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8  
9 **BEFORE THE**  
**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND**  
10 **GEOLOGISTS**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 982-A

13 **ROBERT C. GILBERT, JR.**  
14 **4692 Sharon Drive**  
**La Palma, CA 90623**

OAH No. 2012070200

15 **Civil Engineer License No. C 16104**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER.**

16 Respondent.

17  
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Board for Professional Engineers, Land Surveyors, and  
20 Geologists of the Department of Consumer Affairs, the parties hereby agree to the following  
21 Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval  
22 and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Richard B. Moore, PLS (Complainant) is the Executive Officer of the Board for  
25 Professional Engineers, Land Surveyors, and Geologists. He brought this action solely in his  
26 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the  
27 State of California, by Karen L. Gordon, Deputy Attorney General.



1 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
2 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
3 the attendance of witnesses and the production of documents; the right to reconsideration and  
4 court review of an adverse decision; and all other rights accorded by the California  
5 Administrative Procedure Act and other applicable laws.

6 13. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
7 every right set forth above.

#### 8 CULPABILITY

9 14. Respondent admits the truth of each and every charge and allegation in Accusation  
10 No. 982-A.

11 15. Respondent agrees that his Civil Engineer License is subject to discipline and he  
12 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### 13 CONTINGENCY

14 16. This stipulation shall be subject to approval by the Board for Professional Engineers,  
15 Land Surveyors, and Geologists. Respondent understands and agrees that counsel for  
16 Complainant and the staff of the Board for Professional Engineers, Land Surveyors, and  
17 Geologists may communicate directly with the Board regarding this stipulation and settlement,  
18 without notice to or participation by Respondent. By signing the stipulation, Respondent  
19 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
20 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation  
21 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
22 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
23 and the Board shall not be disqualified from further action by having considered this matter.

24 17. The parties understand and agree that facsimile copies of this Stipulated Settlement  
25 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
26 effect as the originals.

27 18. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
4 writing executed by an authorized representative of each of the parties.

5 19. In consideration of the foregoing admissions and stipulations, the parties agree that  
6 the Board may, without further notice or formal proceeding, issue and enter the following  
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Civil Engineer License No. C 16104 issued to Respondent  
10 Robert C. Gilbert, Jr. (Respondent) is revoked. However, the revocation is stayed and  
11 Respondent is placed on probation for three (3) years on the following terms and conditions.

12 1. **Obey All Laws.** The Respondent shall obey all laws and regulations related to the  
13 practices of professional engineering and professional land surveying.

14 2. **Submit Reports.** The Respondent shall submit such special reports as the Board may  
15 require.

16 3. **Tolling of Probation.** The period of probation shall be tolled during the time the  
17 Respondent is practicing exclusively outside the state of California. If, during the period of  
18 probation, the Respondent practices exclusively outside the state of California, the Respondent  
19 shall immediately notify the Board in writing.

20 4. **Records.** Within 90 days from the effective date of the decision, the Respondent  
21 shall provide verifiable evidence to the Board that he has completed the filing/or recordation of  
22 the Corner Records at issue in the citations, identified as follows: CR 2008-0660 (Citation Order  
23 5239-L); CR 2008-0659 (Citation Order 5240-L); and CR 2008-0658 (Citation Order 5241-L).

24 5. **Cost Recovery.** Within two years from the effective date of the decision, the  
25 Respondent shall pay the Board the fines ordered in the citations, in the amount of \$3,500.00.  
26 Payments may be made in installments.

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6. **Examination.** Within 60 days of the effective date of the decision, the Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

7. **Violation of Probation.** If the Respondent violates the probationary conditions in any respect, the Board, after giving him notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If during the period of probation, an accusation or petition to vacate stay is filed against the Respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

8. **Completion of Probation.** Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the Respondent's license shall be unconditionally restored.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Civil Engineer License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board for Professional Engineers, Land Surveyors, and Geologists.

DATED: 1-11-2013 *Original Signed*

ROBERT C. GILBERT, JR.  
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board for Professional Engineers, Land Surveyors, and Geologists of the Department of Consumer Affairs.

Dated: 1-14-13

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

*Original Signed*

KAREN L. GORDON  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 982-A**

1 KAMALA D. HARRIS  
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2 LINDA K. SCHNEIDER  
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10 **LAND SURVEYORS, AND GEOLOGISTS**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
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13 In the Matter of the Accusation Against:

Case No. 982-A

14 **ROBERT C. GILBERT, JR.**  
15 **4692 Sharon Drive**  
**La Palma, CA 90623**

**A C C U S A T I O N**

16 **Civil Engineer License No. C 16104**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Richard B. Moore, PLS (Complainant) brings this Accusation solely in his official  
22 capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and  
23 Geologists, Department of Consumer Affairs.

24 2. On or about December 10, 1965, the Board for Professional Engineers, Land  
25 Surveyors, and Geologists issued Civil Engineer License Number C 16104 to Robert C. Gilbert,  
26 Jr. (Respondent). The Civil Engineer License was in full force and effect at all times relevant to  
27 the charges brought herein and will expire on June 30, 2013, unless renewed.

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**JURISDICTION**

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2       3.     This Accusation is brought before the Board for Professional Engineers, Land  
3 Surveyors, and Geologists (Board), Department of Consumer Affairs, under the authority of the  
4 following laws. All section references are to the Business and Professions Code unless otherwise  
5 indicated.

6       4.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
8 disciplinary action during the period within which the license may be renewed, restored, reissued  
9 or reinstated.

10       5.     Section 8780 of the Code states, in pertinent part:

11             The board may receive and investigate complaints against licensed land  
12 surveyors and registered civil engineers, and make findings thereon.

13             By a majority vote, the board may reprove, suspend for a period not to  
14 exceed two years, or revoke the license or certificate of any licensed land surveyor  
15 or registered civil engineer, respectively, licensed under this chapter or registered  
16 under the provisions of Chapter 7 (commencing with Section 6700), whom it finds  
17 to be guilty of:

18             . . . .

19             (d) Any violation of any provision of this chapter or of any other law relating  
20 to or involving the practice of land surveying.

21       6.     Title 16, Section 419, California Code of Regulations states:

22             For violations of Business and Professions Code sections 6775 and/or 8780  
23 which result in an order issued in accordance with Chapters 4.5 and 5 of Part 1 of  
24 Division 3 of Title 2 of the Government Code against a professional engineering  
25 and/or a professional land surveying license, the following provisions shall apply to  
26 disciplinary orders contained in decisions of the Board:

27             (a) The minimum disciplinary order shall be reproof. The maximum  
28 disciplinary order shall be revocation of the license.

(b) If warranted by extenuating and/or mitigating factors in the matter, the  
disciplinary order may be stayed by an express condition that the respondent comply  
with probationary conditions. The minimum time period in which the respondent  
shall have to comply with the conditions shall be two years. For purposes of this  
section, this time period shall be known as the "period of probation."

(c) All decisions containing stayed disciplinary orders as described in  
subdivision (b) shall include . . . probationary conditions.

1 **STATUTORY PROVISIONS**

2 7. Section 6731 of the Code states, in pertinent part:

3 . . . .

4 Civil Engineers registered prior to January 1, 1982 shall be authorized to  
5 practice all land surveying a defined in Chapter 15 (commencing with Section 8700)  
of Division 3.

6 **REGULATORY PROVISIONS**

7 8. Title 16, Section 473.3, California Code of Regulations states:

8 (a) If a cited person who has been issued an order of abatement is unable to  
9 complete the correction within the time set forth in the citation because of  
10 conditions beyond his/her control after the exercise of reasonable diligence, then  
11 he/she may request from the Executive Officer an extension of time within which to  
complete the correction. Such a request shall be in writing and shall be made within  
the time set forth for abatement.

12 (b) Failure of the cited person to abate the violation or to pay the fine within  
13 the time allowed is grounds for suspension or revocation of the cited person's  
license.

14 (c) If the cited person fails to pay all of the fine within the time allowed, the  
15 balance due for the fine shall be added to the renewal fee for the license, and the  
license shall not be renewed until the fine is paid in full.

16 (d) If a hearing as provided in Section 473.2(a) is not requested, payment of  
17 the fine shall not constitute an admission of the violation charged.

18 (e) Payment of the fine shall be represented as satisfactory resolution of the  
matter for purposes of public disclosure.

19 **COST RECOVERY**

20 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licentiate found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case.

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1 **FACTS**

2 10. Respondent has the authority to practice land surveying because he was licensed as a  
3 Civil Engineer prior to January 1, 1982. (Business and Professions Code section 6731.)

4 11. On or about February 29, 2008, three separate Citation Orders were issued against  
5 Respondent. The Citation Orders were numbered; 1) 5239-L (regarding corner records for survey  
6 Seal Beach CR 2008-0660), 2) 5240-L (regarding corner records for survey Tustin CR 2008-  
7 0659), and 3) 5241-L (regarding corner records for survey Newport Beach CR 2008-0658).

8 12. Citation Order No. 5239-L (regarding corner records for survey Seal Beach CR 2008-  
9 0660) was issued to Respondent with an order of abatement to immediately cease and desist from  
10 violating Business and Professions Code sections 8780(b) (negligence or incompetence in his  
11 practice of land surveying), 8780(d) (violations of laws involving the practice of land surveying),  
12 8762 (filing survey records), and 8767 (survey endorsement statements) and ordering Respondent  
13 within sixty (60) days to re-submit Record of Survey No. 2000-1071 to the Orange County  
14 Surveyor's Office, provide the Board with a copy of the re-submitted Records of Survey, and pay  
15 a \$3,000.00 administrative fine.

16 13. Citation Order No. 5240-L (regarding corner records for survey Tustin CR 2008-  
17 0659) was issued to Respondent with an order of abatement to immediately cease and desist from  
18 violating Business and Professions Code sections 8780(b) (negligence or incompetence in his  
19 practice of land surveying), 8780(d) (violations of laws involving the practice of land surveying),  
20 8773.2 (corner record submission), and title 16, California Code of Regulations, section 464(c)  
21 (corner record filing) and ordering Respondent within sixty (60) days to re-submit a Corner  
22 Record for the survey of the South Corner lot 12, TR 632, MM 20-30, Tustin, California, provide  
23 the Board with a copy of the Corner Record, and pay a \$2,000.00 administrative fine.

24 14. Citation Order No. 5241-L (regarding corner records for survey Newport Beach CR  
25 2008-0658) was issued to Respondent with an order of abatement to immediately cease and desist  
26 from violating Business and Professions Code sections 8780(b) (negligence or incompetence in  
27 his practice of land surveying), 8780(d) (violations of laws involving the practice of land  
28 surveying), 8773.2 (corner record submission), and title 16, California Code of Regulations,

1 section 464(c) (corner record filing) and ordering Respondent within sixty (60) days to re-submit  
2 a Corner Record for the survey of the Northeast Corner, Lot 55, TR 1220, Newport Beach,  
3 California, provide the Board with a copy of the Corner Record, and pay a \$2,000.00  
4 administrative fine.

5 15. Respondent has never complied with the Citations' Orders of abatement. The records  
6 of survey for the three surveys have never been re-submitted to the Orange County Surveyor's  
7 Office. Respondent has never complied with the Citations' Orders to pay administrative fines.

8 **CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Citations)**

10 16. Respondent's Civil Engineer License is subject to disciplinary action under Code  
11 sections 8780(d) for violations of title 16, California Code of Regulations, section 473.3(b), for  
12 his failure to comply with the orders of abatement in the three Citation Orders, by failing to re-  
13 submit the records of survey within sixty (60) days as required, as set forth in paragraphs 11  
14 through 15, which are incorporated by reference herein. Those Citation Orders are set forth as  
15 follows:

16 a. Citation Order 5239-L (regarding corner records for survey Seal Beach CR 2008-  
17 0660). Respondent submitted the record of survey to the Orange County Surveyor's Office on or  
18 about April 24, 2008. The survey was returned to him for corrections on or about May 5, 2008.  
19 The survey was never re-submitted.

20 b. Citation Order 5240-L (regarding corner records for survey Tustin CR 2008-0659).  
21 Respondent submitted the record of survey to the Orange County Surveyor's Office on or about  
22 April 24, 2008. The survey was returned to him for corrections on or about May 5, 2008. The  
23 survey was never re-submitted.

24 c. Citation Order 5241-L (regarding corner records for survey Newport Beach CR 2008-  
25 0658). Respondent submitted the record of survey to the Orange County Surveyor's Office on or  
26 about April 24, 2008. The survey was returned to him for corrections on or about May 5, 2008.  
27 The survey was never re-submitted.

28

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board for Professional Engineers, Land Surveyors, and Geologists issue a decision:

- 1. Revoking or suspending Civil Engineer License Number C 16104, issued to Robert C. Gilbert, Jr.;
- 2. Ordering Robert C. Gilbert, Jr. to pay the Board for Professional Engineers, Land Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 3. Ordering that Civil Engineer License Number C 16104, issued to Robert C. Gilbert, Jr., shall not be renewed until the fine on each Citation referenced above is paid in full pursuant to CCR section 473.3(c); and
- 4. Taking such other and further action as deemed necessary and proper.

DATED: 7/6/11

*Original Signed*  
 \_\_\_\_\_  
 RICHARD B. MOORE, PLS  
 Executive Officer  
 Board for Professional Engineers, Land Surveyors, and  
 Geologists  
 Department of Consumer Affairs  
 State of California  
*Complainant*

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