIL & ADMINISTRATIVE TRIBUNAL) OR 2/2023

BETWEEN:
MEDICAL BOARD OF AUSTRALIA
Applicant

AND:

CDA
Respondent

TRIBUNAL: Senior Member T Kyprianou
Senior Member L Drake

DATE: 24 October 2023

ORDERS

The Tribunal orders that:

1. Pursuant to section 196(1)(b)(iii) of the *Health Practitioner Regulation National Law (ACT)* (**the National Law**), between 19 July 2022 and 30 August 2022, the respondent behaved in a way which constitutes 'professional misconduct', as defined under paragraphs (a) and (c) for that term in section 5 of the National Law.

2. The respondent is reprimanded for that professional misconduct pursuant to section 196(2)(a) of the National Law.

3. Pursuant to section 196(4)(a) of the National Law, the respondent is disqualified from applying for registration as a medical practitioner for a period of 12 months from the date of this order.

4. Pursuant to section 196(4)(b)(i) of the National Law, the respondent is prohibited from providing any 'health service', as defined by section 5 of the National Law, for a period of 12 months from the date of this order.

5. Order 9 made on 22 March 2023, which prohibits publication of the name of the doctor or medical practice referred to in paragraph 10 of Annexure A to the application for disciplinary action dated 13 February 2023, is discharged.

6. Pursuant to section 39 of the *ACT Civil and Administrative Tribunal Act 2008*, the publication of the names and all identifying information of any patients treated by the respondent, any family members of patients, and any persons who notified the Australian Health Practitioners Regulatory Authority (**AHPRA**) of complaints about the conduct of the respondent is prohibited. This order does not apply to the name of the doctor in Order 5 above.

7. Pursuant to section 195 of the National Law, the respondent is to pay the applicant's costs of, and incidental to, the application for disciplinary action dated 13 February 2023, as agreed, or as assessed by the tribunal in default of agreement.

……..
Senior Member T Kyprianou
For and on behalf of the Tribunal

REASONS FOR DECISION

1. In this application, the Medical Board of Australia (**the Board**) seeks determinations against the respondent pursuant to the *Health Practitioner Regulation National Law (ACT)* (**the National Law**).

2. The facts which led to the application for disciplinary action dated 13 February 2023 (**the application**) are set out in an agreed statement of facts dated 7 July 2023, which is annexed to these reasons (**the agreed statement of facts**). Having examined the documents filed in the proceedings, which form part of the Joint Hearing Book, we are comfortably satisfied that the agreed statement of facts accurately sets out the facts which establish the allegations against the respondent set out in paragraphs 10 and 11 of Annexure A of the application of disciplinary action dated 28 October 2023.

Characterisation of the conduct

3. In the agreed statement of facts, the respondent conceded that his conduct constituted professional misconduct, because his conduct was substantially below the conduct reasonably expected of a registered health practitioner of an equivalent level of training or experience for the purposes of paragraph (a) of the definition of the term 'professional misconduct' in section 5 of the National Law. In submissions made in support of an application by the respondent for non-publication orders dated 10 August 2023, counsel for the respondent informed the Tribunal that the respondent also conceded that his conduct was inconsistent with being a fit and proper person to hold registration in the profession.[1] In other words, that he engaged in 'professional misconduct' as defined by paragraph (c) of the definition of that term in section 5 of the National Law.

4. We consider that it was appropriate for the respondent to concede that his conduct amounted to 'professional misconduct' as defined under section 5 of the National Law. The conduct was substantially below the standard reasonably expected of a medical practitioner of his training and experience, as set out in paragraph (a) of the definition; and was inconsistent with the respondent being a fit and proper

[1] Respondent's submissions in support of non-publication dated 10 August 2023 at [13]

person to hold registration in the medical profession, as set out in paragraph (c) of the definition.

5. Counsel for the respondent, in written submissions filed on 28 September 2023, as well as oral submissions during the hearing of the matter, submits that the respondent concedes his conduct, as set out under Ground 1 of Annexure A to the Application, contravenes clause 5.4 of the respondent's *Good Medical Practice: A Code of Conduct for Doctors in Australia dated October 2020* (**the Code**). It is conceded by the respondent that that conduct was culturally unsafe, insulting and offensive**.** However, he does not concede that that conduct was discriminatory on racial grounds, and thus, in breach of clause 5.4 of the Code for two reasons. First, because the person he sent the email to which contained the offensive comments was not a colleague. Secondly, the respondent submits that the clear intention of clause 5.4 is to prohibit discriminatory conduct in the workplace,[2] and the offending email was not generated in a workplace.

6. We consider that the concessions made by the respondent in relation to Ground 1 are appropriate. However, we do not accept his submission that he is not in breach of clause 5.4 for discriminatory conduct. Ground 1 of Annexure A of the Application does not allege that Dr K Rallah-Baker is a colleague of the respondent. It merely alleges that the respondent breached clause 5.4 of the Code. Clause 5.4.2 relevantly states that doctors must not discriminate against "others". As a fellow Australian medical practitioner, the recipient of the email was/is a peer of the respondent and, in any event, the clause prohibits discrimination against all persons, not just colleagues or peers.

7. Further, in our view, it is abundantly clear that clause 5.4 of the Code does not merely apply to a medical practitioner's workplace. It sets out behaviour which is not acceptable by medical practitioners in medical practice. The introductory paragraph to clause 5.4 states "there is no place for discrimination … in the medical profession or in healthcare in Australia". The offensive comments the respondent made in the email refer to aspects of his medical practice and express his disaffection towards a pharmaceutical policy designed to benefit indigenous

[2] Respondent's submissions for final tribunal hearing on facts and sanctions dated 20 September 2023 at [8], [10]

people. The respondent also advised Professor Walterfang that he read the article which caused him to write the email in a medical magazine.[3] Though the respondent did not make the offending comments at his workplace, the circumstances which led him to make those comments had arisen in his professional capacity, and thus relate to his medical practice. The fact that footnote 17 in the Code gives guidance about the meaning of 'discrimination' by referring to the Australian Human Rights Commission's publication on workplace discrimination does not confine the application of clause 5.4 to the workplace. The reference is there to provide further clarity on what constitutes discrimination in the event further clarification of the definition which appears in footnote 17 is needed. That definition reads:

> *Discrimination occurs when a person or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics.*

8. We find that the respondent's comments in the email he forwarded to Dr Rallah-Baker treated Dr Rallah-Baker less favourably than other persons because of his racial background.

Consideration of appropriate sanctions

9. The principles guiding the determination of disciplinary orders in cases concerning health practitioners have been set out and analysed in a number of previous cases,[4] and can be summarised as follows:

   (a) Determinations are intended to maintain proper ethical and professional standards for the protection of the public, and also for the protection of the reputation of the profession.

   (b) Determinations are not punitive in nature, but they may serve the objectives of specific and general deterrence.

   (c) An assessment of the ongoing risk posed by the practitioner should be central to the imposition of a determination.

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[3] Report of Professor Mark Walterfang dated 30 June 2023, page 3

[4] See Medical Board of Australia v Pang [2021] VCAT 1175 at [42]; Medical Board of Australia v Lodhi [2022] VCAT 439 at [43]-[46]; Medical Board of Australia v Giorgio [2023] VCAT 50 at [35]; Medical Board of Australia v Stone [2023] ACAT 38 at [8]

(d) The nature and seriousness of the conduct, any evidence of contrition, the degree to which the practitioner has acquired insight into their conduct, evidence of rehabilitation, character evidence, and the time between the conduct and the determination may all be relevant factors.

(e) Personal matters such as shame, personal ordeal, and financial difficulty are of little relevance.

10. The parties have agreed on the orders that ought to be made by way of sanction for the respondent's misconduct, and we consider the agreed sanctions of a reprimand and disqualification from applying for registration as a medical practitioner for 12 months are appropriate in the circumstances of this case. We therefore do not propose to analyse each principle which guides the imposition of sanctions and apply it to the facts in this matter in detail. Below we make some observations which we consider are relevant to the determination of the sanctions in this matter and have led us to the view that the agreed orders on sanction are appropriate.

11. The Code, which was developed after wide consultation with the medical profession and the community,[5] sets out what is expected of all medical practitioners registered to practice medicine in Australia. A breach of the Code by a practitioner is a serious matter and has consequences. In the email he forwarded to Dr Rallah-Baker, the respondent displayed discriminatory and offensive behaviour which had a deleterious emotional effect on Dr Rallah-Baker.[6]

12. The respondent engaged in further misconduct in breach of the Code in his interaction with the Australian Health Practitioners' Regulatory Authority (**AHPRA**) between 19 July and 30 August 2022, by making disrespectful, offensive and culturally insensitive comments about Dr Rallah-Baker, whom the respondent did not know and had never met. He also made offensive comments about Australians who identify as indigenous and have mixed indigenous and non-indigenous heritage, the members of the Medical Board of Australia and

[5] Code, page 3 at [1.1]
[6] Witness statement of Dr Kristopher Rallah-Baker dated 21 September 2022 at [23]-[25]

employees of AHPRA. This conduct is unbecoming of a medical practitioner and, in our view, has the potential to bring the medical profession into disrepute.

13. The report of Professor Walterfang dated 30 June 2023 describes the respondent as having a personality with cognitive rigidity and a difficulty in understanding others' emotional responses to his actions. The respondent's past disciplinary history reveals that these personality traits have led to interpersonal conflict with others, including patients, on a number of occasions. Despite this, the circumstances which led to the Application demonstrate that his rigid belief that his views on social equity, justice, and access to health care are infallible, led him to offend others and breach the Code again.

14. The respondent is no longer practising medicine, having resigned in August 2022. He surrendered his registration on 13 September 2023, and gave an undertaking not to seek to re-register.[7] There is therefore no current risk that the respondent may engage in similar conduct in the course of his medical practice.

15. The respondent has accepted that his conduct towards Dr Rallah-Baker was culturally unsafe, insulting and offensive, and that the comments he made in communications with AHPRA during the course of the investigation were also culturally unsafe.[8] He has apologised to the AHPRA Regulatory Advisor he made those comments to.[9] He has also issued an apology to Dr Rallah-Baker.[10]

16. However, despite these concessions and issued apologies, we are not satisfied that the respondent has gained good insight into his conduct nor that he has shown genuine contrition for it. Apart from the two apologies mentioned above, which were issued through his lawyers, no evidence has been presented to the Tribunal by the respondent supporting that he has taken any steps to gain insight into his conduct or expressing any remorse or contrition for his actions. The report of

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[7] Applicant's book of documents filed 29 March 2023, page 136 – 'Letter from respondent to AHPRA Regulatory Advisor' dated 21 September 2022

[8] Statement of agreed facts dated 7 July 2023 at [16] and [17]

[9] Applicant's book of documents filed 29 March 2023, page 136 – 'Letter from respondent to AHPRA Regulatory Advisor' dated 21 September 2022

[10] Applicant's book of documents filed 29 March 2023, page 137 – 'Letter from respondent to Dr Rallah-Baker' dated 21 September 2022

Professor Walterfang dated 30 June 2023 states that the respondent's insight was partial and that he struggled to understand the effect of his actions on others.[11]

17. This leads us to the view that, if he were to return to medical practice, there is a risk that the respondent may reoffend if faced with similar circumstances. We note that he has provided an undertaking not to apply for re-registration, however, he is entitled to withdraw that undertaking whenever he chooses to do so. To minimise the risk of re-offending, and the potential harm that may do to the public and the reputation of the medical profession, in our view, conditions will need to be imposed on the applicant's registration if he chooses to re-apply for registration following the period of the imposed disqualification. However, the Tribunal has no authority to impose such conditions when the respondent is not registered. Conditions would be a matter for the regulatory authority to consider if the respondent applies for re-registration in the future.

18. We consider that, in addition to the reprimand, the period of 12 months disqualification from applying for re-registration is necessary by way of general deterrence for the profession, and specific deterrence for the respondent, from engaging in similar conduct.

Costs

19. In the applicant's submissions on sanction, the applicant sought an order for costs against the respondent, and counsel for the applicant confirmed at the final hearing of this matter on 3 October 2023, that the applicant wished to apply for a costs order in relation to the proceedings. It is usual in proceedings under the National Law for costs to follow the event.[12] Counsel for the respondent conceded this. However, he asked that the Tribunal exercise its discretion under section 201 of the National Law to order that each party bear their own costs in relation to the interim application dated 20 July 2023. That application *was* made by the respondent during these proceedings, to suppress his name from publication. The respondent was successful in that interim application.

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[11] Report of Professor Mark Walterfang dated 30 June 2023, 'Mental State', page 7

[12] *Health Care Complaints Commission v Philipiah* [2013] NSWCA 342 at [42]; *Psychology Board of Australia v Roychowdhury* [2019] ACAT 50 at [143]

20. The presumption that the successful party in proceedings will receive their costs is generally displaced only if circumstances where there has been some disentitling conduct by the successful party.[13]

21. The party wishing the usual rule to be displaced bears the onus of establishing the basis for doing so. Though the respondent was successful in the interim application, that application is part and parcel of these proceedings. The applicant had no choice but to participate in the interim application made by the respondent. Far from engaging in disentitling conduct in relation to that interim application, the applicant made appropriate concessions, and did not oppose the application. The matter had to be considered by the Tribunal because only the Tribunal could make an order to suppress the respondent's name. That was not an issue which could be dealt with by way of the consent of the parties. The applicant incurred expenses in participating in the interim application and no basis has been established for not allowing the applicant its costs associated with that interim application. We have therefore made an order that the respondent pay the costs of the application, which include the costs incurred in relation to the interim application.

Suppression Orders

22. During the hearing of this matter, counsel for the applicant informed the Tribunal that Dr Rallah-Baker did not wish a suppression order to be made in relation to his name. We have therefore discharged the order made earlier in the proceedings suppressing Dr Rallah-Baker's name.

[13] *Health Care Complaints Commission v Cain (No.2)* [2017] NSWCATOD 171 at [32]; *Oshlack v Richmond River Council* [1998] HCA 11 at [40]

23. The joint hearing book filed by the applicant contains documents relating to previous notifications to AHPRA about the respondent. Those documents contain the names and some sensitive information about former patients of the respondent. We consider that the interest of the private lives of those patients outweigh the right to a public hearing. Accordingly, we have made an order suppressing the names and identifying information of those patients.

……..
Senior Member T Kyprianou
For and on behalf of the Tribunal

Date(s) of hearing:	3 October 2023
Counsel for the Applicant:	Mr MJ Jackson
Solicitors for the Applicant:	Australian Government Solicitor
Counsel for the Respondent:	Mr P Aitken
Solicitors for the Respondent:	HWL Ebsworth

Annexure A – Agreed Statement of Facts

OFFICIAL: SENSITIVE
Legal-Privilege

AUSTRAILAN CAPITAL TERRITORY
CIVIL AND ADMINISTRATIVE TRIBUNAL
OCCUPATIONAL REGULATION AND DISCIPLINE DIVISION

OR 2/2023

MEDICAL BOARD OF AUSTRALIA
Applicant

CDA
Respondent

STATEMENT OF AGREED FACTS

These agreed facts are prepared and agreed solely for the purposes of the disciplinary proceedings before the ACT Civil and Administrative Tribunal and are not to be taken as admission for any other purpose

Background

1. The Respondent was born on [redacted]
2. The Respondent first obtained registration as a medical practitioner on [redacted]
3. The Medical Board of Australia (**Board**) was established under the *Health Practitioner Regulation National Law* (**National Law**) and replaced the previous state and territory boards (for participating jurisdictions and co-regulatory jurisdictions) on 1 July 2010. The Respondent's conduct has been subject to the National Law since that time.
4. At all relevant times between 1 July 2010 to 13 September 2022, the Respondent held general registration as a medical practitioner and specialist registration in the area of general practice, and practised as a general practitioner at [redacted]
5. On 13 September 2022, the Respondent surrendered his registration, with immediate effect and remains unregistered.
6. At all relevant times, the Board's Good Medical Practice: A Code of Conduct for Doctors in Australia dated October 2020 (**Code of Conduct**) developed and

Lodged on behalf of the Applicant

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approved by the Board under section 39 of the National Law applied to the Respondent and his practice as a medical practitioner.

7. The Code of Conduct is admissible in this Tribunal in these proceedings pursuant to section 41 of the National Law as evidence of what constitutes appropriate professional conduct or practice for the profession of medicine.

8. The National Law includes the following objective and guiding principle to enshrine cultural safety for Aboriginal and Torres Strait Islander Peoples:

   8.1. to build the capacity of the Australian health workforce to provide culturally safe health services to Aboriginal and Torres Strait Islander Peoples (section 3(2)(ca) of the National Law); and

   8.2. the scheme is to ensure the development of a culturally safe and respectful health workforce that is responsive to Aboriginal and Torres Strait Islander Peoples and their health; and contributes to the elimination of racism in the provision of health services (section 3A(2)(aa) of the National Law).

9. The National Scheme's Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-2025 (**National Scheme Strategy**) definition of cultural safety is as follows:

> Cultural safety is determined by Aboriginal and Torres Strait Islander individuals, families and communities. Culturally safe practise is the ongoing critical reflection of health practitioner knowledge, skills, attitudes, practising behaviours and power differentials in delivering safe, accessible and responsive healthcare free of racism.

10. The National Scheme Strategy further states:

> To ensure culturally safe and respectful practice, health practitioners must:
>
> a. Acknowledge colonisation and systemic racism, social, cultural, behavioural and economic factors which impact individual and community health;
>
> b. Acknowledge and address individual racism, their own biases, assumptions, stereotypes and prejudices and provide care that is holistic, free of bias and racism;
>
> c. Recognise the importance of self-determined decision-making, partnership and collaboration in healthcare which is driven by the individual, family and community;
>
> d. Foster a safe working environment through leadership to support the rights and dignity of Aboriginal and Torres Strait Islander peoples and colleagues.

Notification and investigation

11. On 21 July 2022, the Board received a notification from Dr Kristopher Rallah-Baker (**notification**). The notification related to the Respondent's conduct on 19 July 2022 which is detailed at Agreed Fact [16.1] below.

12. On 27 July 2022, the Board decided, pursuant to section 160(1)(a) of the National Law, to commence an investigation into the notification.

13. On 8 November 2022, the Board determined to refer the matter of the Respondent's conduct to the Tribunal pursuant to section 193(1)(a)(i) of the National Law because it reasonably believed that he had engaged in conduct that constituted professional misconduct.

Referral of allegations

14. On 13 February 2023, the Board filed an Application for Disciplinary Action in the Tribunal. The Application as filed particularised 2 grounds set out in Annexure A.

15. The parties have agreed the following facts for each of Ground 1 and Ground 2 as set out in the terms below (which differs in some respects to the particulars in the Application).

Agreed Facts for Ground 1

16. On 19 July 2022, the Respondent breached clause 5.4 of the Code of Conduct when he emailed Sunshine Coast Ophthalmologists, a practice of Dr Kristopher Rallah-Baker (**KR**) (a peer in his profession) and directed at KR offensive, insulting and culturally unsafe comments.

Particulars

16.1. On 19 July 2022, the Respondent sent an email to the practice, directed at KR. The email reads:

> ...I see you claim to be indigenous - so does Australia's richest man - Andrew "Twiggy" Forrest of Fortesque Mining - worth about 37 Billion dollars... because he once befriended an aboriginal (See Wikipedia)
>
> You seem to have a bit more aboriginal in you than him, but you are not full blood are you? Half? Quarter? One eight?
>
> Like a watered down bottle of Grange. Not the real thing.
>
> I have attached two photos of what real aboriginals look like just to remind you.
>
> I have added something interesting. It is a screen shot from prescribing software I use in my daily practice. You will note that to obtain a PBS subsidy for simple modified release paracetamol a patient MUST be aboriginal. This is not means tested. So rich dudes like you and Twiggy could get your Panadol Osteo for absolutely NO CHARGE under the CTG legislation but my struggling old age pensioners with their osteoarthritis have to buy it at full cost. How do you feel about that?
>
> Kinda explains the 25% hike in 'aboriginals' in the last census!!
>
> CDA
>
> PS the last patient I saw who claimed to be 'aboriginal' was a Chinese law student at ANU. A sick joke that we tax payers have to fund. Shame on you.

16.2. The Respondent's conduct in Ground 1:

16.2.1. had an immediate, profound emotional toll on KR;

16.2.2. constituted a breach of clause 5.4 of the Code of Conduct.

Agreed Facts for Ground 2 – a failure to maintain a culturally safe and respectful practice

17. Between 19 July 2022 and 30 August 2022, the Respondent behaved in a way which demonstrated his failure to maintain a culturally safe and respectful practice.

Particulars

17.1. On 19 July 2022, the Respondent sent an email to the practice, directed at KR as per paragraph 16.1 above.

17.2. On 4 August 2022, for the purposes of the Ahpra investigation, the Respondent spoke with an Ahpra investigator by telephone. The Respondent said words to the effect of:

a. KR is a "dick head" and claims to be Indigenous but he is not;

b. KR has "run to mummy" and "is going to cry racism";

c. KR is "riding the Aboriginal bandwagon and the census numbers are elevated because people are after the benefits";

d. "The half bloods" like KR re just "after the kudos they self-generate" and "play on the heart strings of the stolen generation and other lies";

e. If white men had not come to Australia, KR would not have been born; and

f. "This is a trivial complaint. The Board is a pack of fuckwits".

17.3. On 5 August 2022, the Respondent left a voicemail with an Ahpra investigator with words which were culturally inappropriate.

17.4. On 7 August 2022, the Respondent sent an email to an Ahpra investigator which said:

> You can tell the fake aboriginal that if he does not withdraw his complaint and grow some balls, I will not be donating my AHPRA annual ripoff fee come the end of September. Or you can grow some and throw the issue out.
>
> Bloody pathetic. On his count and yours. AHPRA is a Gestapo.

17.5. On 30 August 2022, the Respondent spoke with an Ahpra investigator by telephone regarding an incident of 24 August 2022. The Respondent said to the investigator words to the effect of:

a. that a couple brought in their 4-year-old child and following an examination of the child, the Respondent wrote a script and the child's father asked whether the Respondent would write "CTG" on the script;

b. the Respondent responded and said 'the child doesn't look very Aboriginal to me and there is nothing to indicate he is Aboriginal on his file'; the father responded indicating that he identifies as Aboriginal;

c. the Respondent stated that he would not be writing "CTG" on the script. The father then became very upset, swept his arm across the desk causing items to hit the floor and shouted at the Respondent.

17.6. The Respondent's conduct in Ground 2:

17.6.1. displays entrenched beliefs held by the Respondent as to Aboriginal identification, criticisms of the Closing the Gap PBS Co-payment Program which can be described as culturally unsafe because it may contribute to disengagement with medical services in the future;

17.6.2. constituted a breach of clauses 2.1 and 4.7 of the Code of Conduct

Findings

18. The parties agree that the Respondent's conduct outlined in Grounds 1 and 2, jointly or severally, constitutes professional misconduct within the meaning of paragraph (a) of the definition of professional misconduct contained in section 5 of the National Law.

19. There remains to be a dispute on whether the Respondent's conduct outlined in Grounds 1 and 2, jointly or severally, constitutes professional misconduct within the meaning of paragraph (c) of the definition of professional misconduct contained in section 5 of the National Law.

Date: 7 July 2023

Erin Shriner
AGS lawyer
for and on behalf of the Australian Government Solicitor
Solicitor for the Applicant

Date: 7 July 2023

Sarah McJannett
HWL Ebsworth Lawyers
Solicitor for the Respondent