

## **Before the Building Practitioners Board**

BPB Complaint No. CB26505

Licensed Building Practitioner: James Cornes (the Respondent)

Licence Number: BP 130694

Licence Held: Design AoP 2

---

### **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 Type: On the Papers

Hearing and Decision Date: 24 July 2025

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)

Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2

Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director

Mr C Lang, Building Surveyor and Quantity Surveyor

#### **Appearances:**

S Lucas and A Gavey for the Respondent

#### **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)(g) of the Act.

The Respondent is fined \$1,650 and ordered to pay costs of \$2,350. A record of the disciplinary offending will be recorded on the Public Register for three years.

## Contents

<b>Summary</b> .....	2
<b>The Charges</b> .....	2
<b>Procedure</b> .....	3
<b>Evidence</b> .....	4
<b>Code of Ethics</b> .....	7
<b>Disciplinary Finding</b> .....	8
<b>Penalty, Costs and Publication</b> .....	8
Penalty Submissions.....	8
Penalty Decision.....	10
Costs Decision .....	11
Publication Decision.....	12
<b>Section 318 Order</b> .....	13
<b>Right of Appeal</b> .....	13

## Summary

- [1] The Board found that the Respondent had breached clause 19 of the Code of Ethics for Licensed Building Practitioners (LBPs), which requires that LBPs act professionally and treat clients and colleagues with respect. The conduct related to the Respondent's communications with the Auckland Council with regard to building consents that he had lodged. The communications were derogatory and demeaning of Council Staff.
- [2] The Respondent accepted that he had breached clause 19 of the Code. The Board adopted a starting point of a fine of \$2,500, which it reduced to \$1,650 on the basis of the Respondent's acceptance that his conduct had breached the Code. He was ordered to pay costs of \$2,350. A record of the disciplinary offending will be recorded on the Public Register for three years.

## The Charges

- [3] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. There is no requirement for a complainant to prove the allegations. The Board sets the charges and decides what evidence is required.<sup>1</sup>

---

<sup>1</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. The evidentiary standard is the balance of probabilities, *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1.

- [4] In this matter, the disciplinary charges the Board resolved to further investigate<sup>2</sup> were that the Respondent may, in relation to building work (design work) at [OMITTED] have breached the Code of Ethics prescribed under section 314A of the Act contrary to section 317(1)(g) of the Act and/or conducted himself or herself in a manner that brings, or is likely to bring, the regime under this Act for Licensed Building Practitioners into disrepute contrary to section 317(1)(i) of the Act.
- [5] With respect to the Code of Ethics allegation, the Board gave notice that the conduct that would be further investigated was the tone and content of his communications with Council Officers and whether the conduct breached clause 19 of the Code:

**19. You must behave professionally**

*In carrying out or supervising building work, you must act professionally and treat your clients and colleagues with respect.*

- [6] The Board also gave notice that it would consider whether the same conduct had brought the regime for LBPs into disrepute.

**Procedure**

- [7] The matter has had a protracted procedural history. It was set down to be heard before the Board in Auckland on 7 and 8 May 2025. On 30 April 2025, Counsel acting for the Respondent wrote to the Board proposing that the hearing dates be vacated and the matter be dealt with on the papers.
- [8] The Board's processes allow for a matter to be determined on the papers where there has been or will be an acceptance of liability for one or more of the charges. The Respondent, by way of Counsel, indicated he would accept that his conduct breached section 317(1)(g) of the Act if the Board did not proceed with the more serious charge of disreputable conduct under section 317(1)(i) of the Act. Counsel made submissions in support of the proposal, noting various cases where the Board had upheld disrepute, with the submission being that the conduct did not reach the threshold for a finding of disrepute.
- [9] The Board issued a Minute noting that it was mindful of the costs involved in conducting a hearing, both for the licensing regime and those who appear at a hearing, and that it generally adopts the most efficacious means of dealing with a matter.
- [10] The Board vacated the hearing dates and gave notice that it would determine the matter on the papers on the basis of an accepted breach of section 317(1)(g) of the Act. The Board called for penalty costs and publication submissions.
- [11] On 13 May 2025, Counsel filed submissions. The Board met on 24 July 2025. It considered the complaint and the submissions and made its decision.

---

<sup>2</sup> The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with regulation 10 of the Complaints Regulations.

## Evidence

- [12] The complaint was made by the Auckland Council. It related to the Respondent's interactions with Council staff who were processing building consent applications the Respondent had submitted. The complaint set out:

*Mr James CORNES has proven to be a difficult Design LBP to deal with in his role providing documentation for consent applications resulting in Requests for Further Information being sent out. He has also been involved in disputes between Council Compliance officers and the homeowner of one consent where processing of the application revealed unauthorised building works to the house. When Mr CORNES does not agree with the processing officer's interpretation or their RFI's his attitude quickly changes to one of confrontation with correspondence back to Council staff deteriorating into derogatory comments, rudeness, accusations and threats to escalate matters within Council. His interactions with Compliance staff follow the same route but with racist and threatening language also involved.*

*Reviewing the RFI's that have been sent and the various Council staff responses these would appear to be reasonable and even if not all requests are necessarily required these should be able to be discussed in a civil manner. This is not restricted to a single occasion or directed to one particular individual staff member, but seems to be Mr CORNES way of corresponding with Council when he doesn't get what he wants.*

- [13] The complaint included specific examples of conduct, including the following:

### **Letter dated 11 April 2023**

*While it makes my blood boil, I find this is typical of the level of service I get from the Auckland Council as a Paying Customer!*

*This information was already shown on BC01 and BC02, however to help with your limited ability to read Plans, I have produced a third drawing BC03 to help you.*

*Are you a complete idiot or was this question a joke? There are NO plants in this area, the word Plant in this situation refers to the mechanical filtration Plant that is required for any swimming pool instalation to keep the water clean and healthy.*

*Again you ask a dumb and pointless question as the pool plant is within the pool enclosure, therefore the children would already be inside this space and NOT outside trying to climb over the NEW 2.0m high concrete block boundary and pool fence!*

*I am staggered with the stupidity of some of the questions in your RFI letter and made a formal complaint to your Manager, who in turn has down nothing about it, so I have written my reply letter back in the same level to*

*get my point across about the frustration and deliberate time wasting and obstruction with an RFI letter written after the 20 days processing time allowed in the Building Act 2004.*

**Phone message dated 19 April 2023:**

*I'm a very unhappy customer. You've just ripped me off nearly \$3,000 to refuse one of my consents. I dealt with an idiot. And so because I called your staff meeting an idiot, they chose to reject my building consent? I spoke to Truth. I did not bully or harass someone. If someone is incompetent and you merely tell the truth, how has that been a bully? I want to your manager, the mayor, someone higher up. This is completely unacceptable and I'm not going to certainly lie down and take this. So I've put in the consent again and I'm asking for a different person to process it because this person was incompetent. So if you don't mind returning my call, I'd like to know who your manager or even if I have to go to the mayor, what I have to do. TV one news, TV three news, whatever it's going to take. But it's not going to be a lay down matter and give it to you.*

**Email of 4 July 2023**

*Just get on with the simple complying Building Consent Application that I have made, instead of looking for reasons not to do your job!*

**Email of 7 November 2023**

*I had two parts to my Official Complaint, the Junior Processing Staff being too lazy to look at the Property Fil which contains all the correct information, then based on her laziness making a False Accusation to your separate "Enforcement Idiots".*

*This Foreigner has come into my Country of birth and residence and blatantly lies to me that a "neighbour" has made a complaint which is completely untrue. Then struts like Peacock onto my Clients Property on the pretense of a false claim and says he carries a Warrant and can do anything he likes, WRONG!*

*Furthermore he invades my Clients Privacy, wake up her teenage daughter to take Photos of every room in her Property, what a Moron!*

*Just to let you know, this matter will not be "swept under the carpet" and I am quite happy to involve TV1 News, TV3 News, Fairgo, The Police and the Court to remove this person's Warrant for a gross abuse of power.*

*The final straw was the Auckland Council passing the imaginary \$1000 fine to the District Court who in turn has added \$30 onto this and threatened the Client with action from the Court Bailiff.*

*So do you think that this could be looking bad for the Council being the Bully?*

*This case is going to have a lot of zero's going in the other direction as a payment to my Client, your Ratepayer and Paying Customer that you have treated like S...*

*I'm sorry [OMITTED], this is no way intended to be personal to you, this jumped up little person makes my blood boil and I have to control myself not to get in trouble as your Staff have bullied and harassed a single mother trying her best to raise and support two teenage children through high school and university and I was raised in a different time where I was taught to respect women.*

**Email of 21 November 2023**

*Do you really think that I am stupid?*

*You asked me to write if I didn't agree with your assessment and I have to say that I disagree with most of it and the dumb questions?*

*Are you a Qualified Registered Chartered Engineer?*

*If not, why do you ask such stupid questions about the Structural Design of these LightWeight Timber Framed Buildings?*

- [14] The Respondent initially refuted the allegations and alleged that Council Staff were bullies and did not respect paying customers. He provided examples of conduct that he considered to be inappropriate. He provided his perspective on his interactions with the Council and submitted that they were, in the circumstances, reasonable and that the Council had been unreasonable in its approaches to the building consent applications.
- [15] Counsel's submissions provided further context and explanations of the Respondent's conduct and his interactions with the Council. Counsel summarised her submissions as follows:

**Summary**

18. *With the benefit of hindsight, Mr Cornes communications can be described as robust. The communications complained of question the technical approach adopted by the Council team, frustration at the Council's processes, and Mr Cornes' intentions to escalate matters, if necessary. However, this must be seen against what Mr Cornes viewed as an unnecessarily difficult stance adopted by Auckland Council and his increasing frustration at an inability to engage constructively with the Council about its approach. There are no profanities, no inappropriate sexual comments and no vile attacks.*
19. *While there is an allegation of a threat of violence (and without attempting to diminish the conduct in any way), this was a single instance which occurred in the heat of the moment and where Mr*

*Cornes felt defensive of a vulnerable client. Mr [OMITTED] emailed his colleagues shortly after this discussion (page 58 of the hearing bundle) there is no reference to him considering that the threat was serious or that he felt intimidated or threatened. This distinguishes the case from the repeated and serious threats of violence exhibited in Spence and prior Board decisions warranting a disrepute finding.*

- [16] In submissions dated 30 April 2025, Counsel submitted that the Respondent would: *concede that, at times, his conduct crossed the boundary between the robust discussion that the Council understands is part of the conversation when it comes to consenting processes and unprofessional behavior.* The Board proceeded on that basis.

### **Code of Ethics**

- [17] The Code of Ethics for Licensed Building Practitioners was introduced by Order in Council.<sup>3</sup> It was introduced in October 2021 and came into force on 25 October 2022. The obligations are new, but there was a transition period of one year to allow practitioners to become familiar with the new obligations. Whilst the Code of Ethics is new, ethics have been a part of other regulatory regimes<sup>4</sup> for some time, and the Board has taken guidance from decisions made in other regimes.
- [18] The disciplinary provision in the Act simply states, “has breached the code of ethics”. Most disciplinary regimes frame the charge as some form of malpractice or misconduct, and the Board has considered the allegations within such a framework and with reference to superior court decisions. Within this context, in *Dentice v Valuers Registration Board*,<sup>5</sup> Chief Justice Eichelbaum stated the purposes of disciplinary processes are to:

*Enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practice the profession in question; to protect both the public, and the profession itself, against persons unfit to practice; and to enable the professional calling, as a body, to ensure that the conduct of members conforms to the standards generally expected of them.*

- [19] The Board also notes that the courts have applied a threshold test to disciplinary matters, and it has applied those tests. In *Collie v Nursing Council of New Zealand*,<sup>6</sup> the test was stated as:

*[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*

---

<sup>3</sup> Building (Code of Ethics for Licensed Building Practitioners) Order 2021

<sup>4</sup> Lawyers, Engineers, Architects and Accountants, for example

<sup>5</sup> [1992] 1 NZLR 720 at 724

<sup>6</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.*

- [20] The specific clause of the Code applicable to the conduct is clause 19, which states that Licensed Building Practitioners (LBPs) are expected to act professionally and treat clients and colleagues with respect. The Respondent has accepted that he did not treat Council staff with respect in his communications. On that basis, the Board finds that the disciplinary offence has been committed.

### **Disciplinary Finding**

- [21] The Respondent **has** breached clause 19 of the Code of Ethics for LBPs contrary to section 317(1)(g) of the Act.

### **Penalty, Costs and Publication**

- [22] Having found that a ground for discipline 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.
- [23] Counsel for the Respondent filed submissions regarding penalty, costs, and publication. The Board has taken them into consideration.

### **Penalty Submissions**

- [24] Counsel referenced previous matters that had been before the Board involving a breach of clause 19 of the Code and, in particular, *Nicholas John Elliot* [2024] BPB 26415 and *Zayd Ali* [2024] BPB 26470.
- [25] Counsel submitted:
13. *Mr Cornes accepts that his communications fell short of professional expectations and were not always constructive. However, it will be apparent that Mr Cornes' communications reflected frustration which partially arose from his concern that the approach taken by Council could lead to delays and increased costs for his clients. Further:*
    - 13.1 *The RFI questions Mr Cornes received were not always clear, were at times delayed and when received were extensive and asked questions irrelevant to the projects; and*
    - 13.2 *Mr Cornes had difficulty in contacting Council employees by phone to discuss the issues.*
  14. *The conduct can be partially explained by pressures Mr Cornes was facing around this time. Mr Cornes' work as an architectural designer is his only source of income. He is dependent on the Council for his livelihood. Attracting and retaining clients is critical to the success of his company. Mr Cornes was concerned that delays in obtaining consent could impact negatively on his client's interests and his professional reputation. It was against this background that Mr*



*Cornes became frustrated and worried the approach adopted by Council could (and did) lead to delays and increased costs for his clients. This is particularly so where unnecessary questions were asked, and geotechnical reports were required without basis.*

15. *Even where Mr Cornes accepts that his communications were unprofessional, the conduct is significantly less serious than the conduct in Elliot, which contained profanities and made unconstructive threats to litigate. There, the Board found a breach of s 317(1)(g), that the respondent be censured and ordered to pay \$500 in costs (for a hearing on the papers and a matter of simple complexity). While the Board discounted the penalty given the recent implementation of the Code, it was assessing the Respondent's behaviour for breaching two aspects of the Code; failing to behave professionally and failing to act in good faith in dispute resolution. Mr Cornes faces one allegation of failing to act professionally.*
16. *Mr Cornes' conduct is of a different nature to that in Elliot. He was dealing with the Council, rather than a member of the public or a client, in the context of challenging and repetitive RFIs and he did not use profanities. It has been established that the Council expects robust engagement as part of the consenting process.*
17. *Mr Cornes has attempted to minimise costs for all in seeking to have the matter heard on the papers.*

- [26] Whilst the Board notes the submissions and accepts that the Respondent's circumstances may have impacted his conduct and that he considered he was acting in his client's best interests, there are aspects of the submissions that it does not agree with.
- [27] First, the Board does not consider that the conduct is as distinguishable from that in *Elliot* as has been submitted. In *Elliot* there was a single incident, whereas the Respondent's conduct was sustained over a period of time and multiple consents. That said, it is accepted that the Respondent did not use foul language.
- [28] Second, the Board rejects the submission that the conduct is lessened because the Respondent was dealing with the Council. Whilst the Board agrees that robust discussions about consents can be had and that challenges to Council decisions can be made, the Code of Ethics applies equally to clients and colleagues. Communications should be respectful and productive.
- [29] Finally, with regard to *Elliot*, it is not accepted that the Respondent did not threaten litigation. His correspondence with the Council and the Board contained threats of action that the Respondent indicated he would take because of his dissatisfaction with them and their processes.

Penalty Decision

- [30] The Board has the discretion to impose a range of penalties.<sup>ii</sup> Exercising that discretion and determining the appropriate penalty requires that the Board balance various factors, including the seriousness of the conduct and any mitigating or aggravating factors present.<sup>7</sup> It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:<sup>8</sup>
- (a) protection of the public and consideration of the purposes of the Act;<sup>9</sup>
  - (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;<sup>10</sup>
  - (c) setting and enforcing a high standard of conduct for the industry;<sup>11</sup>
  - (d) penalising wrongdoing;<sup>12</sup> and
  - (e) rehabilitation (where appropriate).<sup>13</sup>
- [31] Overall, the Board should assess the conduct against the range of penalty options available in section 318 of the Act, reserving the maximum penalty for the worst cases<sup>14</sup> and applying the least restrictive penalty available for the particular offending.<sup>15</sup> In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty<sup>16</sup> that is consistent with other penalties imposed by the Board for comparable offending.<sup>17</sup>
- [32] In general, when determining the appropriate penalty, the Board adopts a starting point based on the principles outlined above prior to it considering any aggravating and/or mitigating factors present.<sup>18</sup>
- [33] The Board considers that an appropriate comparator regarding penalty is *David Dawson* [2022] BPB 25842. That matter involved conduct that took place prior to the Code of Ethics coming into force and a finding of disrepute. In that matter, where comments about Building Control Officers were made, the Board observed and found:

---

<sup>7</sup> *Ellis v Auckland Standards Committee* 5 [2019] NZHC 1384 at [21]; cited with approval in *National Standards Committee (No1) of the New Zealand Law Society v Gardiner-Hopkins* [2022] NZHC 1709 at [48]

<sup>8</sup> Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

<sup>9</sup> Section 3 Building Act

<sup>10</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>11</sup> *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

<sup>12</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>13</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354; *Shousha v A Professional Conduct Committee* [2022] NZHC 1457

<sup>14</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>15</sup> *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

<sup>16</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>17</sup> *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

<sup>18</sup> In *Lochhead v Ministry of Business Innovation and Employment* 3 November [2016] NZDC 21288 the District Court recommended that the Board adopt the approach set out in the Sentencing Act 2002.

[104] *The Board debated at length whether the conduct of the Respondent in this case reached the high threshold of 317 (1)(i) of the Act and in the end, the Board decided that it did meet the threshold. It was a close call.*

[105] *In reaching that conclusion, the Board considers the separate instances of behaviour complained about to be cumulative. The fact of profanities alone being used would not have reached the threshold for disciplinary action in this case. However, the comment about the Council Officer's education was personal in nature and easily capable of a racist interpretation. Such a comment was directed at the Council Officer personally after looking up her work profile online. There is no other way to interpret that comment than as demeaning and undermining.*

[106] *The personal nature of the comment made is what took this behaviour beyond that discussed in earlier Board decisions where the disrepute threshold was not reached.*

- [34] In this matter, there are racial overtones to some of the communications, and the communications complained about were demeaning and derogatory.
- [35] In *Dawson*, the Board started at a fine of \$3,500, which it reduced to \$3,000. The matter also involved a finding of negligence. Taking that into consideration, the Board decided that an appropriate starting point for this matter was a fine of \$2,500.
- [36] There are mitigating factors. The most significant of which is the Respondent's acceptance of wrongdoing. The Board does note, however, that the acceptance came late in the proceedings and that the initial responses took a very different tone. Nevertheless, a discount from the starting point is warranted, and the Board has decided that a one-third reduction should be applied. The fine is set at \$1,650.

#### Costs Decision

- [37] Under section 318(4) of the Act, the Board may require the Respondent to pay the costs and expenses of, and incidental to, the inquiry by the Board. The rationale is that other Licensed Building Practitioners should not be left to carry the financial burden of an investigation and hearing.<sup>19</sup>
- [38] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings<sup>20</sup>. The starting point can then be adjusted up or down with regard to the particular circumstances of each case<sup>21</sup>.

---

<sup>19</sup> *Collie v Nursing Council of New Zealand* [2001] NZAR 74

<sup>20</sup> *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

<sup>21</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.

- [39] Counsel submitted that a maximum order of \$1,700 in costs should be made.

The Board has adopted an approach to costs that uses a scale based on 50% of the average costs of different categories of hearings: simple, moderate and complex. The current matter was complex. The starting point for a complex matter determined on the papers is \$2,350. In determining that the matter was complex, the Board has taken into account the Respondent's approach to the proceedings. In *Daniels v Complaints Committee*,<sup>22</sup> the High Court held that it was permissible to take into account as an adverse factor when determining penalty and costs that the practitioner had responded to the complaints and discipline process in a belligerent way. The Respondent's approach to the matter up until he engaged Counsel could be described as belligerent with conduct similar to that complained about being directed at the Board and Board Members.

- [40] Given the above, the Board's costs order is that the Respondent is to pay the sum of \$2,350 toward the costs of and incidental to the Board's inquiry.

#### Publication Decision

- [41] 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 LBP scheme as is required by the Act,<sup>23</sup> and he will be named in this decision, which will be available on the Board's website. The Board is also able, under section 318(5) of the Act, to order further publication.
- [42] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.<sup>24</sup> Further, as a general principle, publication 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, and the courts have stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published.<sup>25</sup>
- [43] The Board considers that there are salient lessons for other LBPs in this matter. As such, and on the above, a summary of the decision will be published. The Respondent will not be named in that publication. The Respondent should note, however, that the Board has not made any form of suppression order.

---

<sup>22</sup> [2011] 3 NZLR 850.

<sup>23</sup> Refer sections 298, 299 and 301 of the Act

<sup>24</sup> Section 14 of the Act

<sup>25</sup> *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

## Section 318 Order

[44] 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 \$1,650.

**Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$2,350 (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, the Respondent will be named in this decision, which will be published on the Board's website.

The Registrar is directed to publish an article on the lessons to be learnt by other Licensed Building Practitioners from this matter. The manner of publication will be left to the Registrar's discretion. The Respondent is not to be named in the publication.

[45] 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.

## Right of Appeal

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

Signed and dated this 14<sup>th</sup> day of August 2025.



**Mr M Orange**  
Presiding Member

---

### <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."

#### **ii Section 318 Disciplinary Penalties**

- (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 1 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.

#### **iii 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.*