

Before the Building Practitioners Board

	BPB Complaint No. CB26317
Licensed Building Practitioner:	Kanishka Fariady (the Respondent)
Licence Number:	BP122039
Licence(s) Held:	Carpentry and Site AoP 1

Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner

Under section 315 of the Building Act 2004

Complaint or Board Inquiry	Complaint
Hearing Type:	On the Papers
Hearing and Draft Decision Date:	1 November 2023
Finalised Draft Decision Date:	26 March 2024

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr G Anderson, LBP, Carpentry and Site AoP 2

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Disciplinary Finding:

The Respondent **has** committed a disciplinary offence under section 317(1)(g) of the Act.

The Respondent is censured and ordered to pay costs of \$500. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary of the Board’s Decision

- [1] The Respondent was the owner’s agent for the purposes of obtaining a Code Compliance Certificate (CCC). A final inspection was passed on 19 December 2022, and a CCC could have been applied for any time after 11 January 2023. The Respondent did not apply for a CCC in a timely manner. Nor did he provide documentation for the application in a timely manner. The owner applied for a CCC in July 2023 after documentation had been provided. The delay in applying resulted in further final inspection having to be carried out.
- [2] The Board found that the Respondent had breached clauses 16 and 25 of the Code of Ethics. Clause 16 refers to regular reports on progress and informing of delays, and Clause 25 refers to keeping records of appropriate documents. The Board’s finding was that the Respondent did not inform of delays and did not collect and retain the documentation required for a CCC in a methodical manner.
- [3] The offending was at the lower end of the scale, and the Code of Ethics is new. The Board is taking an educative approach to penalties. On that basis, the Respondent was censured. He was ordered to pay costs of \$500. A record of the matter will be recorded on the public Register for a period of three years.

The Charges

- [4] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. There is no requirement for a Complainant to prove the allegations. The Board sets the charges and decides what evidence is required.¹
- [5] In this matter, the disciplinary charge the Board resolved to further investigate² was whether the Respondent may, in relation to building work at [Omitted] Auckland, have breached the Code of Ethics prescribed under section 314A of the Act contrary to section 317(1)(g) of the Act.

Draft Decision Process

- [6] The Board's jurisdiction is that of an inquiry. Complaints are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers necessary prior to it making a decision.
- [7] Ordinarily, the Board makes a decision having held a hearing.³ The Board may, however, depart from its normal procedures if it considers doing so would achieve the purposes of the Act, and it is not contrary to the interests of natural justice to do so.⁴
- [8] In this instance, the Board has decided that a formal hearing is not necessary. The Board considers that there is sufficient evidence before it to allow it to make a decision on the papers. There may, however, be further evidence in relation to the matter that the Board was not aware of. To that end, this decision is a draft Board decision. The Respondent will be provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. If the Respondent requests an in-person hearing, or the Board directs that one is required, this decision will be set aside and a hearing will be scheduled.

Evidence

- [9] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.
- [10] The Respondent contracted, through his company Alpha Home and Services Limited (Alpha), of which he is the sole shareholder and director, to construct a new residential dwelling for the Complainant. The Respondent's building work came to an

¹ Under section 322 of the Act, the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law. The evidentiary standard is the balance of probabilities, *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

² The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with regulation 10 of the Complaints Regulations.

³ Regulation 10 of the Complaints Regulations.

⁴ Under Clause 27 of Schedule 3 the Board may regulate its own procedure and it has summary jurisdiction, which allows for a degree of flexibility in how it deals with matters: *Castles v Standards Committee No. 1* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

end in late December 2022. A final inspection in anticipation of obtaining a CCC was carried out on 19 December 2023. It followed three failed final inspections that had been carried out, the first of which was in April 2022. [Omitted], who provide building consent services, emailed the Respondent's company on 23 December 2023 advising that the final inspection had been passed and that the CCC process could start.

[11] The Board obtained the building consent file. It contained the CCC application, which was dated as being received on 24 July 2023. It was completed and signed by the Complainant as the owner. The owner submitted that the application was delayed because the Respondent and his company did not provide the documentation needed for the CCC in a timely manner.

[12] The Complainant stated that the Respondent was responsible for making a CCC application and that because it was not completed within 60 working days of the final inspection, a further final inspection had to be completed, resulting in additional costs. In this respect, an email from [Omitted] dated 7 May 2023 stated:

22. *Once all documentation above has been submitted and accepted, please book a 60 day final inspection with [Omitted] (Required as per Auckland Council CCC Policy).*

[13] Counsel for the Respondent provided a written response to the complaint. In it, he stated that it was the Complainant's responsibility to obtain a CCC but acknowledged the Respondent's responsibility to provide documentation for the CCC application. In this respect, an email from [Omitted] dated 7 May 2023 listed 21 documents that would be needed for a CCC application.

[14] The Complainant provided a copy of the building agreement. Clause 54 of the contract, which it appears the Respondent is relying on, states:

Subject to section 362V of the Building Act 2004, the Owner must obtain a Code Compliance Certificate for the Works. Where it is recorded in Part 2 of the Building Contract, the Owner may appoint the RMB to act as its agent for the purpose of this clause. It shall be the Owner's obligation to do all things necessary to facilitate such agency.⁶

[15] Part 2 of the contract (Building Contract Details) states, with reference to clause 54:

Where the Owner appoints RMB as its agent tick to for a code compliance certificate tick this box.

[16] The corresponding box had been ticked. That meant the Respondent's company had undertaken to obtain, as an agent, the CCC. On that basis, the Board does not accept the Respondent's submission that it was the Complainant's (the owner's)

⁶ Section 362V only applies to the commercial on-sale of a household unit without a CCC.

responsibility to obtain the CCC. Rather, it was the Respondent's obligation, by way of his company, to obtain the CCC.

- [17] Turning to the documentation required to obtain a CCC, Counsel for the Respondent stated that the Respondent provided the required CCC documentation on 7 May 2023 after [Omitted] emailed the list of required documents and again on 28 July 2023 in response to a further email from [Omitted]. A statement filed by the Respondent stated that documentation was provided as it was obtained.
- [18] Counsel noted that the 28 July 2023 correspondence showed that the Complainant had also failed to provide documentation. The email referred to noted that the Owner/Agent was to provide details to allow for a change of billing party and a Watercare Certificate of Connection.
- [19] Finally, Counsel stated that the Complainant withheld 5% of the contract price that was due on completion of the final inspection (19 December 2022).

Code of Ethics

- [20] The Code of Ethics for Licensed Building Practitioners was introduced by Order in Council.⁷ It was introduced in October 2021 and came into force on 25 October 2022. The obligations are new, but there was a transition period of one year to allow practitioners to become familiar with the new obligations. Whilst the Code of Ethics is new, ethics have been a part of other regulatory regimes⁸ for some time, and the Board has taken guidance from decisions made in other regimes.
- [21] The Code also differentiates between Licensed Building Practitioners who are in business and those who are employed in that some of the ethical obligations only apply to those who are in business. In this matter, the Respondent was in business.
- [22] The provisions of the Code that the Complainant alleged had been breached were Principles 3 and Principle 4. However, the investigation and hearing procedures under the Act and Complaints Regulations are inquisitorial, not adversarial. As such, the Board sets the charges. Reference is given to the allegations made and the evidence provided. Having reviewed both, the Board decided that it would consider the conduct under clauses 16 and 25 of the Code. They provide:

16 *You must advise clients of any delays as soon as they become apparent;*

You must, in relation to any building work you are carrying out or supervising, take all reasonable steps to—

- (a) give your client regular reports on progress; and*

⁷ Building (Code of Ethics for Licensed Building Practitioners) Order 2021

⁸ Lawyers, Engineers, Architects and Accountants, for example

- (b) *ensure that your time frame estimates to clients are realistic; and*
- (c) *promptly notify your client when time frames for completing work change, particularly in the event of delays; and*
- (d) *ensure that delays in completing the building work are prevented wherever possible.*

25 You must conduct your business in a methodical and responsible manner

In conducting any business that involves carrying out or supervising building work, you must take all reasonable steps to ensure that—

- (a) *accurate records of money received and paid out are maintained; and*
- (b) *a record of other appropriate documents is maintained.*

[23] The disciplinary provision in the Act simply states, “has breached the Code of Ethics”. Most disciplinary regimes frame the charge as some form of malpractice or misconduct, and the Board has considered the allegations within such a framework and with reference to superior court decisions. Within this context, in *Dentice v Valuers Registration Board*,⁹ Chief Justice Eichelbaum stated the purposes of disciplinary processes are 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 practice the profession in question; to protect both the public, and the profession itself, against persons unfit to practice; and to enable the professional calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.

[24] The Board also notes that the courts have applied a threshold test to disciplinary matters, and it has applied those tests. In *Collie v Nursing Council of New Zealand*,¹⁰ the test was stated as:

[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.

Has the conduct breached the Code?

[25] The conduct under investigation is the delay in obtaining a CCC. An application could have been made in late December 2022 when a final inspection was passed,

⁹ [1992] 1 NZLR 720 at 724

¹⁰ [2001] NZAR 74

although it should be noted that under the Building Act, working days exclude the period from 20 December to 10 January. As such, the earliest the application could have been made was 11 January 2023.

- [26] Section 92 of the Building Act does state that the owner must apply for a CCC as soon as is practicable after the building work is complete:

92 Application for code compliance certificate

(1) *An owner must apply to a building consent authority for a code compliance certificate after all building work to be carried out under a building consent granted to that owner is completed.*

(2) *The application must be made—*

(a) *as soon as practicable after the building work is completed;*

- [27] In this instance, however, the Respondent's company undertook, as the owner's agent, to obtain the CCC. The Respondent was the directing mind and will of the company, and the obligation fell on him to make sure the application was made as soon as was practicable.

- [28] The application was not made until late July 2023, well after the 60 days noted by [Omitted] had expired. It was delayed because the documentation the Respondent had to provide to support it was not provided in a timely manner. When the CCC application was made, it was completed and submitted by the owner.

- [29] As a Licensed Building Practitioner, the Respondent should have known the process and the documentation required to obtain a CCC. He was on notice in late December 2022 that the process could start. He did not take any steps. Rather, it was left to the Complainant, who had to chase the Respondent to obtain what was needed to complete the application. Also, because the Respondent had not taken earlier action, a further final inspection had to be undertaken to obtain a CCC. Had the Respondent acted sooner, that extra final inspection may not have been needed.

- [30] There was no evidence that the Respondent had informed the Complainant that the CCC process was going to be undertaken or that it may be delayed. There was evidence that requests from the Complainant for the documents and updates on their provision were being ignored. Whilst not expressly stated as a reason for delays, there was a payment dispute, and it could be inferred that the withholding of the final 5% of the contract price was the reason why the CCC application was not progressed.

- [31] Looking at the two clauses alleged to have been breached, the first, clause 16, refers to regular reports on progress and informing of delays. It is noted, however, that the clause refers to "in relation to building work". In that respect, progress and delays on a CCC application would come within the scope of the clause.

- [32] The second, clause 25, refers to keeping records of appropriate documents. Keeping records would include collecting and having to hand documentation required for a CCC application.

- [33] On the basis of the evidence provided, the Board finds that both clauses have been breached. The Respondent did not inform of delays, and did not collect and retain the documentation required for a CCC in a methodical manner.
- [34] Whilst the Board has made this finding, the Respondent should note that the Board is not stating nor making a finding that recourse cannot be had to contractual processes if payment is not made. Rather, what has been found is that clear communication and methodical processes are required. Had the Respondent kept the Complainant informed and stated, with reference to contractual rights, why a CCC had not been applied for, then the Board's decision may have been different. Further, in this respect, if evidence can be provided that the Complainant was informed, then the Board may review its Draft Decision.

Was the conduct serious enough?

- [35] In the Cabinet Paper¹¹ that was presented as part of the approval process of the Code, the responsible Minister noted:

- 6 *The Code of Ethics will establish clear behavioural requirements to manage the ethical conduct of LBPs. Additionally, the Code of Ethics will set expectations to practitioners and consumers that substandard conduct and behaviour will not be tolerated, and outlines a clear standard that practitioners can be held to.*
- 7 *Currently, the Board can take disciplinary action against an LBP in specific circumstances, including where an LBP has brought the LBP regime into disrepute. This threshold is high, and it is difficult for the Board to prove that it has been reached.*
- 8 *As a result, a small proportion of LBPs engage in conduct, which, despite being unethical, cannot easily be said to meet the threshold of bringing the regime into disrepute. This small group of LBPs are responsible for the majority of complaints about unethical behaviour.*
- 9 *The introduction of the Code of Ethics will allow the Building Practitioners Board (the Board) to hold these LBPs to account, by providing clear grounds for taking disciplinary action against the unethical conduct of LBPs.*
- 10 *The need for a code of ethics was identified through consistent feedback from stakeholders that said the LBP scheme can be strengthened by setting clear behavioural standards. The consultation also confirmed most LBPs are behaving appropriately, and there is strong sector and public support for the introduction of a code of ethics.*

¹¹ Office of the Minister for Building and Construction 21 October 2021. Cabinet minute: LEG-21-MIN-0168

- [36] The reference to the standard of conduct for a breach of a Code of Ethics versus a finding of disrepute is an important one. The conduct does not have to be as serious as that for a finding of disrepute, but it does have to be conduct that warrants disciplinary action.
- [37] In this matter, the Board finds that the conduct was serious enough. A CCC is an important document, and unless there is good reason, a Licensed Building Practitioner should not delay or cause delay in the process of obtaining one. The Board is not aware of any good reasons, but again, if the Respondent can establish that there were, the Board may review its Draft Decision.

Board's Decision

- [38] The Respondent **has** breached the Code of Ethics.

Penalty, Costs and Publication

- [39] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [40] The matter was dealt with on the papers. Included was information relevant to penalty, costs and publication, and the Board has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [41] The Board has the discretion to impose a range of penalties.ⁱⁱ Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.¹² It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:¹³
- (a) protection of the public and consideration of the purposes of the Act;¹⁴
 - (b) deterring other Licensed Building Practitioners from similar offending;¹⁵
 - (c) setting and enforcing a high standard of conduct for the industry;¹⁶
 - (d) penalising wrongdoing;¹⁷ and

¹² *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

¹³ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

¹⁴ Section 3 Building Act

¹⁵ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

¹⁶ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

¹⁷ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

(e) rehabilitation (where appropriate).¹⁸

[42] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases¹⁹ and applying the least restrictive penalty available for the particular offending.²⁰ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty²¹ that is consistent with other penalties imposed by the Board for comparable offending.²²

[43] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.²³

[44] The offending was at the lower end of the scale, and because the Code is new and the industry is adjusting to it, the Board is taking an educative approach to breaches. On that basis, the Board has decided that a censure will suffice. A censure is a public expression of disapproval.

Costs

[45] Under section 318(4) of the Act, the Board may require the Respondent to pay the costs and expenses of, and incidental to, the inquiry by the Board. The rationale is that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.²⁴

[46] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings²⁵. The starting point can then be adjusted up or down, having regard to the particular circumstances of each case²⁶.

[47] The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings, simple, moderate and complex. The current matter was simple. Adjustments are then made.

[48] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$500 toward the costs of and incidental to the Board's inquiry.

¹⁸ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

¹⁹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁰ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

²¹ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²² *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²³ In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

²⁴ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

²⁵ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

²⁶ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

Publication

- [49] 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 Licensed Building Practitioners' scheme as is required by the Act,²⁷ and he will be named in this decision which will be available on the Board's website. The Board is also able, under section 318(5) of the Act, to order further publication.
- [50] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.²⁸ Further, as a general principle, publication 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, and the courts have stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.²⁹
- [51] A summary of the decision will be published, but the Respondent will not be named in that publication.
- [52] The Respondent should also note that the Board has not made any form of suppression order.

Section 318 Order

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

Penalty: Pursuant to section 318(1) of the Building Act 2004, the Respondent is censured.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$500 (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 section 301(I)(iii) of the Act.

In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be publicly available on the Board's website.

Further, the Board will publicly notify the Board's action. The Respondent will not be named in the publication.

- [54] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a Licensed Building Practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

²⁷ Refer sections 298, 299 and 301 of the Act

²⁸ Section 14 of the Act

²⁹ Kewene v Professional Conduct Committee of the Dental Council [2013] NZAR 1055

Submissions on Draft Decision

- [55] The Board invites the Respondent to:
- (a) provide further evidence for the Board to consider; and/or
 - (b) make written submissions on the Board's findings. Submissions may be on the substantive findings and/or on the findings on penalty, costs and publication.
- [56] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **25 March 2024**.
- [57] If submissions are received, then the Board will meet and consider those submissions.
- [58] The Board may, on receipt of any of the material received, give notice that an in-person hearing is required prior to it making a final decision. Alternatively, the Board may proceed to make a final decision which will be issued in writing.
- [59] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

- [60] If the Respondent, having received and considered the Board's Draft Decision, considers that an in-person hearing is required then one will be scheduled, and a notice of hearing will be issued.
- [61] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **25 March 2024**.
- [62] If a hearing is requested, this Draft Decision, including the Board's indicative position on penalty, costs and publication, will be set aside.

Right of Appeal

- [63] The right to appeal Board decisions is provided for in section 330(2) of the Actⁱⁱⁱ.

Signed and dated this 4th day of March 2024.



Mr M Orange
Presiding Member

This decision and the order herein were made final on 26 March 2024 on the basis that no further submissions were received.

Signed and dated this 23rd day of April 2024



Mr M 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 318 Disciplinary Penalties

- (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 1 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.*

iii 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.*