

Summary of Disciplinary Action

Registered Certifier	Licence/ Registration Number	Disciplinary Ground and Summary	Disciplinary Action	Date of Decision
Samuel Kostiuk	BDC2383	<ol style="list-style-type: none"> 1. under section 45(e) of the <i>Building and Development Certifiers Act 2018</i> (NSW) (BDC Act) - the Registered Certifier carried out certification work in a partial manner or in a manner that was not in the public interest; 2. under section 45(a) of the BDC Act – the Registered Certifier engaged in conduct in connection with the carrying out of certification work that has fallen short of the standard of competence, diligence and integrity that a member of the public is entitled to expect of a reasonably competent registered certifier; 3. under section 45(k) of the BDC Act – that the Registered Certifier has wilfully misled an Authorised Officer in the exercise of any function under the BDC Act; 4. under section 45(d) of the BDC Act – that the Registered Certifier has failed to comply with a statutory or other duty, imposed on the registered certifier by or in accordance with a law with respect to the carrying out of certification work; 5. under section 45(g) of the BDC Act – that the Registered Certifier failed to comply with a condition of the registration; 	<ol style="list-style-type: none"> 1. pursuant to section 48(1)(e) of the BDC Act, cancel Certificate of Registration BDC2383; and 2. pursuant to section 48(1)(f) of the BDC Act, permanently disqualify Samuel Kostiuk from being registered in any class under the BDC Act. <p>To take effect immediately.</p>	27 March 2024

6. under section 45(c) of the BDC Act – that the Registered Certifier has contravened a law of this jurisdiction with respect to offences of fraud and dishonesty pursuant to sections 307A, 307B, 307C and 192E of the *Crimes Act 1900* (NSW) (**Crimes Act**); and

7. under section 45(l) of the BDC Act – that the Registered Certifier has engaged in improper or unethical conduct that indicates that the registered certifier is not a fit and proper person to carry out certification work

Between 16 April 2020 and 25 January 2023 the Registered Certifier conducted 151 swimming pool compliance inspections by way of a video conference call, rather than being personally onsite to inspect those swimming pools.

The Registered Certifier misled Fair Trading investigators as to the dates on which he had commenced and ceased conducting such video inspections.

On at least eleven (11) occasions between 2020 and 2022, the Registered Certifier contravened clause 21(6) of the *Swimming Pools Regulation 2018* (**SP Regulation**).

On at least four (4) occasions in 2021, the Registered Certifier provided misinformation to former clients and misled them in relation to the law relating to certification work.

Between April 2020 and January 2022, the Registered Certifier contravened sections 307A to 307C and 192E of the *Crimes Act 1900 NSW (Crimes Act)*. The conduct in relation to those offences related to:

1. Providing false information on an application for accreditation as a certifier;
2. Creating and dealing with false written notices of non-compliance and non-compliance certificates;
3. Fraudulently accepting payment from a client after holding out that he was able to apply for an extension to comply with section 22E(4) of the *Swimming Pools Act 1992 (NSW)(SP Act)*, where no such extension is legally available.