Before the Building Practitioners Board
At Auckland

BPB Complaint No. C2-01292

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	Raj Sharma, Licensed Building Practitioner No. BP 125681

DECISION OF THE BUILDING PRACTITIONERS' BOARD

Introduction

[1] [The Complainant] lodged a complaint with the Building Practitioners' Board (the Board) on 21 October 2015 in respect of Raj Sharma, Licensed Building Practitioner (the Respondent).

[2] The complaint alleged the Respondent has, in relation to building work at [omitted] carried out or supervised building work in a negligent or incompetent manner (s 317(1)(b) of the Act).

[3] The Respondent is a Licensed Building Practitioner with a Carpentry Licence issued 24 August 2013 and a Roofing (Shingle or Slate Roof) Licence issued 10 October 2013.

[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:

Chris Preston	Chair (Presiding)
Richard Merrifield	Deputy Chair
Dianne Johnson	Board Member
Bob Monteith	Board Member

[6] The matter was considered by the Board in Auckland on 11 October 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
[Omitted]	Complainant
William Hursthouse	Special Adviser to the Board

[Omitted]	Witness (Remedial builder)
[Omitted]	Witness (Complainant's husband)

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 3 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. It included a report from William Hursthouse as a Special Adviser to the Board.

[11] On 14 April 2016 the Board received the Registrar's Report and referred it back for further investigation to be carried out.

[12] On 3 June 2016 the Registrar provided an addendum to the Registrar's Report. It and the original report were considered by the Board on 23 June 2016 and in accordance with reg 10 the Board resolved to proceed with the complaint that the Respondent:

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

(b) 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

(c) breached s 314B of the Act (s 317(1)(h) of the Act).

[13] The matter was set down for hearing on 8 September 2016. On 25 August 2016 a pre-hearing teleconference was scheduled with the Respondent. He did not attend. The detail normally covered in a prehearing was then provided to the Respondent in writing.

[14] On 6 September the Responded sought an adjournment which was granted. Costs as regards the adjournment were reserved. An amended Hearing Notice was sent setting the matter down for 11 October 2016. On 27 September 2016 the Respondent confirmed in writing that he would be attending the hearing.

[15] The Respondent had advised that he would attend the hearing but had travel difficulties on the day. The Board Secretary was in electronic contact with him. The hearing was delayed but commenced without Mr Sharma. The Board considered they had provided more than adequate time for him to attend taking into account his travel difficulties and noted that he stopped communicating as the delay extended.

Function of Disciplinary Action

[16] The common understanding of the purpose 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].

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

> *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.*

[18] In *McLanahan and Tan v The New Zealand Registered Architects Board*[3] Collins J. noted that:

> *"… the disciplinary process does not exist to appease those who are dissatisfied with their architect. The disciplinary process for architects exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community."*

[19] The same applies as regards the disciplinary provisions in the Building Act.

[20] It must also be noted that the Board has jurisdiction only 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

[21] The hearing commenced at 2.00pm.

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

[23] At the hearing the Board was assisted by Counsel for the Registrar who provided an opening submission which was read into the record.

Substance of the Complaint

[24] The Respondent was engaged by the Complainant to undertake building works at their private residence to extend and alter the existing dwelling. The work was undertaken under a building consent and included restricted building work. The Respondent left site before the works were complete. The junction of the new roof

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[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
[3] [2016] HZHC 2276 at para 164

with the end wall of the original house was not weathertight. On enquiry the Complainants became aware of other defects with the build and lodged a complaint with the Board.

[25] It was also alleged that the Respondent failed to provide a record of work on completion of restricted building work.

[26] The Respondent holds both a carpentry and a roofing (area of practice shingle or slate roof) licence. It was unclear from the evidence included in the complaint form if the Respondent had undertaken the work to install the concrete tile roof to the extension. The Board was interested to hear evidence on whether the Respondent might have breached s 314B of the Act by carrying out or supervising building work (roofing) outside his competence.

Evidence

[27] 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*[4] 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 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.*

[28] On or about 20 January 2013 the Respondent entered into a contract with the Complainant to build an extension to their home as per consented plans and building specifications. There was no dispute that he arranged for the design documentation, carried out or supervised building work himself and was the project manager responsible for engaging the sub-trades.

[29] At the hearing the Special Advisor was questioned about the roof. It was his view that the work was generally well done except for the junction of the new roof and the gable end of the original house where a lead flashing has been installed. This flashing was not preventing water passing the external envelop and into the interior

[4] [2009] 1 NZLR 1

of the house. The Complainant's remedial builder, (trade certified LBP) gave evidence consistent with the view of the Special Advisor and was able to produce an invoice from a roofing company for repair work that has recently been undertaken. Both the witness and the Special Advisor were of the view that the flashing had not been installed by the roofing contractor who laid the concrete tiles. This was also the evidence of the roofing contractor provided in the bundle.

[30] At the hearing the Special Advisor confirmed that installing stairs up to the external door without a landing was contrary to the building consent documents and in breach of the Code. The Special Advisor had not undertaken a thorough condition inspection but confirmed that there was consistently poor workmanship on the project and in particular with regard to the installation of windows through the weatherboards, the non-attachment of ceiling battens to the roof trusses and the ceiling insulation over downlights compromising the ventilation and posing a fire risk. Other matters in his report were of less concern and more easily remediated.

[31] It was the evidence of the Complainant's witness that he is working through the list in the Special Advisor's report and other issues that become apparent the longer he is on site but that the project is not yet at a stage where a final inspection can be called for and a Code Compliance Certificate issued.

[32] The Respondent did not provide any form of response to the Complaint. It is noted he was personally served with the complaint on 27 October 2015 and was given to 26 November 2015 to respond, was called and emailed by the Registrar's Delegate on 26 November 2015 seeking a response but none was received. The Special Adviser also tried to engage with him but was not able to.

[33] Turning to the record of work there are four criteria to establish if a project involves restricted building work. It is not in dispute that this addition and alteration project was undertaken under a building consent, is a residential build and that the work included building work to the structure and water management of the type covered by the seven Licensed Building Practitioner classes of licence. It follows that as all four criteria apply, the need to provide a record of work for the restricted building work components arises.

[34] The Respondent left site in or about January 2015. This is the date after which the record of work could or should have been issued. At the time of the hearing no record of work had been provided by the Respondent to either the owners or the Territorial Authority.

[35] The Respondent is aware of the charge related to the non-issuing of a record of work but has provided no reason on why it has not been issued.

Board's Conclusion and Reasoning

Negligence or Incompetence

[36] 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*[5]. Judge McElrea provided guidance on the interpretation of those terms:

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

> *[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.*

[37] The Board has also considered the comments of Justice Gendall in *Collie v Nursing Council of New Zealand*[6] as regards the threshold for disciplinary matters:

> *[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.*

[38] The Board found that the roof flashing work was not undertaken by a subcontractor and on the balance of probabilities was carried out or supervised by the Respondent.

[39] The Board found when the twelve deficiencies identified in the Special Advisor's report are considered in totality, the Respondent's conduct in carrying out or supervising building work has fallen below the standards reasonably expected of a licensed building practitioner and, as such, he has been negligent. The charge is upheld.

Working within Competence/ Misrepresentation

[40] Misrepresentation is not defined in the Act so it bears the meaning it has at common law. A misrepresentation is a representation which is false. A representation is a statement which relates to a matter of present or past fact, not one which relates to the future[7]. It is not a statement of opinion[8] or puffery[9]. A misrepresentation may be express or implied, and may be inferred from acts or conduct as much as from words.

[41] In the context of the Act and the disciplinary charge under s 317(1)(h) and 314B(a) a misrepresentation must be in relation to the licensed building practitioner's competence as that competence relates to the licensing regime under the Act. The Licensed Building Practitioners Rules 2007 (the Rules) sets out the licence class competencies in schedule 1 and the Board must consider any representations in light of those defined competencies.

[42] The Board is not, however, restricted by those the Rules when considering matters under s 314B(b) as competency under that provision can be read as also pertaining to the common dictionary definition of "the ability to do something successfully or

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[6] [2001] NZAR 74

[7] *Ware v Johnson* [1984] 2 NZLR 518 at 537

[8] David v TFAC Ltd [2009] NZCA 44

[9] Dimmock v Hallett (1866) 2 Ch App 21

efficiently"[10]. Accordingly a licensed building practitioner who holds a class of licence for the building work he or she is undertaking who is not able to successfully or efficiently complete the building work may be working outside of their competence. Such a situation could occur, for example, where a person holding a carpentry licence who has only ever built simple, single-level dwellings unsuccessfully undertakes a complex multi-level build.

[43] The Board has also considered the comments of Justice Gendall in *Collie v Nursing Council of New Zealand*[11] as regards the threshold for disciplinary matters:

> *[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.*

[44] The Board heard evidence from witnesses which has satisfied it that the Respondent did not undertake the installation of the concrete roofing tiles and has therefore not carried out work outside his competency. The charge is not upheld.

Record of Work

[45] 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 territorial authority on completion of restricted building work[12].

[46] 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.

[47] The Board discussed issues with regard to records of work in its decision C2-01170[13] 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, whom a record of work must be provided to and what might constitute a good reason for not providing a record of work.

[48] Each and every licensed building practitioner who carries out or supervises restricted building work must provide a record of work.

[49] The statutory provisions do not stipulate a timeframe for the licensed person to provide a record of work. The provisions in s 88(1) simply states "on completion of the restricted building work …".

[50] In most situations issues with the provision of a record of work do not arise. The work progresses and records of work are provided in a timely fashion. Contractual disputes or intervening events can, however, lead to situations where the licensed practitioner, owner, or territorial authority's perceptions as to when the record of work must be provided may differ.

[51] One such situation is where it is clear the licensed building practitioner will not be able to carry out any further restricted building work on a site. In such a situation,

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[10] Oxford Dictionary

[11] [2001] NZAR 74

[12] Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

[13] *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

even though the intended work has not been completed, the licensed building practitioner's restricted building work under the building consent has, in effect, been completed as they will not be carrying out any further restricted building work. A record of work is then due.

[52] In this respect is must also be borne in mind that a record of work can capture not only what has been done but also what has not been done by the licensed building practitioner. By providing adequate detail within the record of work they can afford themselves a degree of protection against future liability by limiting the record to only that which they have completed.

[53] Time frames have not been specified in the Act for when a record of work is to be provided other than on completion. Given this and taking into consideration the requirement to give effect to the purpose of Parliament[14] the Board considers the use of the words "on completion" denotes a short time thereafter.

[54] It must also be noted that the requirement is on the licensed building practitioner to provide a record of work, not on the owner or territorial authority to demand one. A claim that the licensed building practitioner was not asked for a record of work will not be a defence. They must act of their own accord and not wait for others to remind them of their obligations.

[55] In this instance it is clear that a record of work has not been provided and as such the elements of the disciplinary offence are made out.

[56] Finally s 317(1)(da)(ii) of the Act provides for a defence of the licensed building practitioner having a "good reason" for failing to provide a record of work. If they can, on the balance of probabilities, prove to the Board that one exists then it is open to the Board to find that a disciplinary offence has not been committed.

[57] The Respondent has neither provided the record of work nor put forward any good reason for not doing so. Accordingly the disciplinary charge is upheld.

Board Decision

[58] The Board has decided that the Respondent has carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act) and should be disciplined.

[59] The Board has decided that the Respondent has 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.

[60] The Board has decided that the Respondent has not breached s 314B of the Act (s 317(1)(h) of the Act).

[14] Section 5 of the Interpretation Act 1999

Disciplinary Penalties

[61] 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].

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

[63] As part of the materials provided to the Board for the Hearing, the Board heard evidence relevant to penalty, publication and costs and the Board has taken this into consideration.

[64] Given the nature of the disciplinary offending, the evidence already heard and the fact the Respondent has not engaged in the process thus far, it has decided to proceed with considering penalty. 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.

[65] As stated earlier the purpose 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.

[66] The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*[15] has 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.*

[67] The Board considers the disciplinary offending in this matter to be serious and that there is a risk in allowing the Respondent to continue to work as a licensed building practitioner. The practitioner has undertaken works that are not to the building consent documentation, not to the building code and has left the owners at risk of fall or fire. Further the Respondent has not provided paperwork or made any endeavour to remediate the defective works and has not engaged in the disciplinary process.

[68] In all the circumstances of the case the Board considers the cancellation of the Respondents carpentry license is the appropriate penalty. The Board orders that the Respondent not be able to reapply for a carpentry license for a period of not less than twelve months.

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

Costs

[69] 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."

[70] 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* [16] 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."*

[71] The judgment in *Macdonald v Professional Conduct Committee*[17] confirmed the approach taken in *Cooray*. This was further confirmed in a complaint to the Plumbers, Gasfitters and Drainlayers' Board, *Owen v Wynyard*[18] where the judgment referred with approval to the passages from *Cooray* and *Macdonald* in upholding a 24% costs order made by the Board.

[72] In *Collie v Nursing Council of New Zealand*[19] 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.*

[73] The Respondent requested, at short notice, and was granted an adjournment of the first fixture date. The hearing was rescheduled but the Respondent failed to attend. The Board considers that the amount of $3,000 is an appropriate sum towards the costs and expenses of, and incidental to, the inquiry by the Board.

Publication of Name

[74] 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.

[75] 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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[16] HC, Wellington, AP23/94, 14 September 1995
[17] HC, Auckland, CIV 2009-404-1516, 10 July 2009
[18] High Court, Auckland, CIV-2009-404-005245, 25 February 2010
[19] [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.

[76] 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.

[77] The Board does not consider further publication is required.

Penalty, Costs and Publication Decision

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

Penalty: **Pursuant to s 318(1)(a)(i) of the Building Act 2004, the Respondent carpentry licence is cancelled and under s 318(1)(a)(ii) the Respondent may not apply to be relicensed in carpentry until the expiry of a period of twelve months.**

Costs: **Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of $3,000 (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 him being named in this decision.

Submissions on Penalty Costs and Publication

[79] The Board invites the Respondent to make written submissions on the matters of disciplinary penalties, costs and publication up until close of business at **4pm** on **15 December 2016**.

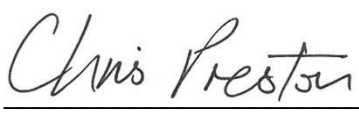
[80] If no submissions are received then this decision will become final.

[81] 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

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

Signed and dated this 24th day of November 2016.



Chris Preston
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.