

Before the Building Practitioners Board

	BPB Complaint No. CB25353
Licensed Building Practitioner:	Blair Pitcaithly (the Respondent)
Licence Number:	BP 121088
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:	In person
Hearing and Decision Date:	7 October 2020

Board Members Present:

Chris Preston, Chair (Presiding)
David Fabish, LBP, Carpentry and Site AOP 2
Rob Shao, LBP, Carpentry and Site AOP 1
Frank Thomas, LBP, Roofing

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.

Draft Board Decision:

The Respondent **has** committed disciplinary offences under sections 317(1)(a) and 317(1)(i) of the Act.

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Summary of the Board’s Decision

- [1] The Board found that the Respondent’s criminal offending reflects adversely on his fitness to carry out or supervise building work, and that he has brought the regime for licensed building practitioners into disrepute. His license is cancelled for a period of three years and he is ordered to pay costs of \$1,500. The outcome of this complaint will be published.

The Hearing

- [2] The Board, on receiving a Registrar’s Report in respect of the matter, reviewed the file and decided to deal with it by way of a Draft Decision.
- [3] The Respondent disputed the findings in the Draft Decision. The Respondent denied any wrongdoing. Given the response to the Draft Decision, the Board decided that a hearing was required. The Draft Decision was set aside, and a hearing was scheduled.
- [4] The hearing was scheduled for 7 October 2020 in Auckland. The Respondent was made aware of this hearing by way of a Notice of Hearing dated the 16 September 2020.
- [5] The hearing took place as set out in the Notice of Hearing by video conference. The Respondent did not attend.

The Charges

- [6] The hearing resulted from a complaint about the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations¹ to hold a hearing. The alleged disciplinary offences the Board resolved to investigate were that the Respondent had:
- (a) been convicted, whether before or after he or she is licensed, by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 6 months or more and the commission of the offence reflects adversely on the person's fitness to carry out or supervise building work or building inspection work; and
 - (b) 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 (s 317(1)(i) of the Act).

Background to the Investigation

- [7] The Board originally received a Registrar's Report in respect of the complaint on 18 May 2020. On reviewing the Registrar's Report, the Board noted references to conduct that may come within section 317(1)(a) of the Act. The Board decided that it would carry out further investigations in relation to section 317(1)(a) prior to making a decision on whether regulation 9 of the Complaints Regulations applied or whether the complaint should proceed to a hearing under regulation 10 of the Complaints Regulations. The Registrar was directed to obtain a Criminal and Traffic History in respect of the Respondent from the Ministry of Justice. The history disclosed criminal convictions punishable by imprisonment for a term of 6 months or more. It was on this basis that it resolved to also consider the Respondent's conduct under section 317(1)(a) of the Act.

Function of Disciplinary Action

- [8] 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*² and in New Zealand in *Dentice v Valuers Registration Board*³.
- [9] 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*⁴ Collins J. noted that:

¹ The resolution was made following the Board's consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

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

³ [1992] 1 NZLR 720 at p 724

⁴ [2016] HZHC 2276 at para 164

“... 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.”

- [10] 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 conduct is consistent with decisions made in the New Zealand courts in relation to the conduct of licensed persons⁵:

... 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.

- [11] 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.
- [12] 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.

Evidence

- [13] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁶. 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.
- [14] The Respondent was engaged to carry out an alteration for the Complainant. The envisaged building work was recladding of an external weatherboard wall. The work was to be undertaken from 15 September 2019 on a labour-only basis.
- [15] The Complainant noted that the Respondent requested a deposit of \$2,500.00 which was paid on 15 September 2019, but the Respondent did not show up on the agreed date. The Complainant stated that the Respondent then avoided her. The Complainant was advised by her bank to report the Respondent to the police, which he did. The police advised the Complainant they would investigate the allegation as the Respondent was known to them.

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

⁶ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

[16] Following the Complainant reporting the matter to the police, she advised the Board that the Respondent's mother had repaid the deposit and stated that the Respondent could not repay it as he had spent the money and was bankrupt.

[17] On 2 December 2019, the Respondent provided a response to the complaint. He stated:

This is totally unacceptable. Falsified information and lies is no way to accept a claim. I told this man I would not do his job after I found out he had no permit.

I advise you rethink your decisions, and gather both sides of any story before any decision is made in haste.

[18] In a further response on 11 December 2019, the Respondent stated, by phone, that he was looking to take a defamation case against the Complainant as the Complainant had cost him work. The Respondent implied that his licence had been suspended as a result of the complaint. The Respondent's licence had been suspended as a result of his failure to adhere to his skills maintenance obligations, not because of the complaint.

[19] The Respondent then advised on 25 February 2020 that the matter had been resolved and on 20 April 2020 that the complaint had been withdrawn. The complaint had not been withdrawn.

[20] The Respondent's Criminal and Traffic History spanned from 2003 to 2017. The history contained some 37 separate convictions, often for multiple offences, most of which were for dishonesty offences. The Respondent has served a prison sentence for his offending.

[21] The Board did not receive any further relevant evidence at the hearing.

Board's Conclusion and Reasoning

[22] The Board has decided that the Respondent **has**:

- (a) been convicted by a court in New Zealand of an offence punishable by imprisonment for a term of 6 months or more and the commission of the offence reflects adversely on the person's fitness to carry out or supervise building work;
- (b) conducted himself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute (s 317(1)(i) of the Act).

and **should** be disciplined

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

Section 317(1)(a)

- [24] The disciplinary provision in section 317(1)(a) of the Act requires two matters to be satisfied. The first is whether the Respondent has been convicted, whether before or after he or she is licensed, by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 6 months or more.
- [25] The Respondent has been convicted of multiple offences which meet the first criteria. The first element of the disciplinary provision is, therefore, satisfied.
- [26] The second element of the disciplinary charge is whether the commission of that offence reflects adversely on the person's fitness to carry out or supervise building work or building inspection work.
- [27] This element requires consideration by the Board of the interrelationship between the convictions and the Respondent's fitness to be a licensed person.
- [28] Unlike other licensing regimes, the licensed building practitioner regime does not contain any provisions which require an assessment of an applicant's character or fitness to hold a licence at the time they apply⁷. Rather, in the Building Act, there is an ability to assess this subsequent to a person being licensed by way of section 317(1)(a), and it does not matter that the criminal offending predated the person being licensed.
- [29] Other licensing regimes have similar post-licensing provisions as regards fitness to be a licensee. For example, the misconduct provisions in section 73(d) of the Real Estate Agents Act under which a ground of misconduct is where conduct "*constitutes an offence for which the licensee has been convicted, being an offence that reflects adversely on the licensee's fitness to be a licensee*" and section 100(1)(c) of the Health Practitioners Competence Assurance Act 2003 where "*the practitioner has been convicted of an offence that reflects adversely on his or her fitness to practise*".
- [30] Decisions from within those jurisdictions are of assistance in determining the matter before the Board. In *Professional Conduct Committee v Martin*⁸ the Court stated:
- "Fitness' often may well be something different to competence. Aspects of general deterrence as well as specific deterrence remain relevant. So too, is the broader consideration of the public or community's confidence and the upholding the standards of the nursing profession*
- [31] In *Hart v Auckland Standards Committee 1 of The New Zealand Law Society*⁹, the High Court stated:
- [185] As the Court noted in Dorbu, the ultimate issue in this context is whether the practitioner is not a fit and proper person to practise as a lawyer.*

⁷ Compare with the licensing provisions in section 91(d) of the Electricity Act 1992 and section 36(d) of the Plumbers, Gasfitters, and Drainlayers Act 2006 both of which have a requirement to be a fit and proper person for registration

⁸ High Court WN 2007

⁹ [2013] 3 NZLR 103

Determination of that issue will always be a matter of assessment having regard to several factors.

[186] The nature and gravity of those charges that have been found proved will generally be important. They are likely to inform the decision to a significant degree because they may point to the fitness of the practitioner to remain in practice. In some cases these factors are determinative, because they will demonstrate conclusively that the practitioner is unfit to continue to practice as a lawyer. Charges involving proven or admitted dishonesty will generally fall within this category.

[187] In cases involving lesser forms of misconduct, the manner in which the practitioner has responded to the charges may also be a significant factor. Willingness to participate fully in the investigative process, and to acknowledge error or wrongdoing where it has been established, may demonstrate insight by the practitioner into the causes and effects of the wrongdoing. This, coupled with acceptance of responsibility for the misconduct, may indicate that a lesser penalty than striking off is sufficient to protect the public in the future.

[188] For the same reason, the practitioner's previous disciplinary history may also assume considerable importance. In some cases, the fact that a practitioner has not been guilty of wrongdoing in the past may suggest that the conduct giving rise to the present charges is unlikely to be repeated in the future. This, too, may indicate that a lesser penalty will be sufficient to protect the public.

[189] On the other hand, earlier misconduct of a similar type may demonstrate that the practitioner lacks insight into the causes and effects of such behaviour, suggesting an inability to correct it. This may indicate that striking off is the only effective means of ensuring protection of the public in the future.

- [32] Applying the tests and factors outlined above the Board notes the Respondent has been convicted of multiple dishonesty offences. The Respondent has an extensive and long criminal history. There is a pattern of dishonest conduct. Many of the Respondent's convictions are for serious offences. Included are convictions for aggravated robbery. Carrying out or supervising building work is an undertaking which often involves the handling of client funds or entering into credit arrangements and, as such, there is a correlation between the nature of the charges and fitness to be licensed. The Board considers that a person with a criminal history and a sustained pattern of dishonesty will have an effect on public confidence in the licensing regime.
- [33] Given the above factors, the Board finds that the second element of section 317(1)(a) has been established in that the convictions reflect adversely on the Respondent's fitness to carry out or supervise building work.

Disrepute

- [34] The disrepute disciplinary provision in the Act is similar to legislation in other occupations including medical professionals, teachers, lawyers and conveyancers, chartered accountants, financial advisors, veterinarians and real estate agents. The Board considered the disrepute provisions in Board Decision C2-01111¹⁰ and discussed the legal principles that apply.
- [35] The Act does not define conduct which brings or is likely to bring the regime into disrepute. Nor does it provide guidance as to what is “disrepute”. The Oxford Dictionary defines disrepute as “the state of being held in low esteem by the public”¹¹ and the courts have consistency applied an objective test when considering such conduct. In *W v Auckland Standards Committee 3 of the New Zealand Law Society*¹² the Court of Appeal held that:
- the issue of whether conduct was of such a degree that it tended to bring the profession into disrepute must be determined objectively, taking into account the context in which the relevant conduct occurred. The subjective views of the practitioner, or other parties involved, were irrelevant.*¹³
- [36] As to what conduct will or will not be considered to bring the regime into disrepute it will be for the Board to determine on the facts of each case. The Board will, however, be guided by finding in other occupational regimes. In this respect it is noted disrepute was upheld in circumstances involving:
- criminal convictions¹⁴;
 - honest mistakes without deliberate wrongdoing¹⁵;
 - provision of false undertakings¹⁶; and
 - conduct resulting in an unethical financial gain¹⁷.
- [37] It is also noted that there are a number of cases where the conduct related to specific or important tasks a licensed building practitioner is required to complete within their occupations. Often such behaviour is measured within the context of a code of conduct or ethics. A code is yet to be established within the Building Act although provision for one is made. What is clear from the cases though is that unethical or unprofessional conduct can amount to disreputable conduct.
- [38] In the present matter, putting the Respondent’s criminal record aside, the Respondent took a deposit but did not carry out the work. He put forward, as a reason, that a building consent had not been obtained. The Board notes, however,

¹⁰ Board decision dated 2 July 2015.

¹¹ Online edition, compilation of latest editions of *Oxford Dictionary of English, New Oxford American Dictionary, Oxford Thesaurus of English and Oxford American Writer's Thesaurus*, search settings UK English, accessed 12/05/15

¹² [2012] NZCA 401

¹³ [2012] NZAR 1071 page 1072

¹⁴ *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

¹⁵ *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

¹⁶ *Slack, Re* [2012] NZLCDT 40

¹⁷ *Colliev Nursing Council of New Zealand* [2000] NZAR 7

that the work is most likely exempt from the requirement for a building consent as it came within the provisions of clause 1 of Schedule 1 of the Act. Notwithstanding the Respondent did not offer to return the deposit. Nor did he engage with the Complainant to explain his reasons. The deposit was repaid, but not by the Respondent. It was only repaid after a complaint had been made.

- [39] The Courts have stated that the threshold for disciplinary complaints of disrepute is high and the Board notes that when the disciplinary provision was introduced to Parliament the accompanying Cabinet paper noted:

This power would only be exercised in the most serious of cases of poor behaviour, such as repetitive or fraudulent behaviour, rather than for minor matters.

- [40] The Board considers that the Respondent's conduct has brought the regime into disrepute and that it was sufficiently serious enough to warrant a disciplinary outcome.

Draft Decision on Penalty, Costs and Publication

- [41] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.

- [42] The matter was dealt with at a hearing. The Respondent did not appear. 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

- [43] 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*¹⁸ 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.

- [44] Deterrence was also noted in *Hart* and in *Dorbu v New Zealand Law Society (No 2)*¹⁹. The High Court when discussing penalty stated:

[35] The principles to be applied were not in issue before us, so we can briefly state some settled propositions. The question posed by the legislation is

¹⁸ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

¹⁹ [2012] NZAR 481

whether, by reason of his or her conduct, the person accused is not a fit and proper person to be a practitioner. Professional misconduct having been established, the overall question is whether the practitioner's conduct, viewed overall, warranted striking off. The Tribunal must consider both the risk of reoffending and the need to maintain the reputation and standards of the legal profession. It must also consider whether a lesser penalty will suffice. The Court recognises that the Tribunal is normally best placed to assess the seriousness of the practitioner's offending. Wilful and calculated dishonesty normally justifies striking off. So too does a practitioner's decision to knowingly swear a false affidavit. Finally, personal mitigating factors may play a less significant role than they do in sentencing.

- [45] Cancellation of a license is the equivalent of striking off within the licensed building practitioner regime.
- [46] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*²⁰ 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 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 Respondent has been found to have committed serious disciplinary offences. The licensing regime exists to ensure the public can have confidence in those who carry out restricted building work. The Respondent's conduct and continued licensing do not promote such confidence.
- [48] The Respondent's approach to the matters under inquiry is also an aggravating feature as the manner in which a licensed person responds to a disciplinary complaint and conducts their defence can be taken into consideration by the Board. In *Daniels v Complaints Committee*²¹ the High Court held that it was permissible to take into account as an adverse factor when determining penalty that the practitioner had responded to the complaints and discipline process in a belligerent way.
- [49] Taking all of the above factors into account, the Board considers that a cancellation of the Respondent's licence is warranted to deter others from such conduct and to protect the public.
- [50] Accordingly, the Board will cancel the Respondent's licence and order that he may not apply to be relicensed for a period of three (3) years.

Costs

- [51] 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."

²⁰ 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

²¹ [2011] 3 NZLR 850.

- [52] 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 case²².
- [53] In *Collie v Nursing Council of New Zealand*²³ where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:
- But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.*
- [54] The Board notes the matter was dealt with by way of a full hearing. There have been costs incurred investigating the matter, producing the Registrar's Report and in the Board making its decision. As such, the Board will order that costs of \$1,500 be paid by the Respondent. The Board considers that this is a reasonable sum for the Respondent to pay toward the costs and expenses of, and incidental to, the inquiry by the Board. The amount is significantly less than 50% of the actual costs incurred.

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 Act²⁴. 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 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 1990²⁵. The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction²⁶. Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive²⁷. The High Court provided

²² *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.

²³ [2001] NZAR 74

²⁴ Refer sections 298, 299 and 301 of the Act

²⁵ Section 14 of the Act

²⁶ Refer sections 200 and 202 of the Criminal Procedure Act

²⁷ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*²⁸.

- [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 interest²⁹. 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 order further publication by way of an article and on the Board's website.

Section 318 Order

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

Penalty: Pursuant to section 318(1)(a)(i) of the Act, the Respondent's licence is cancelled and the Registrar is directed to remove the Respondent's name from the register of Licensed Building Practitioners and pursuant to section 318(1)(a)(ii) of the Act the Board orders that the Respondent may not apply to be relicensed before the expiry of three (3) years.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,500 (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(I)(iii) of the Act.

In terms of section 318(5) of the Act, there will be action taken to publicly notify the Board's action, in addition to 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.

Submissions on Penalty, Costs and Publication

- [62] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **27 January 2021**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received, then this decision will become final. If submissions are received, then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

²⁸ *ibid*

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

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

Right of Appeal

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

Signed and dated this 16th day of December 2020



Chris Preston
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 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.*