

## Before the Building Practitioners Board

	BPB Complaint No. 26771
Licensed Building Practitioner:	Baylee Goddard (the Respondent)
Licence Number:	BP 141542
Licence(s) Held:	Roofing – Profiled Metal Roof and/or Wall Cladding

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### Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner Under section 315 of the Building Act 2004

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Complaint or Board Inquiry	Complaint
Hearing Type:	On the Papers
Draft Decision Date:	8 September 2025
Final Decision Date:	14 January 2026
Board Members Present:	
	Mr M Orange, Chair, Barrister (Presiding)
	Mr G Anderson, LBP, Carpentry and Site AoP 2
	Ms E Harvey McDouall, Registered Architect

#### 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 disciplinary offences under section 317(1)(i) of the Act.

The Respondent is fined \$1,000 and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

## Contents

<b>Summary of the Board's Decision</b> .....	2
<b>The Charges</b> .....	2
Regulation 10 Decision .....	3
Regulation 9 Decisions .....	3
<b>Draft Decision Process</b> .....	4
<b>Evidence</b> .....	4
<b>Background</b> .....	5
<b>Further Evidence and Submissions Received</b> .....	5
<b>Disrepute</b> .....	6
The conduct complained about .....	6
Was the conduct serious enough .....	6
<b>Board's Decision</b> .....	7
<b>Penalty, Costs and Publication</b> .....	7
Penalty .....	7
Costs.....	8
Publication .....	9
<b>Section 318 Order</b> .....	9
<b>Right of Appeal</b> .....	10

## Summary of the Board's Decision

- [1] The Respondent quoted for building work and took funds from the Complainant for that work, but did not carry it out or repay the funds. The Board found that the Respondent had conducted himself in a disreputable manner contrary to section 317(1)(i) of the Act. In its Draft Decision, the Board indicated it would fine the Respondent \$1,500. The Respondent accepted the Board's findings but made mitigation submissions. The Board decided, on the basis of them, to reduce the fine to \$1,000. The Respondent is also ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

## The Charges

- [2] Under regulation 10 of the Complaints Regulations, the Board must, on receipt of the Registrar's Report, decide whether to proceed no further with the complaint because regulation 9 of the Complaints Regulations applies. Having received the report, the Board decided that regulation 9 applied to some but not to all of the allegations.

### Regulation 10 Decision

- [3] 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.<sup>1</sup>
- [4] In this matter, the disciplinary charge the Board resolved to further investigate<sup>2</sup> was whether the Respondent may have conducted himself or herself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute contrary to section 317(1)(i) of the Act.

### Regulation 9 Decisions

- [5] The complaint to the Board also contained allegations that the Respondent had:
- (a) carried out or supervised building work in a negligent or incompetent manner (s 317(1)(b) of the Act); and
  - (b) breached the code of ethics prescribed under section 314A of the Act (s 317(1)(g) of the Act).
- [6] With regard to the allegation that the Respondent had breached section 317(1)(b) of the Act, the Board decided that regulation 9(a) of the Complaints Regulations applied. It provides:

***Complaint not warranting further investigation***

*A complaint does not warrant further investigation if—*

- (a) it does not come within the grounds for discipline;*

- [7] The Board decided that regulation 9(a) applied to the allegation because the Respondent's licence had been suspended when the work was carried out. Under section 297 of the Act, a person ceases to be a Licensed Building Practitioner when their licence is suspended:

**297 Effect of licensing suspension**

- (1) *A person is not a licensed building practitioner, for the purposes of this Act, for the period for which his or her licensing is suspended.*
- (2) *At the end of the period of suspension, the person's licensing is immediately revived (unless there is some other ground to suspend or cancel that person's licensing under this subpart).*

- [8] In effect, the Respondent was not a Licensed Building Practitioner when his licence was suspended.

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<sup>1</sup> 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.

<sup>2</sup> 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.

- [9] The Board only has jurisdiction over Licensed Building Practitioners. Given the wording of section 297, the Board does not have any jurisdiction over a person when their licence is suspended. Accordingly, regulation 9(a) of the Complaints Regulations applies.
- [10] Turning to the Code of Ethics allegation, whilst the Respondent's conduct in relation to the ethics allegations continued through until and after he was relicensed, the matters complained about do not come within the Code because the allegations relate to payments and the Code refers to breaches whilst carrying out or supervising building work. The same limitation does not apply to the investigation of the Respondent's conduct under section 317 (1)(i) of the Act (the disrepute provision), which the Board is investigating.

### **Draft Decision Process**

- [11] 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.
- [12] Ordinarily, the Board makes a decision after holding a hearing.<sup>3</sup> 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.<sup>4</sup>
- [13] In this instance, the Board decided that a formal hearing was not necessary. The Board considered that there was sufficient evidence before it to allow it to make a decision on the papers. It noted, however, that there may have been further evidence in relation to the matter that the Board was not aware of. To that end, it issued a Draft Decision. The Respondent was provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. The Board further noted that if the Respondent requested an in-person hearing, then the Draft Decision would be set aside, and a hearing would be scheduled. The Respondent did not request a hearing.

### **Evidence**

- [14] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed<sup>5</sup>. 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.

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<sup>3</sup> Regulation 10 of the Complaints Regulations.

<sup>4</sup> 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.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

<sup>5</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

## Background

- [15] The Complainant engaged the Respondent to carry out roofing work for \$10,238.97. A deposit of \$7,001.13 for the work was paid on 30 January 2025. The agreed start date for the building work was 10 February 2025.
- [16] On 1 March 2025, the Respondent attended the property and spent approximately three hours on site. No further work has been carried out since that date.
- [17] The Complainant set out that the Respondent was highly responsive up until receiving the deposit but after 1 March 2025 has ceased all communication. The Complainant did note that on 28 April 2025, the Respondent phoned and apologised for his absence and offered to continue with the work if the Complainant purchased the materials. The Complainant stated that she requested an email confirmation of the offer, which was not received. The Complainant received a further phone request for her to purchase materials, but declined because of her previous experience with him.
- [18] The Respondent did not formally reply to the complaint when it was sent to him. An investigator rang him on 30 April 2025. The Respondent stated in the telephone conversation, of which the investigator had taken notes, that the liquidator had blocked access to his emails, that he had tried to contact his clients but that the Complainant was left off the list. He set out that he had offered a deal where he would return 50% of their deposit, and they could then buy the materials, and he would return to do the work.
- [19] Companies Officer records show that the Respondent's company, Capital Roofing and Cladding Limited, was placed into liquidation on 16 June 2025, which was almost six months after the Respondent agreed to do the work. It is also noted that the company was not in liquidation in April 2025, as submitted by the Respondent.
- [20] Companies Office records also show that the Respondent is a shareholder and director of Capital Trailers Limited, Capital Roofing Services Limited, and Signature Roofing Wellington Limited, all of which continue to trade.
- [21] The Complainant, who was provided a copy of the Respondent's telephone statement. Advised by email that:

*I'm aware that Baylee is claiming to have offered us and other people in the same position a "resolution" where we order the material and he installs it. He's claiming that I've turned him down - that's not true. As the records show, when he first proposed it at the end of March, I was open to it and asked him to put it in writing, which he never did. More recently, when he became aware of my complaint with you, he called again with the same offer but that time I did decline it as I can no longer believe a word he says.*

## Further Evidence and Submissions Received

- [22] Following the Board issuing its Draft Decision, it received a submission from the Respondent. In it, he accepted the Board's findings and apologised for his conduct.

He outlined various mitigating factors that he requested the Board consider. The Board has considered the submissions with regard to the penalty imposed.

### **Disrepute**

- [23] Conduct which brings or is likely to bring the regime into disrepute is that which may result in the regime being held in low esteem by the public. Examples include:
- criminal convictions<sup>6</sup>;
  - honest mistakes without deliberate wrongdoing<sup>7</sup>;
  - provision of false undertakings<sup>8</sup>; and
  - conduct resulting in an unethical financial gain<sup>9</sup>.
- [24] The Courts have consistently applied an objective test when considering such conduct.<sup>10</sup> The subjective views of the practitioner, or other parties involved, are irrelevant. The conduct need not have taken place in the course of carrying out or supervising building work.<sup>11</sup>
- [25] To make a finding of disreputable conduct, the Board needs to determine, on the balance of probabilities,<sup>12</sup> that the Respondent has brought the regime into disrepute and that the conduct was sufficiently serious enough for the Board to make a disciplinary finding.<sup>13</sup>

### The conduct complained about

- [26] The conduct in this matter is that of obtaining an unethical financial gain. The Respondent has taken the Complainant's money but has not carried out the promised work or returned the funds. He has stopped communicating.
- [27] On the basis of the evidence before the Board, it finds that the Respondent has conducted himself in a disreputable manner in that he obtained an unethical financial gain.

### Was the conduct serious enough

- [28] Taking money and retaining it without providing the agreed-upon services is serious. It undermines public faith in the licensing regime, and it should result in a disciplinary outcome.

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<sup>6</sup> *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

<sup>7</sup> *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

<sup>8</sup> *Slack, Re* [2012] NZLCDT 40

<sup>9</sup> *Colliev Nursing Council of New Zealand* [2000] NZAR 7

<sup>10</sup> *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

<sup>11</sup> *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

<sup>12</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 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.

<sup>13</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74

### Board's Decision

[29] The Respondent **has** brought the licensing regime into disrepute.

### Penalty, Costs and Publication

[30] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Act<sup>i</sup>, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

[31] The matter was dealt with on the papers. The Board made an indicative order in its Draft Decision. It has since received submissions and has made a final decision regarding penalty, costs, and publication.

### Penalty

[32] The Board has the discretion to impose a range of penalties.<sup>ii</sup> 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.<sup>14</sup> It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:<sup>15</sup>

- (a) protection of the public and consideration of the purposes of the Act;<sup>16</sup>
- (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;<sup>17</sup>
- (c) setting and enforcing a high standard of conduct for the industry;<sup>18</sup>
- (d) penalising wrongdoing;<sup>19</sup> and
- (e) rehabilitation (where appropriate).<sup>20</sup>

[33] 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 cases<sup>21</sup> and applying the least restrictive penalty available for the particular offending.<sup>22</sup> In all, the Board should be looking to impose a fair, reasonable, and

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<sup>14</sup> *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]

<sup>15</sup> Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

<sup>16</sup> Section 3 Building Act

<sup>17</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>18</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

<sup>19</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>20</sup> *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

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

<sup>22</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

proportionate penalty<sup>23</sup> that is consistent with other penalties imposed by the Board for comparable offending.<sup>24</sup>

- [34] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to considering any aggravating and/or mitigating factors present.<sup>25</sup>
- [35] In this matter, the Board adopted a starting point of a fine of \$1,500, which is at the lower end of the disciplinary scale and is consistent with other fines imposed by the Board for similar conduct. In its Draft Decision, the Board set out that it considered that any funds the Respondent has available would be better directed to the Complainant. The Board noted that if the Respondent repaid the Complainant, the Board would reduce the penalty to one of censure. A censure is a public expression of disapproval of conduct.
- [36] The Respondent provided mitigation submissions. He noted the liquidation of his business and stated he was not able to keep in contact with the Complainant. The Respondent set out that he has been working on repaying debts, and whilst he provided details of another debt that he was repaying, he did not provide any evidence that he is repaying the Complainant in this matter.
- [37] The Board does, however, accept that there were additional mitigating factors it was not aware of and, on that basis, it has decided that it will reduce the fine to \$1,000.

#### Costs

- [38] 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.<sup>26</sup>
- [39] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings<sup>27</sup>. The starting point can then be adjusted up or down, depending on the particular circumstances of each case<sup>28</sup>.
- [40] 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 moderately complex. Adjustments are then made.
- [41] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$700 toward the costs of and incidental to the Board's inquiry. This is the Board's

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<sup>23</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>24</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>25</sup> 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.

<sup>26</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74

<sup>27</sup> *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

<sup>28</sup> *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.



scale amount for a moderately complex matter that has been dealt with by way of a Draft Decision. It is significantly less than 50% of actual costs.

#### Publication

- [42] 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,<sup>29</sup> 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.
- [43] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.<sup>30</sup> 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.<sup>31</sup>
- [44] Based on the above, the Board will not order any publication over and above the record on the Register, the Respondent being named in this decision, and the publication of the decision on the Board's website. The Respondent should note, however, that as the Board has not made any form of suppression order, other entities, such as the media or the Ministry of Business Innovation and Employment, may publish under the principles of open justice reporting.

#### **Section 318 Order**

- [45] For the reasons set out above, the Board directs that:
- |                     |   |
|---------------------|---|
| <b>Penalty:</b>     | <b>Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is fined \$1,000.</b>   |
| <b>Costs:</b>       | <b>Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$700 (GST included) towards the costs of, and incidental to, the inquiry of the Board.</b> |
| <b>Publication:</b> | <b>The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 301(l)(iii) of the Act.</b>                      |
|                     | <b>In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be published on the Board's website.</b>                                    |
- [46] 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.

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<sup>29</sup> Refer sections 298, 299 and 301 of the Act

<sup>30</sup> Section 14 of the Act

<sup>31</sup> Kewene v Professional Conduct Committee of the Dental Council [2013] NZAR 1055

## Right of Appeal

[47] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>iii</sup>.

Signed and dated this 28<sup>th</sup> day of January 2026



**Mr M Orange**  
Presiding Member

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### <sup>i</sup> **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."*

### <sup>ii</sup> **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:*

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- (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.*