

Before the Building Practitioners Board
At Christchurch

BPB Complaint No. C2-01245

IN THE MATTER OF

Under the Building Act 2004 (the Act)

A complaint to the Building Practitioners' Board under section 315 of the Act

AGAINST

Kevin Mason, Licensed Building Practitioner
No. BP 103162

**DECISION OF THE BUILDING PRACTITIONERS' BOARD IN RESPECT OF PENALTY,
COSTS AND PUBLICATION OF NAME**

Introduction

- [1] This decision arises out of a decision by the Building Practitioners Board ("the Board") where the Board found that the Respondent 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).
- [2] The Respondent is a Licensed Building Practitioner with a Carpentry Licence issued 5 October 2010.
- [3] The matter was considered by the Board in Christchurch on 28 September 2016 in accordance with the Act, the Regulations and the Board's Complaints Procedures.
- [4] The following Board Members were present at the hearing:
- | | |
|--------------------|--------------------------|
| Richard Merrifield | Deputy Chair (Presiding) |
| Mel Orange | Board Member |
| Bob Monteith | Board Member |
- [5] The Board's decision was issued on 15 August 2016. The Board invited the Respondent to make written submissions on the matter of possible disciplinary penalties and payment of costs.
- [6] On 18 October 2016 the Board received submissions from Respondent. It has considered those submissions and has made the following decision.

Penalty

- [7] The Board's initial view was that \$1,000 was the appropriate penalty for the disciplinary offence.

- [8] Having considered the submissions received the Board has decided to amend the penalty to \$750. The Respondent should note that most of the matters raised in the submission had already been taken into consideration. The advice received from the liquidator has been accepted as an additional mitigating factor warranting a reduction in penalty.

Costs

- [9] The Board's initial view was that \$500 was appropriate.
- [10] Having considered the submissions received the Board has decided to uphold its initial view. The amount is consistent with what is ordered when a matter is dealt with on the papers and as such the Respondent has not been disadvantaged by a hearing having been held.

Publication of Name

- [11] The Board's initial view was there were no good reasons to further publish the matter.
- [12] Having considered the submissions received the Board has decided to uphold its initial view.
- [13] The Respondent has queried the period of time that a disciplinary matter remains on the Register. This is governed by s 301(1)(l)(iii) of the Act which provides that it be recorded for a period of 3 years. It states:
- (l) *information about the status and history of the person's [licensing], particularly—*
 - (iii) *any action taken under section 318 on a disciplinary matter in respect of the person in the last 3 years:*

Board's Decision

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

Penalty: Pursuant to s 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$750.

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 s 301(1)(iii) of the Act.

In terms of s 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 the Respondent being named in this decision.

Right of Appeal

[15] The Respondent has a right to appeal the Board decisions under s 330(2) of the Actⁱ.

Signed and dated this 4th day of November 2016.



Richard Merrifield
Presiding Member

ⁱ **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.