

## Before the Building Practitioners Board

	BPB Complaint No. CB25762
Licensed Building Practitioner:	Zheng Liu (the Respondent)
Licence Number:	BP122767
Licence(s) Held:	Carpentry

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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	Auckland
Hearing Type:	In Person
Hearing and Decision Date:	14 June 2022

#### Board Members Present:

Mr M Orange, Deputy Chair, Barrister (Presiding)  
Mrs F Pearson-Green, LBP, Design AOP 2  
Mr R Shao, LBP, Carpentry and Site AOP 1  
Mr G Anderson, LBP, Carpentry and Site AoP 2

#### Appearances:

Mr Lin 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)(da)(ii) of the Act.

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

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### Summary of the Board’s Decision

- [1] The Respondent failed to provide a record of work on completion of restricted building work. He is fined \$500 and ordered to pay costs of \$1,000.
- [2] The Board decided that the respondent had not carried out or supervised building work in a negligent or incompetent manner or in a manner that was contrary to a building consent on the basis that there was insufficient evidence to establish that the Respondent had, on the balance of probabilities, committed the disciplinary offences.

### The Charges

- [3] 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] Auckland. The alleged disciplinary offences the Board resolved to investigate were that the Respondent may have:
- (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;

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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 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; and
- (c) 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) of the Act contrary to section 317(1)(da)(ii) of the Act.

- [4] In further investigating the alleged conduct under sections 317(1)(b) and 317(1)(d) of the Act, the Board gave notice that would be investigating:
- (a) the matters raised in Auckland Council Site Meeting records dated 25 and 26 February 2021 (Pages 94 to 107 of the Board's file); and
  - (b) whether acceptable processes were used when making changes to the building consent.

#### **Function of Disciplinary Action**

- [5] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*<sup>2</sup> and in New Zealand in *Dentice v Valuers Registration Board*<sup>3</sup>.
- [6] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*,<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."*
- [7] In a similar vein, the Board's investigation and hearing process is not designed to address every issue that is raised in a complaint or by a complainant. The disciplinary scheme under the Act and Complaint's Regulations focuses on serious conduct that warrants investigation and, if upheld, disciplinary action. Focusing on serious

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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.*

- [8] Finally, the Board can only inquire into “the conduct of a Licensed Building Practitioner ” with respect to the grounds for discipline set out in section 317 of the Act. Those grounds do not include contractual breaches other than when the conduct reaches the high threshold for consideration under section 317(1)(i) of the Act, which deals with disrepute.
- [9] The above commentary on the limitations of the disciplinary process are important to note as, on the basis of it, the Board’s inquiries, and this decision, focus on and deal with the serious conduct complained about.

### **Inquiry Process**

- [10] 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.
- [11] 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**

- [12] 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 that allow it to receive evidence that may not be admissible in a court of law.
- [13] 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

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

Zheng Liu	Respondent
[Omitted]	Witness for the Respondent, Licensed Building Practitioner
[Omitted]	Complainant
[Omitted]	[Omitted], Project Manager
[Omitted]	[Omitted], Licensed Building Practitioner
Jeremy Bone	Building Consent Officer, Auckland Council

[15] The Board provided an interpreter to assist with the evidence.

[16] The Respondent was assisted by Counsel. A written submission was also provided.

[17] The Respondent was engaged to provide labour-only services on a new residential build that was carried out under a building consent. The building work, which was on a multi-unit development, included restricted building work for which a record of work must be provided on completion. The Respondent's building work started on 25 September 2020 and came to an end on or about 7 February 2021. A record of work was not provided. The Respondent, in the written submission, accepted that he had not provided a record of work. It was noted that there was a payment dispute.

[18] The Respondent was one of a number of contractors that were engaged. He had a team of six persons on-site, including himself. They were a mixture of a qualified builder, Mr [Omitted] (who has since become a Licensed Building Practitioner), two relatively inexperienced apprentices and two hammer hands. The Respondent was on site when the work was carried out. His contract was limited to installing pre-cut and nailed frames. He did not install any trusses. His engagement in the build came to a premature end, and he was not able to complete all of the work that he had been engaged to undertake. The Respondent was not responsible for the supply of materials. Mr [Omitted] undertook that role.

[19] The Respondent noted that when he started the installation of frames, there was an issue with block walls which were not square. There were also discrepancies between the consented Engineers and Architects plans. He stated that these issues compromised the manner in which the frames could be installed. The Respondent also gave evidence that he was placed under pressure to proceed with the work as quickly as possible. Supporting documentary evidence was submitted to corroborate that claim.

[20] Mr [Omitted] called for all building inspections and dealt with the architect and the engineer. He also dealt with sub-trades and subcontractors. Mr [Omitted] was on site every day. He called an inspection on 25 January 2021. It was noted as a partial inspection for lower level of lots 1-5 and lower roof framing only. At the hearing, Mr

[Omitted] stated that he called for the inspection so that work could be progressed with the lower roof to enable scaffolding to be erected so that framing on the upper roof area could continue. The Respondent's position was that the building work on the frames was not ready for an inspection as the work was not complete.

[21] The inspection carried out on 25 January 2021, and a further inspection carried out on 26 January 2021, were completed by Mr Bone. He noted a number of compliance issues on 25 January and that many of them had been completed on 26 January 2021. Mr Bone was questioned on the degree of non-compliance that he noted as regards missing connections and/or fixtures. He stated that approximately 20-30% of the fixings were missing and that the issue was consistent across the units. The Respondent maintained that the work was still in progress and that, on the basis of Mr [Omitted]'s instructions, the focus was on getting the frames up to allow other work to progress and that he would have installed missing fixings and hardware once the overall structure was in place.

[22] The evidence on matters pertaining to framing, as opposed to fixings, was not clear. It appeared that the Respondent made changes as a result of issues with other build elements such as the blockwork and dimension discrepancies and that he was seeking instructions and minor variations to deal with those matters. Notwithstanding, the Respondent proceeded with the work but did provide the Board with what appeared to be an undertaking by the entity that he contracted to that he would be sheltered from any consequences that flowed from the work being progressed.

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

[23] The Board has decided that the Respondent **has not**:

- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act); or
- (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).

[24] The Board has also decided that the Respondent **has** failed, without good reason, in respect of a building consent that relates to restricted building work that he or she is to carry out (other than as an owner-builder) or supervise, or has carried out (other than as an owner-builder) or supervised, (as the case may be), to provide the persons specified in section 88(2) with a record of work, on completion of the restricted building work, in accordance with section 88(1) (s 317(1)(da)(ii) of the Act) and **should** be disciplined.

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

### Negligence and/or Incompetence

- [26] The Board’s finding that the Respondent has not carried out or supervised building work in a negligent or incompetent manner has been made on the basis that the conduct was not sufficiently serious enough to warrant disciplinary action.
- [27] 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>7</sup> test of negligence which has been adopted by the New Zealand Courts<sup>8</sup>.
- [28] Incompetence is a lack of ability, skill, or knowledge to carry out or supervise building work to an acceptable standard. *Beattie* put it as “a demonstrated lack of the reasonably expected ability or skill level”. In *Ali v Kumar and Others*,<sup>9</sup> it was stated as “an inability to do the job”.
- [29] The New Zealand Courts have stated that an assessment of negligence and/or incompetence 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.
- [30] The assessment of a Licensed Building Practitioner’s conduct requires evidence to establish whether, on the balance of probabilities, he or she has departed from an acceptable standard of conduct. The relevant authority for the evidentiary requirements is *Z v Dental Complaints Assessment Committee*,<sup>11</sup> where Justice McGrath in the Supreme Court of New Zealand stated:

*[102] The civil standard has been flexibly applied in civil proceedings no matter how serious the conduct that is alleged. In New Zealand it has been emphasised that no intermediate standard of proof exists, between the criminal and civil standards, for application in certain types of civil case. The balance of probabilities still simply means more probable than not. Allowing the civil standard to be applied flexibly has not meant that the degree of probability required to meet the standard changes in serious cases. Rather, the civil standard is flexibly applied because it accommodates serious allegations through the natural tendency to require stronger evidence before being satisfied to the balance of probabilities standard.*

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<sup>7</sup> *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

<sup>8</sup> *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

<sup>9</sup> *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

<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> [2009] 1 NZLR 1

*[105] The natural tendency to require stronger evidence is not a legal proposition and should not be elevated to one. It simply reflects the reality of what judges do when considering the nature and quality of the evidence in deciding whether an issue has been resolved to “the reasonable satisfaction of the Tribunal”. A factual assessment has to be made in each case. That assessment has regard to the consequences of the facts proved. Proof of a Tribunal’s reasonable satisfaction will, however, never call for that degree of certainty which is necessary to prove a matter in issue beyond reasonable doubt.*

- [31] In the matter before the Board, the Respondent’s explanation as regards fixings was plausible. The evidence on the other matters raised in the other issues raised in the inspections reports was not clear. On that basis, the Board decided that whilst there was some evidence of building work that may not have been completed to an acceptable standard, there was insufficient evidence to make a finding, based on the tests in *Z v Dental Complaints Assessment Committee* for the Board to make a finding that the respondent had been negligent or incompetent.

#### Contrary to a Building Consent

- [32] The same applies as regards the charge under section 317(1)(d) of the Act. There was insufficient evidence for the Board to be able to make a finding that, on the balance of probabilities that the offence had been committed.

#### Record of Work

- [33] There is a statutory requirement under section 88(1) of the Building Act 2004 for a Licensed Building Practitioner to provide a record of work to the owner and the territorial authority on completion of restricted building work<sup>12</sup>.
- [34] Failing to provide a record of work is a ground for discipline under section 317(1)(da)(ii) of the Act. In order to find that ground for discipline proven, the Board need only consider whether the Respondent had “good reason” for not providing a record of work on “completion” of the restricted building work.
- [35] The Board discussed issues with regard to records of work in its decision C2-01170<sup>13</sup> and gave guidelines to the profession as to who must provide a record of work, what a record of work is for, when it is to be provided, the level of detail that must be provided, who a record of work must be provided to and what might constitute a good reason for not providing a record of work.
- [36] The starting point with a record of work is that it is a mandatory statutory requirement whenever restricted building work under a building consent is carried out or supervised by a Licensed Building Practitioner (other than as an owner-

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<sup>12</sup> Restricted Building Work is defined by the Building (Definition of Restricted Building Work) Order 2011

<sup>13</sup> *Licensed Building Practitioners Board Case Decision C2-01170* 15 December 2015



builder). Each and every Licensed Building Practitioner who carries out restricted building work must provide a record of work.

- [37] The statutory provisions do not stipulate a timeframe for the licenced person to provide a record of work. The provisions in section 88(1) simply states “on completion of the restricted building work ...”. As was noted by Justice Muir in *Ministry of Business Innovation and Employment v Bell*<sup>14</sup> “... the only relevant precondition to the obligations of a licenced building practitioner under s 88 is that he/she has completed their work”.
- [38] As to when completion will have occurred is a question of fact in each case.
- [39] In most situations’ issues with the provision of a record of work do not arise. The work progresses, and records of work are provided in a timely fashion. Completion occurred in February 2021. A record of work has not been provided. On this basis, the Board finds that the record of work was not provided on completion as required, and the disciplinary offence has been committed.
- [40] Section 317(1)(da)(ii) of the Act provides for a defence of the licenced building practitioner having a “good reason” for failing to provide a record of work. If they can, on the balance of probabilities, prove to the Board that one exists, then it is open to the Board to find that a disciplinary offence has not been committed. Each case will be decided by the Board on its own merits, but the threshold for a good reason is high.
- [41] In this instance, there was an ongoing payment dispute. The Board has repeatedly stated that a Record of Work is a statutory requirement, not a negotiable term of a contract. The requirement for it is not affected by the terms of a contract, nor by contractual disputes. Licensed Building Practitioners should now be aware of their obligations to provide them, and their provision should be a matter of routine.
- [42] The Respondent should also note that the requirement is on the Licensed Building Practitioner to provide a record of work, not on the owner or territorial authority to demand one. He is required to act of his own accord and not wait for others to remind him of his obligations.

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

- [43] 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.
- [44] The Respondent made submissions at the hearing as regards penalty, costs and publication.

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<sup>14</sup> [2018] NZHC 1662 at para 50

## Penalty

[45] 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>15</sup> commented on the role of “punishment” in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

*[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.*

[46] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*,<sup>16</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.

[47] The only charge upheld was in respect of the failure to provide a record of work. Record of work matters are at the lower end of the disciplinary scale. The Board’s normal starting point for a failure to provide a record of work is a fine of \$1,500, an amount which it considers will deter others from such behaviour.

[48] The Respondent brought some significant mitigating factors to the Board’s attention, including that the Respondent suffered a significant financial loss on the job. Given the mitigating factors present, the Board decided to reduce the fine to \$500.

## Costs

[49] 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.”

[50] 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>17</sup>.

[51] In *Collie v Nursing Council of New Zealand*,<sup>18</sup> where the order for costs in the tribunal was 50% of actual costs and expenses, the High Court noted that:

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<sup>15</sup> HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

<sup>16</sup> 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

<sup>17</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>18</sup> [2001] NZAR 74

*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.*

[52] In *Kenneth Michael Daniels v Complaints Committee 2 of the Wellington District Law Society*,<sup>19</sup> the High Court noted:

*[46] All cases referred to in Cooray were medical cases and the Judge was careful to note that the 50 per cent was the general approach that the Medical Council took. We do not accept that if there was any such approach, it is necessarily to be taken in proceedings involving other disciplinary bodies. Much will depend upon the time involved, actual expenses incurred, attitude of the practitioner bearing in mind that whilst the cost of a disciplinary action by a professional body must be something of a burden imposed upon its members, those members should not be expected to bear too large a measure where a practitioner is shown to be guilty of serious misconduct.*

*[47] Costs orders made in proceedings involving law practitioners are not to be determined by any mathematical approach. In some cases 50 per cent will be too high, in others insufficient.*

[53] 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 based on the High Court decisions above are then made.

[54] The Board's scale of costs for a half-day matter of this type is \$3,500. Not all charges were upheld. A lower costs order is warranted. The Board decided that the sum of \$1,000 was an appropriate amount for the Respondent to pay toward the costs of and incidental to the Board's inquiry. This is significantly less than 50% of actual costs.

#### Publication

[55] 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>20</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.*

[56] 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

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<sup>19</sup> CIV-2011-485-000227 8 August 2011

<sup>20</sup> Refer sections 298, 299 and 301 of the Act

of a disciplinary hearing. This is in addition to the Respondent being named in this decision.

- [57] Within New Zealand, there is a principle of open justice and open reporting, which is enshrined in the Bill of Rights Act 1990<sup>21</sup>. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction<sup>22</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>23</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>24</sup>.
- [58] 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>25</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.
- [59] Based on the above, the Board will not order further publication.

### Section 318 Order

- [60] 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 \$500.

**Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,000 (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.**

- [61] 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.

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<sup>21</sup> Section 14 of the Act

<sup>22</sup> Refer sections 200 and 202 of the Criminal Procedure Act

<sup>23</sup> *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

<sup>24</sup> *ibid*

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

## Right of Appeal

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

Signed and dated this 29<sup>th</sup> day of June 2022.



**Mr M Orange**  
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.*