

Before the Building Practitioners Board

	BPB Complaint No. CB25248
Licensed Building Practitioner:	Zunlong Guan (the Respondent)
Licence Number:	BP 114839
Licence(s) Held:	Carpentry and Roofing – Metal Tile Roof, Profiled Metal Roof and/or Wall Cladding, Shingle or Slate Roof

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

Complaint or Board Inquiry	Complaint
Hearing Location	Auckland
Hearing Type:	In person
Hearing Date:	29 January 2020
Draft Decision Date:	6 March 2020
Final Decision Date:	30 March 2020

Board Members Present:

Richard Merrifield, LBP, Carpentry and Site AOP 2 (Presiding)
Mel Orange, Legal Member
David Fabish, LBP, Carpentry and Site AOP 2
Robin Dunlop, Retired Professional Engineer
Faye Pearson-Green, LBP Design AOP 2

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.

Board Decision:

The Respondent **has** committed disciplinary offences under section 317(1)(b) and 317(1)(da)(ii) of the Act.

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Introduction

- [1] The hearing resulted from a complaint into the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations¹ to hold a hearing in relation to building work at *[Omitted]*. The alleged disciplinary offences the Board resolved to investigate were that the Respondent:
- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act); and
 - (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).

¹ The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

Procedure

- [2] On 27 January 2019 the Respondent contacted the Board Officer to advise that he had a hospital appointment on the morning of the hearing and that he would not be able to attend. The Board was not informed of this until the hearing was due to commence on the morning of 29 January 2020. A summoned witness was present.
- [3] 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 is necessary prior to it making a decision. In this respect the Act provides that the Board may regulate its own procedures². It has what is described as a summary jurisdiction in that the Board has a degree of flexibility in how it deals with matters; it retains an inherent jurisdiction beyond that set out in the enabling legislation³. As such it may 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.
- [4] In this instance, given that a witness was present, and the Board considered it had sufficient evidence before it to allow it to make a decision, it decided to take the evidence of the witness and to issue a draft decision. As part of the process the Respondent will be provided with an opportunity to make comment on the Board's draft findings and to present further evidence prior to the Board making a final decision. If the Board directs or the Respondent requests an in-person hearing, then one will be scheduled.

Function of Disciplinary Action

- [5] 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 in *R v Institute of Chartered Accountants in England and Wales*⁴ and in New Zealand in *Dentice v Valuers Registration Board*⁵.
- [6] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*⁶ Collins J. noted that:

"... the disciplinary process does not exist to appease those who are dissatisfied The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community."

² Clause 27 of Schedule 3

³ *Castles v Standards Committee No.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

⁴ *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

⁵ [1992] 1 NZLR 720 at p 724

⁶ [2016] HZHC 2276 at para 164

[7] In a similar vein the Board’s investigation and hearing process is not designed to address every issue that is raised in a complaint or by a complainant. The disciplinary scheme under the Act and Complaint’s Regulations focuses on serious conduct that warrants investigation and, if upheld, disciplinary action. Focusing on serious conduct is consistent with decisions made in the New Zealand courts in relation to the conduct of licensed persons⁷:

... the statutory test is not met by mere professional incompetence or by deficiencies in the practice of the profession. Something more is required. It includes a deliberate departure from accepted standards or such serious negligence as, although not deliberate, to portray indifference and an abuse.

[8] Finally, the Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. Those grounds do not include contractual breaches other than when the conduct reaches the high threshold for consideration under section 317(1)(i) of the Act which deals with disrepute.

[9] The above commentary on the limitations of the disciplinary process are important to note as, on the basis of it, the Board Board’s inquiries, and this decision, focus on and deal with the serious conduct complained about.

Evidence

[10] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁸. 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.

[11] The Respondent was engaged to carry out roofing work on an extension to a new single storey dwelling under a building consent. Following completion, which occurred in November 2018, the Complainant lodged a complaint with the Board alleging that the Respondent had carried out the work in a negligent manner. The Complainant provided the Board with a “Before you Buy” inspection report which outlined issues with the roofing. The report identified the following issues:

- (a) Patched hole in soffit outside master bedroom;
- (b) The flashings on the roof need repair and replacement;
- (c) The flashings are short, no fixed down, incomplete and poorly installed;
- (d) Many fixings (screws) were missing from the roof;
- (e) Ridge cap was short of apron flashing;
- (f) Ridge caps do not meet correctly;
- (g) The apron flashings were poorly installed;
- (h) Fixings missing from sheets; and

⁷ *Pillai v Messiter (No 2)* (1989) 16 NSWLR 197 (A) at 200

⁸ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

- (i) The barge flashing was not finished. The soft edge should be pushed into troughs on roof.
- [12] The report was supported by photographs of the deficient work which clearly depicted the issues noted.
- [13] A new contractor, *[Omitted]*, a licensed building practitioner with a Roofing Licence, was engaged to carry out remedial work. He gave evidence at the hearing. He stated he followed the instructions set out in the Before you Buy report replacing ridging and flashing elements. He noted that there was also a lack of sealant on the long section of ridge that was replaced. He did not consider that the work had been carried out in a tradesman like manner.
- [14] The Complainant also alleged that the Respondent had failed to provide a record of work on completion of restricted building work. The Respondent's record of work was provided to the owner and the territorial authority on 25 March 2019.
- [15] The Respondent provided a written response to the complaint. He stated that on 15 April 2019, he received an inspection report from the Complainant, he immediately went to the site to check the work and that on 28 May 2019 he returned to the site and rectified all the problems. The Complainant refuted this. In the complaint the Complainant stated that he had contacted the roofer, that the work was not fixed, and that the Respondent said the work had passed the council inspection.

Draft Conclusion and Reasoning

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

- [17] The reasons for the Board's decisions follow.

Negligence and/or Incompetence

- [18] Negligence is the departure by a licensed building practitioner, whilst carrying out or supervising building work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired

into. This is described as the *Bolam*⁹ test of negligence which has been adopted by the New Zealand Courts¹⁰.

- [19] The New Zealand Courts have stated that assessment of negligence in a disciplinary context is a two-stage test¹¹. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.
- [20] When considering what an acceptable standard is the Board must have reference to the conduct of other competent and responsible practitioners and the Board's own assessment of what is appropriate conduct, bearing in mind the purpose of the Act¹². The test is an objective one and in this respect it has been noted that the purpose of discipline is the protection of the public by the maintenance of professional standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner¹³.
- [21] The Board notes that the purposes of the Act are:

3 Purposes

This Act has the following purposes:

- (a) *to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—*
- (i) *people who use buildings can do so safely and without endangering their health; and*
 - (ii) *buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
 - (iii) *people who use a building can escape from the building if it is on fire; and*
 - (iv) *buildings are designed, constructed, and able to be used in ways that promote sustainable development:*
- (b) *to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.*

- [22] The Board also notes, as regards acceptable standards, that all building work must comply with the Building Code¹⁴ and be carried out in accordance with a building

⁹ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

¹⁰ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

¹¹ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

¹² *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

¹³ *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

¹⁴ Section 17 of the Building Act 2004

consent¹⁵. As such, when considering what is and is not an acceptable standard, the Building Code and any building consent issued must be taken into account.

- [23] Turning to seriousness in *Collie v Nursing Council of New Zealand*¹⁶ the Court's noted, as regards the threshold for disciplinary matters, that:

[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.

- [24] There was clear evidence before the Board of roofing work that had been completed in a manner that would not have satisfied the provisions of the Building Code, and in particular, the provisions of Clause E2 External Moisture Management. A failure to correctly manage external moisture can have long term implications on the structure of a building. The Board does not accept that the Respondent attended to the rectification of the issues. If he had then it would not have been necessary for the Complainant to engage a new contractor to rectify the issues. Moreover, even if he had returned the Board considers that licensed building practitioners should be aiming to get building work right the first time and not to rely on others to bring their quality and compliance failings to their attention. In this respect during the first reading of changes to the Act around licensing¹⁷ it was noted by the responsible Minister:

In February this year the Minister announced measures to streamline and simplify the licensed building practitioner scheme. A robust licensing scheme with a critical mass of licensed builders means consumers can have confidence that their homes will be built right first time.

- [25] The introduction of the licensed building practitioner regime was aimed at improving the skills and knowledge of those involved in residential construction. The following was stated as the intention to the enabling legislation¹⁸:

The Government's goal is a more efficient and productive sector that stands behind the quality of its work; a sector with the necessary skills and capability to build it right first time and that takes prides in its work; a sector that delivers good-quality, affordable homes and buildings and contributes to a prosperous economy; a well-informed sector that shares information and quickly identifies and corrects problems; and a sector where everyone involved in building work knows what they are accountable for and what they rely on others for.

¹⁵ Section 40(1) of the Building Act 2004

¹⁶ [2001] NZAR 74

¹⁷ Hansard volume 669: Page 16053

¹⁸ Hansard volume 669: Page 16053

We cannot make regulation more efficient without first getting accountability clear, and both depend on people having the necessary skills and knowledge. The Building Act 2004 will be amended to make it clearer that the buck stops with the people doing the work. Builders and designers must make sure their work will meet building code requirements; building owners must make sure they get the necessary approvals and are accountable for any decisions they make, such as substituting specified products; and building consent authorities are accountable for checking that plans will meet building code requirements and inspecting to make sure plans are followed.

[26] Section 3 of the Act, which sets out the Act's purposes notes that the Act includes the purpose of promoting the accountability of builders. Section 14E of the Act encapsulates the statements in Hansard noted above. It sets out that:

14E Responsibilities of builder

- (1) *In subsection (2), builder means any person who carries out building work, whether in trade or not.*
- (2) *A builder is responsible for—*
 - (a) *ensuring that the building work complies with the building consent and the plans and specifications to which the building consent relates:*
 - (b) *ensuring that building work not covered by a building consent complies with the building code.*
- (3) *A licensed building practitioner who carries out or supervises restricted building work is responsible for—*
 - (a) *ensuring that the restricted building work is carried out or supervised in accordance with the requirements of this Act; and*
 - (b) *ensuring that he or she is licensed in a class for carrying out or supervising that restricted building work.*

[27] It is within this context that the Board considers that the acceptable standards expected of a reasonable licensed building practitioner includes taking steps to ensure building work is carried out competently and compliantly as and when it is carried out.

[28] Given the above factors the Board, which includes persons with extensive experience and expertise in the building industry, considered the Respondent has departed from what the Board considers to be an accepted standard of conduct and that the conduct was sufficiently serious enough to warrant a disciplinary outcome.

Record of Work

- [29] There is a statutory requirement under section 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 work¹⁹.
- [30] Failing to provide a record of work is a ground for discipline under section 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.
- [31] The Board discussed issues with regard to records of work in its decision C2-01170²⁰ 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, who a record of work must be provided to and what might constitute a good reason for not providing a record of work.
- [32] The starting point with a record of work is that it is a mandatory statutory requirement whenever restricted building work under a building consent is carried out or supervised by a licensed building practitioner (other than as an owner-builder). Each and every licensed building practitioner who carries out restricted building work must provide a record of work.
- [33] The statutory provisions do not stipulate a timeframe for the licenced person to provide a record of work. The provisions in section 88(1) simply states “on completion of the restricted building work ...”. As was noted by Justice Muir in *Ministry of Business Innovation and Employment v Bell*²¹ “... the only relevant precondition to the obligations of a licenced building practitioner under s 88 is that he/she has completed their work”.
- [34] As to when completion will have occurred is a question of fact in each case. In the current case completion occurred in November 2018. The Board does note that, on completion, there were outstanding issues with the roofing work. The Respondent was not, however, aware of those issues. The roofing work was, as far as the Respondent was concerned, complete. Furthermore, as the Respondent did not carry out any further restricted building work after November 2018 he cannot claim that a record of work was not due at that point in time.
- [35] A record of work was not provided until March 2019. On this basis the Board finds that the record of work was not provided on completion as required and the disciplinary offence has been committed.
- [36] Section 317(1)(da)(ii) of the Act provides for a defence of the licenced 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

¹⁹ Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

²⁰ *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015

²¹ [2018] NZHC 1662 at para 50

open to the Board to find that a disciplinary offence has not been committed. Each case will be decided by the Board on its own merits but the threshold for a good reason is high. No good reasons have been put forward.

- [37] The Respondent should note the requirement is on the licensed building practitioner to provide a record of work, not on the owner or territorial authority to demand one. He is required to act of his own accord and not wait for others to remind him of his obligations.

Draft Decision on Penalty, Costs and Publication

- [38] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [39] The matter was dealt with on the papers. Included was information relevant to penalty, costs and publication and the Board has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [40] 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. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*²² commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

[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.

- [41] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*²³ the court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act they have the advantage of simplicity and transparency. The court recommended adopting a starting point for penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.
- [42] The Board has found that the Respondent has committed two disciplinary offences. The negligence is the most serious of the two offences. There are no mitigating circumstances. The fact that the Respondent did not attend to the issues appropriately when they were raised with him is an aggravating factor.

²² HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

²³ 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

- [43] Record of work matters are at the lower end of the disciplinary scale. The Board's normal starting point for a failure to provide a record of work is a fine of \$1,500. Taking into account the finding of negligence, which was on the lower end of the scale of negligence, the Board has decided that a fine of \$3,000 is appropriate. The amount is consistent with the fines the Board has imposed in other similar matters.

Costs

- [44] Under section 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."
- [45] 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 case²⁴.
- [46] In *Collie v Nursing Council of New Zealand*²⁵ 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.*
- [47] The Board notes the matter was, as a result of the Respondent not appearing, partially dealt with on the papers. This was because a request for the matter to be adjourned was not passed on to the Board. The Board does note that the Respondent must have been aware of the appointment before 27 January 2020 when he informed the Board as the text message, he forwarded to the Board was an appointment reminder. On 27 January 2020 all the necessary arrangements for the hearing had been made. Given those factors the Board does not consider that the reductions in costs it normally applies to matters dealt with on the papers apply in this case.
- [48] Based on the above the Board's costs order is that the Respondent is to pay the sum of \$3,500 toward the costs of and incidental to the Board's inquiry.

Publication

- [49] 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 Act²⁶. The Board is also able, under section 318(5) of the Act, to order publication over and above the public register:

²⁴ *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.

²⁵ [2001] NZAR 74

²⁶ Refer sections 298, 299 and 301 of the Act

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.

- [50] 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.
- [51] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990²⁷. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction²⁸. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive²⁹. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*³⁰.
- [52] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest³¹. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.
- [53] Based on the above the Board will not order further publication.

Draft Section 318 Order

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

Penalty: Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$3,000.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$3,500 (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 section 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.

- [55] 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.

²⁷ Section 14 of the Act

²⁸ Refer sections 200 and 202 of the Criminal Procedure Act

²⁹ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³⁰ *ibid*

³¹ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Submissions on Draft Decision

- [56] The Board invites the Respondent to:
- (a) provide further evidence for the Board to consider; and/or
 - (b) make written submissions on the Board's findings. Submissions may be on the substantive findings and/or on the findings on penalty, costs and publication.
- [57] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **27 March 2020**.
- [58] If submissions are received, then the Board will meet and consider those submissions.
- [59] The Board may, on receipt of any of the material received, give notice that an in-person hearing is required prior to it making a final decision. Alternatively, the Board may proceed to make a final decision which will be issued in writing.
- [60] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

- [61] If the Respondent, having received and considered the Board's Draft Decision, considers that an in-person hearing is required then one will be scheduled, and a notice of hearing will be issued.
- [62] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **27 March 2020**.

Right of Appeal

- [63] The right to appeal Board decisions is provided for in section 330(2) of the Actⁱⁱ.

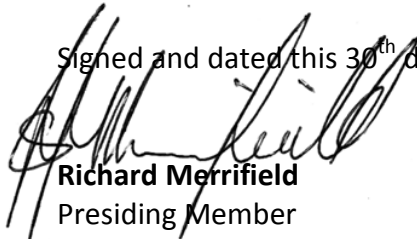
Signed and dated this 6th day of March 2020



Richard Merrifield
Presiding Member

This decision and the order herein were made final on 30 March 2020 on the basis that no further submissions were received.

Signed and dated this 30th day of March 2020



Richard Merrifield
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.*