

Before the Building Practitioners Board

	BPB Complaint No. CB25525
Licensed Building Practitioner:	Yufu Liu (the Respondent)
Licence Number:	BP 134651
Licence(s) Held:	Foundations

Penalty Decision of the Board under section 318 of the Building Act 2004

Complaint or Board Inquiry	Complaint
Hearing Type:	On the Papers
Decision Date:	12 August 2020
Penalty Decision Date:	24 August 2020

Board Members:

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)(da)(ii) of the Act.

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Summary of the Board’s Penalty Decision

- [1] The Respondent failed to provide two records of work on completion of restricted building work. A fine of \$2,000 and costs of \$500 are affirmed.

The Charges

- [2] This penalty decision arises out of the Board’s Draft Decision that the Respondent failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act).
- [3] The Respondent has not contested the findings in the Draft Decision but has made submissions as regards penalty, costs and publication¹. The Board has considered them and made the following decisions.

Penalty

- [4] The Board’s initial view was that a \$2,000 fine was appropriate. The fine was, in essence, \$1,000 per complaint made. The Board noted that its starting point for record of work matters is \$1,500, meaning the starting point for a matter such as this would ordinarily be \$3,000.
- [5] The Respondent has submitted:

Thanks for your time on this case. Pls accept my sincere apology as I didn’t notice the delay of ROW would be so serious.

I don’t want to justify my mistakes, but I promised this kind of mistake will never happen again.

Due to Covid-19, running a company is not easy. I am willing to pay for my mistake. But appreciated if you can review and give me a discount on the penalty.

¹ A submission was received on 23 August 2020.

- [6] The Board acknowledges the difficulties the Respondent may be facing. He should note that he can request that the Registrar allow him to make payments over time.
- [7] The Board notes that it has already applied a discount or reduction to the fine. It does not consider that there are any new factors that would warrant a further reduction. As such, the fine is affirmed.
- [8] The Respondent should also note that there have been extensive communications to licensed building practitioners about records of work and the need to issue them promptly and the consequences for not doing so. There are no excuses for his lack of knowledge.

Costs

- [9] The Board's initial view was that \$500 in costs was appropriate. This remains the case. The amount is affirmed.

Publication of Name

- [10] The Board's initial view was there were no good reasons to further publish the matter. Again, this remains the case.

Section 318 Order

- [11] 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 \$2,000.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

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

- [12] 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

[13] The right to appeal Board decisions is provided for in s 330(2) of the Actⁱ.

Signed and dated this 15th day of September 2020



Chris Preston
Presiding Member

ⁱ **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.*