

**BPB Complaint Numbers: C2-01296**

**IN THE MATTER OF**

Under the Building Act 2004 (the Act)

An inquiry by the Building Practitioners' Board  
under section 315 of the Act

**AGAINST**

Justin Norrell, Licensed Building Practitioner  
No. BP 101815

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

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**Introduction**

- [1] This decision arises out of a decision by the Building Practitioners Board ("the Board") where the Board found that the Respondent had carried out or supervised building work in a negligent or incompetent manner (s 317(1)(b) of the Act).
- [2] The Respondent is a licensed building practitioner with a Carpentry Licence issued 23 August 2010.
- [3] The Board considered the complaint under the provisions of Part 4 of the Act, the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Regulations) and the Board's Complaints Procedures.
- [4] The Board heard the complaint on 6 September 2016 in Christchurch. The Board Members present for the hearing were:
- |               |                  |
|---------------|------------------|
| Chris Preston | Chair(Presiding) |
| Mel Orange    | Board Member     |
| Robin Dunlop  | Board Member     |
| Bob Monteith  | Board Member     |
- [5] The Board's substantive decision was issued on 19 October 2016. In it the Board outlined the principles on which its decisions on penalty, costs and publication are based and gave its preliminary views in respect of the appropriate penalty. The Board invited the Respondent to make written submissions prior to confirming its position.
- [6] On 31 October 2016 the Board received the Respondent's submissions. It has considered those and made the following final decision.

**Penalty and Costs**

- [7] The Respondent has accepted the Board's initial view on penalty and costs and these are therefore affirmed.

## Publication of Name

- [8] The Board's initial view was there were no good reasons to further publish the matter. The Board's decision also notes that its decision will be recorded in the Register of Licensed Building Practitioners in accordance with s 301(1)(l)(iii) of the Act. The Respondent has sought relief from this and has noted the implications such action would have for him and his business.
- [9] The Register is established by s 298 of the Act and s 299 sets out its purposes which are:
- The purpose of the register is—*
- (a) *to enable members of the public to—*
- (i) *determine whether a person is a licensed building practitioner and, if so, the status and relevant history of the person's [licensing]; and*
- (ii) *choose a suitable building practitioner from a list of licensed building practitioners; and*
- (iii) *know how to contact the building practitioner; and*
- (iv) *know which licensed building practitioners have been disciplined within the last 3 years; and*
- (b) *to facilitate the administrative, disciplinary, and other functions of the Board and the Registrar under this Act.*
- [10] Section 301 sets out the matters to be contained in the Register. The section uses the phrasing "must" which makes the provisions mandatory, not discretionary:
- (1) *The register must contain all of the following information, to the extent that the information is relevant, for each licensed building practitioner whose name is entered in the register:*
- (l) *information about the status and history of the person's [licensing], particularly—*
- (i) *the class [in which the person is licensed]; and*
- (ii) *the date on which the person's name was entered in the register; and*
- (iii) *any action taken under section 318 on a disciplinary matter in respect of the person in the last 3 years:*
- [11] The final provision, action taken under s 318, is the reason why detail on the disciplinary offence must be contained in the Register.
- [12] Taking the above provisions into consideration it is clear a purpose of the Register is to inform consumers and providing information as regards disciplinary action helps to facilitate this. It is also clear that the Board has no discretion as regards information on disciplinary action being retained on the Register.
- [13] The Board's only discretion is as regards further publication beyond the Register. In this instance the Board considered there were not good reasons to publish further.
- [14] On the basis of the above the Board finds that it cannot provide the relief sought. The disciplinary action will be noted in the Register as per the provisions of the Act.

## Board's Decision

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

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

**Costs:** Pursuant to s 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 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 the Respondent being named in this decision.

### Right of Appeal

[16] The Respondent has a right to appeal the Board decisions under s 330(2) of the Act<sup>i</sup>.

Signed and dated this 9<sup>th</sup> day of November 2016



**Chris Preston**  
Presiding Member

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<sup>i</sup> **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.