Before the Building Practitioners Board
At Auckland

BPB Complaint No. C2-01305

	Under the Building Act 2004 (the Act)
IN THE MATTER OF	A complaint to the Building Practitioners' Board under section 315 of the Act
AGAINST	Michael Siemelink, Licensed Building Practitioner No. BP 107607

DECISION OF THE BUILDING PRACTITIONERS' BOARD

Introduction

[1] [The Complainant] lodged a complaint with the Building Practitioners' Board (the Board) on 9 November 2015 in respect of Michael Siemelink, Licensed Building Practitioner (the Respondent).

[2] The complaint alleged the Respondent has, in relation to building work at [omitted] Auckland failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).

[3] The Respondent is a Licensed Building Practitioner with a Carpentry Licence issued 17 June 2011.

[4] The Board has considered the complaint under the provisions of Part 4 of the Act and the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations).

[5] The following Board Members were present at the hearing:

Mel Orange	Board Member (Presiding)
Robin Dunlop	Board Member
Dianne Johnson	Board Member
Catherine Taylor	Board Member

[6] The matter was considered by the Board in Auckland on 3 August 2016 in accordance with the Act, the Regulations and the Board's Complaints Procedures.

[7] The following other persons were also present during the course of the hearing:

Sarah Romanos	Board Secretary
Michael Siemelink	Respondent

[Omitted]	Complainant
[Omitted	Witness, Waikato District Council Inspector
[Omitted]	Witness, Ex Waikato District Council Inspector (by phone)

Members of the public were not present.

[8] No Board Members declared any conflicts of interest in relation to the matters under consideration.

Board Procedure

[9] The "form of complaint" provided by the Complainant satisfied the requirements of the Regulations.

[10] On 21 March 2016 the Registrar of the Board prepared a report in accordance with reg 7 and 8 of the Regulations. The purpose of the report is to assist the Board to decide whether or not it wishes to proceed with the complaint.

[11] On 14 April 2016 the Board considered the Registrar's report and in accordance with reg 10 it resolved to proceed with the complaint that the Respondent:

(a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act);

(b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act); and

(c) failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).

[12] On 18 July 2016 a pre-hearing teleconference was scheduled. The Respondent could not be contacted. The Presiding Member for the conference (Chris Preston) directed a prehearing information document be produced and sent to the Respondent to ensure he was informed of the procedures for the hearing.

Function of Disciplinary Action

[13] The common understanding of the purposes of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom[1].

[14] In New Zealand the High Court noted in Dentice v Valuers Registration Board[2]:

[1] *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.
[2] [1992] 1 NZLR 720 at p 724

> *Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.*

[15] It must also be noted that the Board only has jurisdiction with regard to "the conduct of a licensed building practitioner" and with respect to the grounds for discipline set out in s 317 of the Act. It cannot investigate matters outside of those grounds, does not have any jurisdiction over contractual matters and cannot deal with or resolve disputes between a complainant and the person who is the subject of the complaint.

The Hearing

[16] The hearing commenced at 1.30 p.m.

[17] Persons giving evidence were sworn in, their evidence was presented and they answered questions from the Board.

Substance of the Complaint

[18] The complaint related to the construction of a new dwelling by the Respondent's company for the Complainant. The Complainant alleged:

(a) the Respondent would not provide a PS4 (producer statement) for the foundation and would not advise the Complainant who the foundations observing engineer was;

(b) the foundation was set out and poured with an incorrect orientation requiring an additional 12 m^2 of concrete foundation to be added to the floor; and

(c) the Respondent had not provided a record of work on completion of restricted building work.

Evidence

[19] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed. The relevant authority *is Z v Dental Complaints Assessment Committee*[3] where Justice McGrath in the Supreme Court of New Zealand stated:

> *[102] The civil standard has been flexibly applied in civil proceedings no matter how serious the conduct that is alleged. In New Zealand it has been emphasised that no intermediate standard of proof exists, between the criminal and civil standards, for application in certain types of civil case. The balance of probabilities still simply means more probable than not. Allowing the civil standard to be applied flexibly has not meant that the degree of probability required to meet the standard changes in serious cases. Rather, the civil standard is*

[3] [2009] 1 NZLR 1

> *flexibly applied because it accommodates serious allegations through the natural tendency to require stronger evidence before being satisfied to the balance of probabilities standard.*
>
> *[105] The natural tendency to require stronger evidence is not a legal proposition and should not be elevated to one. It simply reflects the reality of what judges do when considering the nature and quality of the evidence in deciding whether an issue has been resolved to "the reasonable satisfaction of the Tribunal". A factual assessment has to be made in each case. That assessment has regard to the consequences of the facts proved. Proof of a Tribunal's reasonable satisfaction will, however, never call for that degree of certainty which is necessary to prove a matter in issue beyond reasonable doubt.*

[20] The Complainant engaged the Respondent's company Superior Sheds Limited to construct a barn to be used as a residential dwelling. The work proceeded until a breakdown in the contractual relationship resulted in the Complainant engaging other contractors to complete the build.

[21] During the build the foundation was set out and poured with an incorrect orientation. The north wall should have been 12m long but was constructed 11m long. The east wall should have been 11m but was poured 12m long. To rectify this the Respondent gave evidence that he discussed the mistake with the Complainant and they agreed that he would add an extra metre to the foundation to make the dimensions 12m by 12m at no extra cost to the Complainant. He stated he advised the designer and the Council of this and that he treated it as a minor variation.

[22] To add the extra metre he used the same foundation design as was submitted with the consented plans but did not have a specific design for the junction of the first and second pours. He drilled and epoxied D12 starter rods into the existing foundations to provide a connection. He did not have any engineering input into the variation. He stated that no variation was required to the trusses and rafters as, on the basis of his assessment under NZS 3604, they were still compliant. He stated that if the changes had required engineering input he would have sought it. He had not instructed the designer to produce an amended design and said this would have been dealt with as part of the code compliance process at the end of the project.

[23] Council witnesses were questioned as regards the changes to the foundation. They stated they had no record of the change or of the Respondent bringing it to their attention. [Omitted] who was the Council Inspector at the time stated that had he been advised of the change, as the Respondent contended, then he would have immediately attended the site and would have required an engineered solution. He denied the Respondent's claim that the Respondent rang him and discussed the matter with him. The Respondent noted that the join in the concrete would have been obvious to the Council officer when he did the subsequent inspections.

[24] Council witnesses also provided copies of the Council inspection notes for the dwelling. There was no reference to works being undertaken to the foundation to remedy the set out mistake, in the inspection notes.

[25] The Council note referred to a requirement for a PS4 for the subfloor. An inspection was undertaken on 24 March 2014 which the Respondent attended. The inspection notes for that visit commented:

> *Inspection approval subject to PS4 being provided for area of footing not 450mm below original ground where soil has been built up."*

[26] The Respondent claimed at the hearing that the Council waived the requirement for this engineering input and that he did not have an engineering assessment done. [Omitted] did not accept this. He stated that there was an area at the corner near the stable where the ground had been built up and as such was not 450mm deep. He wanted an engineer to look at it. The Respondent stated he did not have any engineering assessment completed as he considered it was not necessary.

[27] The Council also required a PS4 for steel portal beams. The Respondent advised that he has this certificate but he was withholding it due to payment issues. The same applied to the Respondent's record of work.

[28] The Complainant advised that she has not been able to obtain a code compliance certificate as a result of the lack of PS4 documentation. The Council still requires the following to enable sign off:

- *Engineers PS4 for foundation and structural elements required;*
- *Engineers PS4 for sub grade compaction required; and*
- *Record of works for all licensed building practice work.*

[29] The Respondent gave evidence as to his experience as a builder. He stated he had been building for 25 years and had been running Superior Sheds for 19 years and had built some 800 sheds of which approximately 100 were habitable dwellings.

Boards Conclusion and Reasoning

Negligence

[30] In considering whether the Respondent has carried out or supervised building work in a negligent or incompetent manner the Board has had regard to the case of *Beattie v Far North Council*[4]. Judge McElrea provided guidance on the interpretation of those terms:

> *[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.*
>
> *[44] In my view a "negligent" manner of working is one that exhibits a serious lack of care judged by the standards reasonably expected of such practitioners, while an "incompetent" manner of working is one that exhibits a serious lack of competence.*
>
> *[46] The approach I have adopted recognises that the terms "negligent" and "incompetent" have a considerable area of overlap in their meanings, but also have a different focus - negligence referring to a manner of working that shows a lack of reasonably expected care, and incompetence referring to a demonstrated lack of the reasonably expected ability or skill level.*

[31] The Board has also considered the comments of Justice Gendall in *Collie v Nursing Council of New Zealand*[5] as regards the threshold for disciplinary matters:

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[4] Judge McElrea, DC Whangarei, CIV-2011-088-313

[5] [2001] NZAR 74

> *[21] Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.*

[32] The Board notes most judicial comments as regards seriousness relate to the medical disciplinary jurisdiction and a charge of professional misconduct where the threshold is considered to be higher than that for negligence or incompetence. Some lean toward it being a matter for consideration in penalty whilst others see it as a factor in determining liability. The more recent judicial statements, however, tend toward the latter. For example in *Pillai v Messiter (No 2)*[6] the Court of Appeal stated:

> *… the statutory test is not met by mere professional incompetence or by deficiencies in the practice of the profession. Something more is required. It includes a deliberate departure from accepted standards or such serious negligence as, although not deliberate, to portray indifference and an abuse.*

[33] On this basis the Board has taken the position that seriousness is a matter for consideration by it in determining whether or not the Respondent has been negligent or incompetent.

[34] There are two matters for the Board to consider as regards negligence and or incompetence. These are:

(a) the error in the foundation set out including the processes used and actions taken when remedying the error in the foundations and floor slab; and

(b) the engineering assessment of the sub grade compaction.

[35] As regards the foundation set out the Board notes that the mistake was identified by the Respondent and rectified by him. Mistakes can be made and the Board often looks at not only how the mistake came about but also at whether the licensed building practitioner has been able to identify their mistake and appropriately rectify it. In this instance it is the actions taken following discovery of the mistake which are of concern.

[36] The Board notes that the Respondent contended that, once he became aware of the mistake, he dealt with the matter as a minor variation to the building consent. His evidence was that he advised Council of the variation as well as the designer. The Council denied this. The designer did not give evidence. The Board accepts the evidence of the Council and notes that it stated an engineered solution would have been required. The Board also notes that the Respondent did not obtain design or engineering input prior to undertaking the alteration and as such has engaged in building work that he is neither qualified nor licensed to do. In essence the Respondent developed the design for the foundation and he determined the compliance of other elements including the trusses and beams consequent on the changes.

[37] The Board considers a prudent licensed building practitioner would not have proceeded with changes to the consented design without first notifying the building consent authority and obtaining the necessary input from other qualified persons, including the designer and an engineer. In this respect the Board notes that in not bringing the issue to the Council's attention and by undertaking the design himself

[6] (1989) 16 NSWLR 197 (CA) at 200

the Respondent has created an element of risk that the work completed may not be compliant. The Board does, however, note that there was no evidence of non-compliant work before it. This said it will now be difficult to ascertain compliance of the completed foundation.

[38] Given the above factors the Board finds that the Respondent has been negligent in that he has shown a serious lack of care as judged by the standards reasonably expected of practitioners.

[39] In terms of the sub grade compaction the Board also prefers the evidence of the Council witnesses that an engineering assessment was required and the inspection notes made this clear. This being the case the Respondent was negligent in not obtaining an assessment and again determining whether or not the sub grade compaction was adequate.

Contrary to a Consent

[40] The process of issuing a building consent and the subsequent inspections under it ensure independent verification that the Code has been complied with and the works will meet any required performance criteria. In doing so the building consent process provides protection for owners of works and the public at large. Any departure from the consent which is not minor (as defined in s 45A of the Act) must be submitted as a variation to the consent before any further work can be undertaken.

[41] In *Tan v Auckland Council*[7] the High Court, whilst dealing with a situation where no building consent had been obtained, stated the importance of the consenting process as follows:

> *[35] The building consent application process ensures that the Council can check that any proposed building work is sufficient to meet the purposes described in s 3 (of the Act). If a person fails to obtain a building consent that deprives the Council of its ability to check any proposed building work.*

[42] The same applies to the ongoing verification of building work. A failure to notify the Council of changes to the consented documents defeats the purpose of the process Moreover, undertaking building works that vary from those that have been consented can potentially put person and property at risk of harm.

[43] There was clear evidence there a change to the consent required. The change may have been minor under s 45A of the Act but such a determination is a matter for the building consent authority. As they had not been advised of the change such an assessment was not made.

[44] Had the Council as building consent authority been advised then they may have accepted it as a minor variation and processed it as such. The evidence was that doing so would have triggered a series of requirements including an engineered solution. The Council would have then also been accorded the opportunity to inspect the work and ensure that the variation was code compliant. These factors highlight the importance of the consent and variation process.

[45] On the basis of the above the Board finds the Respondent has carried out building work contrary to a building consent in that a non-notified and no consented variation was completed by the Respondent using construction techniques which may have reduced the effectiveness of the design for the foundation.

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[7] [2015] NZHC 3299 [18 December 2015]

Record of Work

[46] There is a statutory requirement under s 88(1) of the Building Act 2004 for a licensed building practitioner to provide a record of work to the owner and the building consent authority on completion of restricted building work. It is a mandatory requirement.

[47] Failing to provide a record of work is a ground for discipline under s 317(1)(da)(ii) of the Act. In order to find that ground for discipline proven, the Board need only consider whether the Respondent had "good reason" for not providing a record of work on "completion" of the restricted building work.

[48] The Board discussed issues with regard to records of work in its decision C2-01170 and gave guidelines to the profession as to who must provide a record of work, what a record of work is for, when it is to be provided, the level of detail that must be provided, who a record of work must be provided to and what might constitute a good reason for not providing a record of work.

[49] The Board has repeatedly stated that a Record of Work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, nor by contractual disputes. Licensed building practitioners should now be aware of their obligations to provide them and their provision should be a matter of routine.

[50] In this instance the restricted building work was complete when the contractual relationship came to an end. The record of work was due at that point in time but has been withheld for reasons of non-payment. This does not constitute a good reason under the Act. Accordingly the charge is upheld.

Board Decision

[51] The Board has decided that Respondent has:

(a) carried out or supervised building work in a negligent manner (s 317(1)(b) of the Act);

(b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act); and

(c) failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act);

and should be disciplined.

Disciplinary Penalties

[52] The grounds upon which a Licensed Building Practitioner may be disciplined are set out in s 317 of the Act. If one or more of the grounds in s 317 applies, then the Board may apply disciplinary penalties as set out in s 318 of the Act[i].

[53] The Board's Complaints Procedures allow the Board to either set out the Board's decision on disciplinary penalty, publication and costs or to invite the Respondent to make submissions on those matters.

[54] As part of the materials provided to the Board for the Hearing the Respondent provided submissions which were relevant to penalty, publication and costs and the Board has taken these into consideration.

[55] Given the nature of the disciplinary offending, the mitigation already heard and the level of penalty decided on the Board has decided to dispense with calling for further submissions. The Respondent will, however, be given an opportunity to comment on the level of penalty, costs and on publication should he consider there are further matters which the Board should take into consideration.

[56] The Board is aware that the common understanding of the purposes of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom:

> *The primary purpose of professional disciplinary proceedings is not to punish, but to protect the public, to maintain the public confidence in the integrity of the profession and to uphold proper standards of behaviour.*[8]

[57] In New Zealand the High Court noted in *Dentice v Valuers Registration Board*[9]:

> *Although, in respect of different professions, the nature of the unprofessional or incompetent conduct which will attract disciplinary charges is variously described, there is a common thread of scope and purpose. Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question; to protect both the public and the profession itself against persons unfit to practise; and to enable the profession or calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.*

[58] The *High Court in Patel v Complaints Assessment Committee*[10] has, however, commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to uphold professional standards:

> *[27] Such penalties may be appropriate because disciplinary proceedings inevitably involve issues of deterrence. They are designed in part to deter both the offender and others in the profession from offending in a like manner in the future.*
>
> *[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.*

[59] The Board has found the Respondent to have been negligent as opposed to incompetent and to have built contrary to a building consent. It did note a casual attitude toward compliance and a lack of systems to ensure compliance matters were dealt with appropriately. It strongly recommends the Respondent addresses these matters.

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[8] *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

[9] [1992] 1 NZLR 720 at p 724

[10] HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

[60] In terms of penalty, however, the Board considered suspension but has decided that a fine is warranted. As such a fine of $2,000 will be ordered. The fine covers all three disciplinary charges.

Costs

[61] Under s 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."

[62] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case. The judgement in *Cooray v The Preliminary Proceedings Committee* [11] included the following:

> *"It would appear from the cases before the Court that the Council in other decisions made by it has in a general way taken 50% of total reasonable costs as a guide to a reasonable order for costs and has in individual cases where it has considered it is justified gone beyond that figure. In other cases, where it has considered that such an order is not justified because of the circumstances of the case, and counsel has referred me to at least two cases where the practitioner pleaded guilty and lesser orders were made, the Council has made a downward adjustment."*

[63] The judgment in *Macdonald v Professional Conduct Committee*[12] confirmed the approach taken in *Cooray*. This was further confirmed in a complaint to the Plumbers, Gasfitters and Drainlayers' Board, *Owen v Wynyard*[13] where the judgment referred with approval to the passages from *Corray* and *Macdonald* in upholding a 24% costs order made by the Board.

[64] In *Collie v Nursing Council of New Zealand*[14] where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:

> *But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate. It is not hard to see that the award of costs may have imposed some real burden upon the appellant but it is not fixed at a level which disturbs the Court's conscience as being excessive. Accordingly it is confirmed.*

[65] The Respondent was somewhat co-operative with the process and there are no reasons to increase the order for costs. As such the sum of $1,000 will be ordered.

Publication of Name

[66] As a consequence of its decision the Respondent's name and the disciplinary outcomes will be recorded in the public register maintained as part of the Licenced Building Practitioners' scheme as is required by the Act.

[67] The Board is also able, under s 318(5) of the Act, to order publication over and above the public register:

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[11] HC, Wellington, AP23/94, 14 September 1995

[12] HC, Auckland, CIV 2009-404-1516, 10 July 2009

[13] High Court, Auckland, CIV-2009-404-005245, 25 February 2010

[14] [2001] NZAR 74

In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

[68] As a general principle such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.

[69] On the basis of the evidence before it the Board does not consider it necessary to order any further publication.

Penalty, Costs and Publication Decision

[70] For the reasons set out above, the Board directs that:

Penalty: **Pursuant to s 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of $2,000.**

Costs: **Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of $1,000 (GST included) towards the costs of, and incidental to, the inquiry of the Board.**

Publication: **The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with s 301(1)(iii) of the Act.**

In terms of section 318(5) of the Act, there will not be action taken to publicly notify the Board's action, except for the note in the register and being named in this decision.

Submissions on Penalty Costs and Publication

[71] The Board invites the Respondent to make written submissions on the matters of disciplinary penalties, costs and publication up until close of business on 5 September 2016.

[72] If no submissions are received then this decision will become final.

[73] If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

Right of Appeal

[74] The right to appeal Board decisions is provided for in s 330(2) of the Act[ii].

Signed and dated this 15th day of August 2016

Mel Orange
Presiding Member

[i] ***Section 318 of the Act***

(1) In any case to which section 317 applies, the Board may

(a) do both of the following things:

(i) cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and

(ii) order that the person may not apply to be relicensed before the expiry of a specified period:

(b) suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:

(c) restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:

(d) order that the person be censured:

(e) order that the person undertake training specified in the order:

(f) order that the person pay a fine not exceeding $10,000.

(2) The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).

(3) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.

(4) In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.

(5) In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."

[ii] ***Section 330 Right of appeal***

(2) A person may appeal to a District Court against any decision of the Board—

(b) to take any action referred to in section 318.

Section 331 Time in which appeal must be brought

An appeal must be lodged—

(a) within 20 working days after notice of the decision or action is communicated to the appellant; or

(b) within any further time that the appeal authority allows on application made before or after the period expires.