

BPB Complaint No. C2-01327

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

Kyle Byers, Licensed Building Practitioner No.
BP 101627

**FINAL 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 had carried out or supervised building work or building inspection 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 15 July 2015.
- [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 16 August 2016 in Christchurch. The Board Members present for the hearing were:
- | | |
|--------------------|-------------------|
| Chris Preston | Chair (Presiding) |
| Richard Merrifield | Deputy Chair |
| Mel Orange | Board Member |
| Robin Dunlop | Board Member |
| Dianne Johnson | Board Member |
| Bob Monteith | Board Member |
- [5] The Board's substantive decision was issued on 1 September 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 8 September 2016 the Board received the Respondent's submissions. It has considered those and made the following final decision.

Penalty

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

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- [8] Having considered the submissions received the Board has decided to uphold its initial view.
- [9] The submissions put forward related to the Respondent's appearance in a health and safety campaign. Whilst his participation is admirable it does not relate to the conduct under inquiry and the Board notes that the level of fine is already at the lower end of the scale.

Costs

- [10] The Board's initial view was that \$1,000 costs were appropriate.
- [11] Having considered the submissions received the Board has decided to uphold its initial view for the same reasons set out above.

Publication of Name

- [12] The Board's initial view was there were no good reasons to publish the matter further. No submissions were made with regard to this and the Board's decision stands.

Board's Decision

- [13] 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 \$1,000.

Costs: Pursuant to s 318(4) of the Act, the Respondent is ordered to pay costs of \$1,000 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

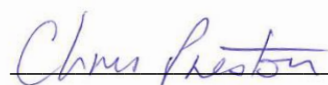
Publication: The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with s 301(1)(iii) of the Act.

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 the Respondent being named in this decision.

Right of Appeal

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

Signed and dated this 6th day of October 2016



Chris Preston
Presiding Member

ⁱ **Section 330 Right of appeal**

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- (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.*