

## Before the Building Practitioners Board

	BPB Complaint No. CB25421
Licensed Building Practitioner:	Kevin Heath (the Respondent)
Licence Number:	BP 14492
Licence(s) Held:	Bricklaying and Blocklaying, AOP Veneer and Structural Masonry

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### Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner

#### Under section 315 of the Building Act 2004

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Complaint or Board Inquiry	Complaint
Hearing Location	Tauranga
Hearing Type:	In Person
Hearing Date:	24 September 2020
Decision Date:	20 October 2020

#### Board Members Present:

Chris Preston, Chair (Presiding)  
Mel Orange, Deputy Chair, Legal Member  
Robin Dunlop, Retired Professional Engineer  
Bob Monteith, LBP, Carpentry and Site 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.

#### Disciplinary Finding:

The Respondent **has** committed a disciplinary offence under section 317(1)(b) of the Act.

The Respondent **has not** committed disciplinary offences under sections 317(1)(c), 317(1)(d) or 317(1)(h) of the Act.

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**Summary of the Board’s Decision**

[1] The Respondent was negligent in respect of documentation management. The issues with regard to the quality and compliance of the building work did not reach the threshold for a disciplinary finding. The Respondent did not carry out building work contrary to a building consent as the work was not complete. He did not work outside of his licence or his competency as the building work had not been consented as restricted building work. The Respondent is censured and ordered to pay costs of \$3,000 in respect of the finding of negligence.

**The Charges**

[2] The hearing resulted from a complaint about the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations<sup>1</sup> 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 contrary to section 317(1)(b) of the Act, IN THAT, the foundation footings may not have been constructed in a compliant manner;

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<sup>1</sup> The resolution was made following the Board’s consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

- (b) carried out (other than as an owner-builder) or supervised restricted building work or building inspection work of a type that he or she is not licensed to carry out or supervise contrary to section 317(1)(c) of the Act, IN THAT, he may have carried out restricted building work that requires a Carpentry or a Foundation AOP Concrete foundation walls and concrete slab-on-ground Licence;
- (c) carried out or supervised building work or building inspection work that does not comply with a building consent contrary to section 317(1)(d) of the Act, IN THAT, the foundation footings may not have been constructed in accordance with the building consent;
- (d) breached section 314B(b) of the Act contrary to section 317(1)(h) of the Act, IN THAT, he may have carried out or supervised building work on foundations that was outside of his competence; and
- (e) been convicted, whether before or after he or she is licensed, by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 6 months or more and the commission of the offence reflects adversely on the person's fitness to carry out or supervise building work or building inspection work.

### **Function of Disciplinary Action**

- [3] 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*<sup>2</sup> and in New Zealand in *Dentice v Valuers Registration Board*<sup>3</sup>.
- [4] 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*<sup>4</sup> 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.”*
- [5] 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

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<sup>2</sup> *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

<sup>3</sup> [1992] 1 NZLR 720 at p 724

<sup>4</sup> [2016] HZHC 2276 at para 164

conduct is consistent with decisions made in the New Zealand courts in relation to the conduct of licensed persons<sup>5</sup>:

*... 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.*

- [6] 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.
- [7] The above commentary on the limitations of the disciplinary process are important to note as, on the basis of it, the Board’s inquiries, and this decision, focus on and deal with the serious conduct complained about.

### **Inquiry Process**

- [8] The investigation and hearing procedure under the Act and Complaints Regulations is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. Rather the Board sets the charges, and it decides what evidence is required at a hearing to assist it in its investigations. In this respect, the Board reviews the available evidence when considering the Registrar’s Report and determines the witnesses that it believes will assist at a hearing. The hearing itself is not a review of all of the available evidence. Rather it is an opportunity for the Board to seek clarification and explore certain aspects of the charges in greater depth.
- [9] Whilst a complainant may not be required to give evidence at a hearing, they are welcome to attend and, if a complainant does attend, the Board provides them with an opportunity to participate in the proceedings.

### **Evidence**

- [10] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed<sup>6</sup>. 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 procedure the Board uses is inquisitorial, not adversarial. The Board examines the documentary evidence available to it prior to the hearing. The hearing is an opportunity for the Board, as the inquirer and decision-maker, to call and question witnesses to further investigate aspects of the evidence and to take further evidence from key witnesses. The hearing is not a review of all of the available evidence.

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<sup>5</sup> *Pillai v Messiter (No 2)* (1989) 16 NSWLR 197 (A) at 200

<sup>6</sup> *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

[12] In addition to the documentary evidence before the Board heard evidence at the hearing from:

Kevin Heath	Respondent
[Omitted]	Complainant
[Omitted]	Engineer, [Omitted], Summoned Witness (the Engineer)

[13] The Complainant, who described himself as owning and operating a design practice, filed a complaint about the Respondent’s construction of foundations for a garage to be built. The garage would, when complete, become part of a residential dwelling. The Complainant was providing the overall project management of the build.

[14] The Complainant raised issues with the quality and compliance of the building work. He provided copies of Council inspection records and engineer’s site visit records in support of the complaint. At the hearing, the Complainant put forward his perspective which was that the Respondent was undertaking the work in the manner that the Respondent considered was the way it should be done as opposed to following the consented documentation.

[15] The Respondent did not initially respond in detail to the complaint. He requested a hearing to explain his situation in person.

[16] One of the matters at issue was whether the building work was restricted building work which would have required a licensed building practitioner with the appropriate class of licence to carry out or supervise it<sup>7</sup>. The Respondent produced an email from [Omitted], Acting Team Leader Processing at the Tauranga City Council, dated 17 September 2020, in which [Omitted] stated:

*I can confirm that the consent was processed and granted on the basis that the Building Consent Authority, considered the working being done to the garage wasn’t restricted building work.*

[17] The email post-dated the building work which was carried out in mid to late 2019. The Board questioned the Respondent as regards his understanding of whether the building work was restricted at the time the work was carried out. He stated that he had made an inquiry with [Omitted] prior to starting the work and had been advised it was not restricted. He further stated that [Omitted] could not recall if he had made that inquiry at that time but that he had a close ongoing work relationship with [Omitted]. The Engineer noted that a Form 2A, which is required for design work relating to restricted building work (certificate of design), was not requested as part of the engineering design when a building consent was sought.

[18] At the hearing, the Board reviewed the [Omitted] site visit records. Four in total were provided to the Board. They recorded a number of issues and were supported

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<sup>7</sup> Section 84 of the Building Act 2004.

with photographs. The Engineer was questioned about the items noted. She made a general statement that the issues noted were not uncommon and that it was common for the first inspection to be a fail. She noted that the main concern was the length of laps on reinforcing steel which was a major issue from a structural perspective but that it was not overly difficult to rectify. The Respondent accepted that he had erroneously applied the incorrect standard with regard to lap lengths.

- [19] The Engineer made the observation, as regards other issues noted in site records, that they were, in the main, minor issues that would be reasonably easy to fix. The exception was the depth of pile holes, which were not drilled by the Respondent. The Respondent did accept that he did not measure their depth prior to placing reinforcing cages.
- [20] The site visit records (four in total) disclosed that a number of the issues identified in the first site visit were not dealt with, or not adequately dealt with over the subsequent site visits.
- [21] The Board also heard evidence with regard to what documentation was available to the Respondent during the build. The Complainant was receiving and managing the documentation and had provided the Respondent with a link to the portal where all the documentation was stored. The Respondent did not accept or take up that link. The Respondent stated that he had limited access to documentation, including consented designs and engineering site visit records, the latter of which the Respondent stated he only viewed on the Complainant's phone.

### **Board's Conclusion and Reasoning**

- [22] The Board has decided that the Respondent **has** carried out or supervised building work or building inspection work in a negligent manner (s 317(1)(b) of the Act) and **should** be disciplined.
- [23] The Board has also decided that the Respondent **has not**:
- (a) carried out (other than as an owner-builder) or supervised restricted building work or building inspection work of a type that he or she is not licensed to carry out or supervise (s 317(c) of the Act);
  - (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act); or
  - (c) breached section 314B(b) of the Act (s 317(1)(h) of the Act).
- [24] The reasons for the Board's decisions follows.

### Negligence

- [25] The Board's finding of negligence relates to the Respondent's process in carrying out the building work as opposed to the quality and compliance of the building work carried out.

- [26] 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*<sup>8</sup> test of negligence which has been adopted by the New Zealand Courts<sup>9</sup>.
- [27] The New Zealand Courts have stated that an assessment of negligence in a disciplinary context is a two-stage test<sup>10</sup>. 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.
- [28] 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 Act<sup>11</sup>. 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 practitioner<sup>12</sup>.
- [29] The Board also notes, as regards acceptable standards, that all building work must comply with the Building Code<sup>13</sup> and be carried out in accordance with a building consent<sup>14</sup>. 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.
- [30] In this instance, the Respondent accepted that he had made mistakes during the build. There was evidence that the mistakes were not dealt with when subsequent engineers site visits were carried out. The mistakes and issues noted in engineering site visits themselves were described as common, mostly minor and/or not difficult to rectify. As such, the Board has decided that the building work issues did not reach the seriousness threshold for disciplinary action to be taken.
- [31] In *Collie v Nursing Council of New Zealand*<sup>15</sup> 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*

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<sup>8</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>9</sup> *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

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

<sup>11</sup> *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

<sup>12</sup> *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

<sup>13</sup> Section 17 of the Building Act 2004

<sup>14</sup> Section 40(1) of the Building Act 2004

<sup>15</sup> [2001] NZAR 74

*which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.*

[32] In *Pillai v Messiter (No 2)*<sup>16</sup> the Court of Appeal stated:

*... 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.*

[33] It is on the basis of the above that the Board decided that the quality and compliance issues with the building work did not reach the disciplinary threshold.

[34] The Board did, however, decide that the Respondent's processes around management of documentation did fall below an acceptable standard and that the Respondent should be disciplined in respect of it.

[35] There is a requirement in section 40 of the Act that all building work be carried out in strict compliance with a building consent. That requires access to and knowledge of the consented documentation. The Respondent was provided with access to that documentation but did not make use of it. Moreover, when issues on site were occurring, he did not take steps to obtain engineering site visit records but continued with work and was, as a result, mostly ignorant of what they contained and issues were not rectified in a timely manner. Put simply the Respondent should have ensured he had ready access to the correct documentation that he needed to carry out his work. Had he done so, it is likely that many of the issues that arose would not have.

#### Contrary to a Building Consent

[36] As noted earlier, under section 40 of the Act, all building work must be carried out in accordance with the building consent issued.

[37] The process of issuing a building consent and the subsequent inspections under it ensure independent verification that the Building Code has been complied with and that the works will meet the required performance criteria in the Building Code. In doing so, the building consent process provides protection for owners of works and the public at large. This accords with the purposes of the Act.

[38] In the matter before the Board, the building work had not been taken to the point, by the Respondent, where it could be said that the building work had been carried out in a manner that was contrary to the building consent. The work was still progressing and was not complete. As such the Board has decided that the disciplinary offence has not been committed.

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<sup>16</sup> (1989) 16 NSWLR 197 (CA) at 200

Not Licensed or Outside of Competence

- [39] The Board’s considerations on these matters related to the Respondent holding a Bricklaying and Blocklaying, AOP Veneer and Structural Masonry whereas aspects of the building work carried out, if it was restricted building work, would have required a foundations licence or carpentry licence.
- [40] The Board was of the view that the building work was restricted building work<sup>17</sup>. It accepts, however, that it was not processed as such and that the Respondent may have been advised that it was not restricted building work. The Board further notes that reliance on official advice can be a defence. In *Wilson v Auckland City Council (No 1)*<sup>18</sup> the appellant, was convicted of having carried out building work pending the grant of a building consent. On appeal, it was argued that the council had a policy of permitting building prior to the obtaining of a consent, although the council denied this. The Court commented that the defence of officially induced error could not be discounted as forming part of New Zealand criminal law, although it held that there was no factual basis for that defence in the case. In *Tipple and Gun City Limited v Police*<sup>19</sup> Holland J found that where a person committed a crime believing it to be lawful on the grounds of “officially induced error” it was in the public interest as well as being just that that person should not be held criminally liable.
- [41] On this basis, the Board has decided that it was reasonable for the Respondent to rely on the building consent authority’s assessment and on the advice received and that, accordingly, no offences have been committed.

**Penalty, Costs and Publication**

- [42] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Act<sup>i</sup>, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [43] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [44] 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*<sup>20</sup> commented on the role of

<sup>17</sup> The Board made an assessment of what is and is not restricted building work in relation to residential dwellings in Board Decision C2-01495.

<sup>18</sup> [2007] NZAR 705 (HC)

<sup>19</sup> (1994) 11 CRNZ 132

<sup>20</sup> HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

“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.*

- [45] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*<sup>21</sup> 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 do have the advantage of simplicity and transparency. The Court recommended adopting a starting point for a penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.
- [46] The Board has upheld one ground of discipline. The offending is at the lower end of the scale of matters that come before the Board. Given this, and based on the commentary above, the Board’s penalty decision is that the Respondent should be censured. A censure is a public expression of disapproval.

#### Costs

- [47] 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.”
- [48] 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<sup>22</sup>.
- [49] In *Collie v Nursing Council of New Zealand*<sup>23</sup> 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.*
- [50] Based on the above, the Board’s costs order is that the Respondent is to pay the sum of \$3,000 toward the costs of and incidental to the Board’s inquiry. The Board’s normal scale costs for a half-day hearing is \$3,500. The amount has been reduced slightly to reflect the disciplinary outcome.

<sup>21</sup> 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

<sup>22</sup> *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.

<sup>23</sup> [2001] NZAR 74

## Publication

- [51] 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 Act<sup>24</sup>. The Board is also able, under section 318(5) of the Act, to order publication over and above the public register:
- 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.*
- [52] 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.
- [53] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990<sup>25</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>26</sup>. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive<sup>27</sup>. 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*<sup>28</sup>.
- [54] 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 interest<sup>29</sup>. 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.
- [55] Based on the above, the Board will not order further publication.

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<sup>24</sup> Refer sections 298, 299 and 301 of the Act

<sup>25</sup> Section 14 of the Act

<sup>26</sup> Refer sections 200 and 202 of the Criminal Procedure Act

<sup>27</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>28</sup> *ibid*

<sup>29</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

### Section 318 Order

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

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

**Costs:** Pursuant to section 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 section 301(l)(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.**

[57] 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.

### Submissions on Penalty, Costs and Publication

[58] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **11 November 2020**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received, then this decision will become final. 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.

[59] In calling for submissions on penalty, costs and mitigation, the Board is not inviting the Respondent to offer new evidence or to express an opinion on the findings set out in this decision. If the Respondent disagrees with the Board's findings of fact and/or its decision that the Respondent has committed a disciplinary offence, the Respondent can appeal the Board's decision.

### Right of Appeal

[60] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>ii</sup>.

Signed and dated this 20<sup>th</sup> day of October 2020



**Chris Preston**  
Presiding Member

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**<sup>i</sup> 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."*

**<sup>ii</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.*