

Before the Building Practitioners Board

	BPB No. 26873
Licensed Building Practitioner:	John Stewart Macdonald (the Respondent)
Licence Number:	BP 123973
Licence(s) Held:	Carpentry

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 Draft Decision Date:	30 January 2026
Finalised Draft Decision Date:	1 May 2026

Board Members Present:

Mr M Orange, Chair, Barrister (Presiding)
Ms S Chetwin CNZM, Barrister and Solicitor, Professional Director
Mr S Hammond, LBP, Carpentry, Regulatory Consultant

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)(i) of the Act.

The Respondent is censured and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary of the Board’s Draft Decision

[1] The Respondent conducted himself in a manner that brought the licensing regime into disrepute when he acted dishonestly in relation to deposits paid for two building projects. The Board has censured the Respondent and ordered that he pay costs of \$700. A record of the offending will be recorded on the Public Register for a period of three years.

The Charges

[2] The prescribed investigation and hearing procedure is inquisitorial, not adversarial. The Board sets the charges and decides what evidence is required.¹

[3] In this matter, the disciplinary charge the Board resolved to further investigate² was whether the Respondent may have conducted himself or herself in a manner that

¹ 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.

² 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.

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.

- [4] The Respondent is censured and ordered to pay costs of \$700. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

Draft Decision Process

- [5] The Board's jurisdiction is that of an inquiry. Matters are not prosecuted before the Board. Rather, it is for the Board to carry out any further investigation that it considers necessary prior to it making a decision.
- [6] Ordinarily, the Board makes a decision after holding a hearing.³ The Board may, however, 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.⁴
- [7] In this instance, the Board has decided that a formal hearing is not necessary. The Board considers that there is sufficient evidence before it to allow it to make a decision on the papers. There may, however, be further evidence in relation to the matter that the Board was not aware of. To that end, this decision is a draft Board decision. The Respondent will be provided with an opportunity to comment on the draft findings and to present further evidence prior to the Board making a final decision. If the Respondent requests an in-person hearing, or the Board directs that one is required, this decision will be set aside, and a hearing will be scheduled.

Evidence

- [8] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed.⁵ 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.

Issue Estoppel

- [9] The Board obtained a High Court judgment relating to the Respondent on which the investigations were based. The general rule is that all facts in issue or relevant to the issue in a case must be proved by evidence. There is, however, the doctrine of estoppel, which can create a legal bar to asserting a particular position. Estoppel can arise from a previous determination of the matter by a court.⁶

³ Regulation 10 of the Complaints Regulations.

⁴ Under Clause 27 of Schedule 3 the Board may regulate its own procedure and it has summary jurisdiction, which allows for a degree of flexibility in how it deals with matters: *Castles v Standards Committee No.* [2013] NZHC 2289, *Orlov v National Standards Committee 1* [2013] NZHC 1955

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

⁶ Refer section 50 of the Evidence Act 2006 and in particular section 50(2)(b) and *Gillies v Keogh* [1989] 2 NZLR 327, 345 (CA).

- [10] The doctrine of issue estoppel seeks to protect the finality of litigation by precluding the re-litigation of issues that have been conclusively determined in a prior proceeding. The key principles are that:
- (a) Issue estoppel precludes a party from re-litigating an identical issue (whether of fact or of law) that has previously been raised and determined with certainty between the parties.⁷
 - (b) Issue estoppel is concerned with the prior resolution of issues rather than causes of action.⁸
 - (c) Issue estoppel can only be founded on findings that are fundamental to the original decision and without which it cannot stand. Other findings cannot support an issue estoppel, however definite the language in which they are expressed.⁹
 - (d) The purpose of any estoppel is to work justice between the parties. It is therefore open to the courts to recognise that in special circumstances, inflexible application of estoppel may have the opposite result.¹⁰ The application of issue estoppel is ultimately a matter at the discretion of the judge in the subsequent proceedings: “A judicial doctrine developed to serve the ends of justice should not be applied mechanically to work an injustice”.¹¹
- [11] The Board considers that, in this case, estoppel applies and that it need not make further inquiry into the facts that led to the Board Inquiry.

Disrepute

- [12] Conduct which brings or is likely to bring the regime into disrepute is that which may result in the regime being held in low esteem by the public. Examples include:
- criminal convictions;¹²
 - honest mistakes without deliberate wrongdoing;¹³
 - provision of false undertakings;¹⁴ and
 - conduct resulting in an unethical financial gain.¹⁵

⁷ *Fidelitas Shipping Co Ltd v V/O Exportchleb* [1965] 2 All ER 4 at 8 per Lord Denning; *Thoday v Thoday* [1964] 1 All ER 341 at 352

⁸ *Joseph Lynch Land Co Ltd v Lynch* [1995] 1 NZLR 37 (CA) at 40–41

⁹ *Talyancich v Index Developments Ltd* [1992] 3 NZLR 28 at 38; *Carl Zeiss Stiftung v Rayner & Keeler Ltd (No 2)* [1967] 1 AC 853 (HL) at 965, per Lord Wilberforce

¹⁰ *Arnold v National Westminster Bank* [1991] 2 AC 93 (HL) per Lord Keith of Kinkel at 109, at 112, per Lord Lowry

¹¹ *Danyluk v Ainsworth Technologies Inc* 2001 SCC 44, [2001] 2 SCR 460 at 460

¹² *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

¹³ *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

¹⁴ *Slack, Re* [2012] NZLCDT 40

¹⁵ *Colliev Nursing Council of New Zealand* [2000] NZAR 7

- [13] The courts have consistently applied an objective test when considering such conduct.¹⁶ The subjective views of the practitioner, or other parties involved, are irrelevant. The conduct need not have taken place in the course of carrying out or supervising building work.¹⁷
- [14] To make a finding of disreputable conduct, the Board needs to determine, on the balance of probabilities,¹⁸ that the Respondent has brought the regime into disrepute and that the conduct was sufficiently serious for the Board to make a disciplinary finding.¹⁹

The conduct

- [15] The Respondent was sued for breach of directors' duties following the liquidation of a construction company, JSMB. The Respondent had placed JSMB into liquidation on 18 January 2021. The two plaintiffs were unsecured creditors of JSMB. Both had entered into construction contracts with JSMB. Their cases were that the Respondent, as the sole director of JSMB, had breached his director duties by causing JSMB to trade recklessly and by allowing JSMB to incur obligations that he knew it would not be able to meet. They sought compensation for their losses.
- [16] The High Court in *Batley and others v MacDonald*²⁰ found that the Respondent had breached his director duties and that the plaintiffs lost their deposits paid to JSMB under the construction contracts and incurred further loss by having to pay subcontractors' invoices that were supposed to have been paid from their deposits as a result. The High Court also found that the plaintiffs' loss was caused by the Respondent continuing to trade while JSMB was insolvent and entering into contracts at a time when JSMB had no real prospect of being able to meet its obligations under the contracts.
- [17] In his judgment, Justice Wilkinson-Smith stated:

[133] In Lower v Traveller, an appeal decision of South Pacific, the Court of Appeal considered that where the director had put his extraneous interests ahead of the interests of the company's unsecured creditors, the director's level of culpability was of the most serious nature.²¹

[134] In the present case, the plaintiffs submit that Mr MacDonald's conduct was of the most serious nature and certainly not reasonable. The plaintiffs say Mr MacDonald put his extraneous interests ahead of their interests despite

¹⁶ *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

¹⁷ *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

¹⁸ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1. 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.

¹⁹ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

²⁰ *Warwick Bruce Batley and Helen Wilhelmina Catharina Van Goch as Trustees of the Batley Family Trust and Nidha Singh and Ved Prakash Singh as Trustees of the V P & N Singh Family Trust v John Stewart Smith* [2025] NZHC 974

²¹ *Lower v Traveller* [2005] 3 NZLR 479 at [85]

being required to protect the interests of creditors in a situation where JSMB was balance sheet insolvent.

[135] It is apparent from the speed at which the deposit payments were disbursed to meet other debts, that JSMB was using new incoming funds to pay off older debts. It is also clear that Mr MacDonald allocated JSMB funds for extraneous personal interests including renovations on his own home, paying interest on personal loans and funding his racehorse interest.

[136] By asking the [OMITTED] to pay the payment claims despite initially agreeing to credit the deposits and asking the [OMITTED] to pay a deposit after initially not requiring one, Mr MacDonald evidenced his own understanding of the precarious financial situation of the company.

[137] In his statement of defence, Mr MacDonald claimed that he believed JSMB would be able to trade back to profit. There is no objective foundation for that belief, in fact, the evidence suggests the opposite.

[138] I find there was real dishonesty in the way that Mr MacDonald dealt with the deposit payments. The removal of the Deposit Deduction Clause from the first plaintiff's initial contract is particularly concerning. Almost as soon as the first plaintiff's deposit was paid into JSMB's bank account, it was used to meet existing debts. In treating the money in that way, JSMB was in breach of the contract that had already been signed. The removal of the Deposit Deduction Clause looks like a deliberate attempt to retrospectively legitimise the situation.

[139] Likewise, when the second plaintiff's deposit was paid, it was immediately used to meet existing debts.

[140] The precarious financial state of the company must have been apparent to Mr MacDonald when he entered into the contracts with the first and second plaintiffs. The company desperately needed money. At the time the deposits were paid, the company overdraft was very near its limit. It had multiple debtors and debts that had been overdue for months. The company used the deposit payments of the first and second plaintiffs to pay wages.

[141] Mr MacDonald, as the sole director, was required to make a sober assessment of JSMB's financial position. The contention that JSMB's financial woes were caused by Covid-19 is not tenable on the evidence. Mr MacDonald entered into the contracts with the first and second plaintiff only a few months before placing the company into voluntary liquidation, and those few months included the Christmas shutdown period. It is impossible that Mr MacDonald did not know that the company was in a dire financial position.

[18] Of concern to the Board was the use by the Respondent of funds paid by the plaintiffs to meet other debt obligations and the finding that there was "real

dishonesty". Also of note was a finding by Justice Wilkinson-Smith that the Respondent's "conduct was deliberately misleading in respect of both plaintiffs".²²

[19] The Respondent did not accept the High Court's findings and stated that he could not continue his defence of it because of his financial position. In response to the Board Inquiry, the Respondent stated:

- a. *the failure of my company was a result of various factors outside of my control - financial stress placed on the company from the Covid lockdowns, increased prices of materials, project cost overruns, slow payments by debtors all of which converged to a point where it became impossible to continue.*
- b. *As a builder of over 40 years, who has successfully operated the company for 23 years, I did my very best to trade through the financial difficulties, believing that I could trade out, which is common practice in the building industry. However, things reached a point where after discussions with my advisers it became clear that continuing to trade was untenable, and things were going from bad to worse. To prevent any further loss to my contractors, suppliers and clients I had to make the difficult decision to put the company into liquidation.*
- c. *The financial position I found myself in was far from uncommon with other businesses in the industry. Many of which have also had to go into liquidation, leaving significant unpaid creditors and other parties. Whilst the media has reported that creditors amounted to \$1.6m, this is incorrect. The liquidators report records unsecured creditors amounted to \$1.2m and preferential some \$56,000.00. The report however only shows figures for creditors who originally filed claims in the liquidation. The figures have not been adjusted to remove creditors who I subsequently paid - to the value of \$250,000.00. The secured ANZ liability of \$427,000.00 was settled through a negotiated, confidential settlement to a considerably lesser amount. Compared with many other business failures, the final loss, although regrettable, was not significant (in the region of \$600,000).*
- d. *I did the best by my creditors that I could. To the point of arranging funds to settle with all those to whom I had provided personal guarantees. This cost me \$125,000. I also went to see every one of my creditors to explain the situation and to apologise.*

²² *Warwick Bruce Batley and Helen Wilhelmina Catharina Van Goch as Trustees of the Batley Family Trust and Nidha Singh and Ved Prakash Singh as Trustees of the V P & N Singh Family Trust v John Stewart Smith* [2025] NZHC 974 at [157]

- [20] Those statements were not borne out by a High Court costs decision.²³ In it, the Court noted offers to settle that were not accepted and that the Respondent did not act reasonably during the proceedings and that:

... his persistence with affirmative defences that had clearly become inarguable combined with various other forms of unreasonable conduct, including non-compliance with the Court's timetable directions, amounted to "very unreasonable" behaviour or "flagrant misconduct" justifying an award of indemnity costs.²⁴

- [21] The Respondent also put forward:

I deeply regret the failure of the business and financial loss suffered by all parties as a result. I believe I did my very best to salvage the business but was ultimately unable to do so.

It is regrettable that the parties who brought the action against me are unreasonable, refusing to settle, and have in their efforts to seek retribution for their loss, have referred this to the media. In the absence of the media involvement, this would have simply been treated as a typical construction business failure, and no action taken. It is not any actions or failures on my part which has raised an issue of whether the failure has brought the scheme into disrepute, but the subsequent biased and incorrect media coverage. Any failure is a financial failure only, and does not reflect on the LPB scheme, which is designed to protect the public against poor building work.

In view of my past unblemished history, building awards received for construction work, and significant contributions made to the building industry during my career, including as past president of the Master Builders Association, it would be unreasonable for an adverse finding to be made against me, or sanctions imposed, due to a sole business failure. Particularly when any sanction could prevent me from continuing to work in the industry, where I now do as an employee.

- [22] The litigation and the Respondent's response show a pattern of the Respondent refusing to take accountability for his conduct. The Board also noted that no evidence was provided of the judgments against him having been paid.
- [23] It was clear from the High Court proceedings that the Respondent had conducted himself in a disreputable manner. His conduct would have lowered the industry's reputation in the public's eyes.
- [24] The Board does, however, accept that the Respondent's past industry history is a factor that should be taken into account, but only insofar as it may be a mitigating factor regarding penalty.

²³ Ibid

²⁴ Ibid, costs decision at [32]

Was the conduct serious enough?

- [25] Significant losses were incurred by two plaintiffs as a result of the Respondent's dishonest conduct and reckless trading. Moreover, the Respondent has not taken responsibility for his conduct and for the harm he caused. Given the nature of the conduct, which was found to have been deliberate, the Board finds that it was serious conduct that should result in a disciplinary outcome.

Board's Decision

- [26] The Respondent **has** brought the regime into disrepute.

Penalty, Costs and Publication

- [27] Having found that one or more of the grounds in section 317 applies, the Board must, under section 318 of the Act,ⁱ consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [28] The matter was dealt with on the papers. Included was information relevant to penalty, costs, and publication. 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

- [29] The Board has the discretion to impose a range of penalties.ⁱⁱ 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.²⁵ It is not a formulaic exercise, but there are established underlying principles that the Board should take into consideration. They include:²⁶
- (a) protection of the public and consideration of the purposes of the Act;²⁷
 - (b) deterring the Respondent and other Licensed Building Practitioners from similar offending;²⁸
 - (c) setting and enforcing a high standard of conduct for the industry;²⁹
 - (d) penalising wrongdoing;³⁰ and
 - (e) rehabilitation (where appropriate).³¹

²⁵ *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]

²⁶ Cited with approval in *Robinson v Complaints Assessment Committee of Teaching Council of Aotearoa New Zealand* [2022] NZCA 350 at [28] and [29]

²⁷ Section 3 Building Act

²⁸ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

²⁹ *Dentice v Valuers Registration Board* [1992] 1 NZLR 720 (HC) at 724

³⁰ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

³¹ *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

- [30] 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 cases³² and applying the least restrictive penalty available for the particular offending.³³ In all, the Board should be looking to impose a fair, reasonable, and proportionate penalty³⁴ that is consistent with other penalties imposed by the Board for comparable offending.³⁵
- [31] 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.³⁶
- [32] The Board has taken the Respondent's previous history into account, along with the fact that he has been subjected to High Court proceedings, for which he is liable to pay damages and costs. The Board's view is that any money he may have access to is better directed to the satisfaction of those judgments. On that basis, it will order that the Respondent be censured. A censure is a public expression of disapproval.

Costs

- [33] 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.³⁷
- [34] The courts have indicated that 50% of the total reasonable costs should be taken as a starting point in disciplinary proceedings.³⁸ The starting point can then be adjusted up or down, depending on the particular circumstances of each case.³⁹
- [35] 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 moderately complex. Adjustments are then made.
- [36] Based on the above, the Board's costs order is that the Respondent is to pay the sum of \$700 toward the costs of and incidental to the Board's inquiry. This is the Board's scale amount for a moderately complex matter that has been dealt with by way of a Draft Decision. It is significantly less than 50% of actual costs.

³² *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³³ *Patel v Complaints Assessment Committee* HC Auckland CIV-2007-404-1818

³⁴ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³⁵ *Roberts v A Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

³⁶ 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.

³⁷ *Collie v Nursing Council of New Zealand* [2001] NZAR 74

³⁸ *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society* CIV-2011-485-000227 8 August 2011

³⁹ *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.

Publication

- [37] 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,⁴⁰ 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.
- [38] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990.⁴¹ 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.⁴²
- [39] There have already been significant media publications on the matter. The Board's view is that further publication, in those circumstances, is not required. As such, and based on the above, the Board will not order any publication over and above the record on the Register, the Respondent being named in this decision, and the publication of the decision on the Board's website. The Respondent should note, however, that as the Board has not made any form of suppression order, other entities, such as the media or the Ministry of Business Innovation and Employment, may publish under the principles of open justice reporting.

Section 318 Order

- [40] 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 \$700 (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)(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.**
- [41] 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.

⁴⁰ Refer sections 298, 299 and 301 of the Act

⁴¹ Section 14 of the Act

⁴² Kewene v Professional Conduct Committee of the Dental Council [2013] NZAR 1055

Submissions on Draft Decision

[42] 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.

[43] Submissions and/or further evidence must be filed with the Board by no later than the close of business on **Thursday, 30th April 2026**.

[44] If submissions are received, then the Board will meet and consider those submissions.

[45] 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.

[46] If no submissions or further evidence is received within the time frame specified, then this decision will become final.

Request for In-Person Hearing

[47] 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.

[48] A request for an in-person hearing must be made in writing to the Board Officer no later than the close of business on **Thursday, 30th April 2026**.

[49] If a hearing is requested, this Draft Decision, including the Board's indicative position on penalty, costs and publication, will be set aside.

Right of Appeal

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

Signed and dated this 8th day of April 2026.



Mr M Orange
Presiding Member

This decision and the order herein were made final on 1 May 2026 on the basis that no further submissions were received.

Signed and dated this 2nd day of May 2026.



Mr M Orange
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 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:*

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- (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.*