BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation against:	)	
LESLIE CURTIS MARQUOIT 44 Leeds Court East Danville, CA 94526	)	Case No. 745-A
Civil Engineer License No. C 17810,	)	
Respondent.	)	

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter.

This Decision shall become effective on June 10, 2010.

IT IS SO ORDERED May 5, 2010.

Original Signed

BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
Department of Consumer Affairs
State of California

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
MARETTA WARD
Deputy Attorney General
State Bar No. 176470
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1384
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: **LESLIE CURTIS MARQUOIT** **44 Leeds Court East** **Danville, California 94526** **Civil Engineer License No. C 17810** Respondent.	Case No. Case No. 745-A OAH No. 20091011163 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. David E. Brown (Complainant) is the Executive Officer of the Board for Professional Engineers and Land Surveyors. He brought this action solely in his official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Maretta Ward, Deputy Attorney General.

2. Leslie Curtis Marquoit (Respondent) is represented in this proceeding by attorney James W. Rushford, whose address is Rushford and Bonotto LLP 2277 Fair Oaks Blvd., Suite 495, Sacramento, CA 95825.

3. On or about January 2, 1968, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 17810 to Leslie Curtis Marquoit (Respondent).

The license was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. Case No. 745-A and will expire on June 30, ~~2009~~ 2011, unless renewed.

JURISDICTION

4. Petition to Revoke Probation Case No. 745-A was filed before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on January 27, 2009. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to Revoke Probation Case No. 745-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Petition to Revoke Probation No. Case No. 745-A. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. Case No. 745-A, agrees that cause exists for discipline and hereby surrenders his Civil Engineer License No. C 17810 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Civil Engineer License without further process.

CONTINGENCY

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

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the (Board) may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 17810, issued to Respondent Leslie Curtis Marquoit is surrendered and accepted by the Board for Professional Engineers and Land Surveyors.

14. The surrender of Respondent's Civil Engineer License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a Civil Engineer in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board both his wall license certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.

17. Respondent agrees not to petition for reinstatement of the surrendered license. Respondent agrees not to apply for any license issued by the Board for three years from the effective date of this surrender. Respondent understands and agrees that if he ever applies for any license issued by the Board, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations, and procedures for licensure in effect at the time the application is filed, including but not limited to submitting a completed application and the requisite fee and taking and passing the required examination(s), and all of the charges and allegations contained in the Accusation shall be deemed to be true, correct, and admitted by Respondent when the licensing agency determines whether to grant or deny the application.

/ /

/ /

/ /

/ /

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, James W. Rushford. I understand the stipulation and the effect it will have on my Civil Engineer License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board for Professional Engineers and Land Surveyors.

DATED: 4-5-10

Original Signed
LESLIE CURTIS MARQUOIT
Respondent

I have read and fully discussed with Respondent Leslie Curtis Marquoit the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 4-7-10

Original Signed
JAMES W. RUSHFORD
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board for Professional Engineers and Land Surveyors of the Department of Consumer Affairs.

Dated: March 19, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

MARETTA WARD
Deputy Attorney General
Attorneys for Complainant

SF2007403496
Stipulation.rtf

EDMOND G. BROWN, Jr. Attorney General
of the State of California
MARETTA D. WARD, State Bar No. 176470
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: 415.703.1384
Facsimile: 415.703.5480

Attorneys for Complainant

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: LESLIE CURTIS MARQUOIT 44 Leeds Court East Danville, CA 94526 Civil Engineer License No. C 17810 Respondent.	Case No. 745-A **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Cindi Christenson, P.E. (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board for Professional Engineers and Land Surveyors.

Civil Engineer License

2. On or about January 2, 1968, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 17810 to Leslie Curtis Marquoit (Respondent). On November 10, 2004, the Board adopted a Stipulated Settlement and Disciplinary Order in settlement of Accusation Number 745-A. Said Decision and Order became effective on December 10, 2004. Respondent's Civil Engineer License Number C 17810 was revoked with the revocation stayed, and Respondent was placed on probation for a period of three (3) years with terms and conditions. (Exhibit "A") Said *Decision and Order was modified*

pursuant to the Decision in the Matter of the Petition for Modification of Probation, effective December 10, 2006. (Exhibit "B") The license will expire on June 30, 2009, unless renewed.

JURISDICTION

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

STATUTORY PROVISIONS

4. Section 6775 of the Business and Professions Code ("Code") states:

"The board may receive and investigate complaints against registered professional engineers, and make findings thereon.

By a majority vote, the board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

. . . .

"(c) Who has been found guilty by the board of negligence or incompetence in his or her practice."

. . . .

"(f) Who aids or abets any person in the violation of any provision of this chapter."

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

PETITION TO REVOKE PROBATION

6. Grounds exist for revoking the probation and reimposing the Order of revocation of Respondent's Civil Engineer License No. C 17810, as described at pages *9-11* of the *Decision and Order, Case No. 745-A,* and at pages 3-4 of the *Decision in the Matter of the Petition for Modification of Probation, (*Exhibit "B") and *Decision and Order in Case No. 745-A*

hereto, in that Respondent violated the terms and conditions of probation as follows:

FIRST CAUSE TO REVOKE PROBATION

(Failure to Comply With Condition No. 5)

7. The terms and conditions of probation contained in the Decision and Order, in Case No. 745-A, provide at Condition No. 5 that within two (2) years of the effective date of the decision, Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. Respondent shall provide the Board with an official transcript official proof of successful completion within 60 days of the completion date of the course.

8. The facts and circumstances regarding this violation are that Respondent failed to successfully *take and pass a course in professional ethics within two (2) years of the effective date of the Decision and Order, Case No. 745-A.*

SECOND CAUSE TO REVOKE PROBATION

(Failure to Comply With *Modified Condition Nos. 4 and 6*)

9. The terms and conditions of probation contained in the Decision *in the Matter of the Petition for Modification of Probation* provide as *Modified Condition Nos. 4 and 6* that Respondent shall within one (1) year of the effective date of the Decision, *shall successfully complete and pass, with a grade of "C" or better, two college-level courses, approved in advance by the Board or its designee and provide the Board with an official transcript as proof of successful completion within 60 days of the completion date of each course* ***OR*** take and achieve the passing score as set by the Board for the California Special Civil Seismic Principles examination. The Respondent shall pay the application fee as described in Section 407 of Title 16 of the California Code of Regulations.

10. The facts and circumstances regarding this violation are that Respondent failed to successfully pass the Seismic Principles Section of the October 2007 Special Civil Engineer Examination with the minimum required passing score of 177.

//

//

PRAYER

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

1. Revoking the probation that was granted by the Board for Professional Engineers and Land Surveyors in Case No. 745-A and imposing the disciplinary order that was stayed thereby revoking Civil Engineer License No. C 17810, issued to Leslie Curtis Marquoit;

2. Revoking or suspending Civil Engineer License No. C 17810, issued to Leslie Curtis Marquoit;

3. Ordering Leslie Curtis Marquoit to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 1/5/09

Original Signed

CINDI CHRISTENSON, P.E.
Executive Officer
Board for Professional Engineers and Land Surveyors
State of California
Complainant

LA2005500943
MarquoitPetRevokeRevDecApproved.wpd
MW

EXHIBIT A

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation against:	)	
	)	
LESLIE CURTIS MARQUOIT	)	Case No. 745-A
44 Leeds Court East	)	
Danville, CA 94526	)	OAH No. N 2003120050
	)	
Civil Engineer License No. C 17810;	)	
	)	
Respondent.	)	
	)	

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter, except that, pursuant to Government Code section 11517(c)(2)(B), Paragraph 6 of the Order, appearing on Page 10 of the Proposed Decision, is hereby modified for technical reasons for purposes for clarity as follows:

> (6) Within two and one-half (2 ½) years of the effective date of decision, Respondent shall take and achieve the passing score as set by the Board for the California Special Civil Seismic Principles examination. The respondent shall pay the application fee as described in Section 407 of Title 16 of the California Code of Regulations. Furthermore, within two and one-half (2 ½) years of the effective date of the decision, Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

All of the other terms and conditions of probation specified in the Proposed Decision of the Administrative Law Judge are not amended, modified, or otherwise altered.

This Decision shall become effective on December 10, 2004.

IT IS SO ORDERED this 10th day of November, 2004.

BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By Original Signed

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: LESLIE CURTIS MARQUOIT 44 Leeds Court East Danville, CA 94526 Civil Engineer Registration No. C 17810 Respondent.	Case No. 745 - A OAH No. N 2003120050

PROPOSED DECISION

On March 15, 2004, and July 20, 2004, at Oakland, California, Perry O. Johnson, Administrative Law Judge, State of California, Office of Administrative Hearings ("OAH") heard this matter.

Maretta D. Ward, Deputy Attorney General, represented the Complainant Cindi Christenson.

Charles Benninghoff, of Benninghoff and Ramirez with an address at 31897 Del Obispo, Suite 220, San Juan Capistano, California, represented Respondent Leslie Curtis Marquoit, who was present for all phases of the hearing.

The record was held open for the purpose of providing the parties with the opportunity to file written closing arguments. On August 3, 2004, Complainant, through Deputy Attorney General Ward, filed with OAH a Closing Brief. The document was marked as Complainant's exhibit "11," which was received as argument. On August 18, 2004, Respondent, through Mr. Benninghoff, filed Respondent's Closing Brief, which was marked as exhibit "G," and received as argument. Complainant had the prerogative to file by September 3, 2004, a rebuttal written argument; but, Complainant elected not to file a rebuttal written argument by the designated deadline date.

On September 3, 2004, the parties were deemed to have submitted the matter, and the record closed.

FACTUAL FINDINGS

1. On October 27, 2003, Complainant Cindi Christenson, P.E. ("Complainant"), made the Accusation against Respondent Leslie Curtis Marquoit in her official capacity as Executive Officer, Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, State of California.

License History

2. On January 2, 1968, the Board issued Civil Engineer License number C 17810 to Respondent Leslie Curtis Marquoit ("Respondent"). Respondent's registration number will expire on June 30, 2005, unless the registration is renewed, revoked or suspended before that date.

Causes for Discipline

i. Unprofessional Conduct – Negligence and Incompetence

3. Raymond Glenn Collier ("Mr. Collier"), Building Official for the City of Newark, Alameda County, State of California, appeared at the hearing to offer compelling and persuasive evidence. His manner of rendering testimony, the consistency of his evidence and his attitude towards the proceeding indicate that he is a credible and trustworthy witness.

4. In his official capacity as a City of Newark employee, Mr. Collier performs supervisory duties regarding construction plan check inspectors, who, among other things, approve construction documents for commercial building projects. In mid-May 2001, Newark city employees in the Building Official's office first reviewed drawings for construction of an auxiliary building for the Yong Kang Restaurant located at 35144 Newark Boulevard, City of Newark ("project site"). The drawings were submitted by Stephen Montel, who was not a licensee of the Board. Mr. Montel presented himself as being a draftsman.

Under direction of Mr. Collier, a letter, dated May 30, 2001, issued to Mr. Montel from City of Newark construction plan review inspectors. The letter, written by Building Inspector Tim Rodden, rejected the plans for the auxiliary structure for the restaurant due to clearly described failures or defects in the construction plans. The letter directed Mr. Montel to correct the original construction plans and to return three copies of the construction documents along with written responses to the inquiries from the plans inspection department. The letter by Mr. Rodden detailed more than a dozen points of reference in the plans that required correction in accordance with state and local building demands.

Then, Newark City Building Official employees received from Mr. Montel a revised set of drawings, which showed little, if any, correction of the initial set of construction plans. The second set of drawings for the auxiliary structure again was issued a notice of rejection. The second rejection letter, which pertained to the substandard quality construction plans and

documents, was issued on September 12, 2001. Building Inspector John Herschel prepared the second rejection letter.

Again, Mr. Montel took the rejected construction documents purportedly to effect corrections. Thereafter, he submitted the drawings and related papers to the Newark City Building Department. On November 20, 2001, a city's building plans inspector issued a third notice of rejection. The third rejection notice informed Mr. Montel that in order for the plan to be approved, a qualified architect or civil/structural engineer would be required to sign and stamp the construction documents, which had to be competently and legibly prepared. The letter, dated November 20, 2001, set out specific instructions that the "design architect" had to adhere in revising and correcting the construction plans that Mr. Montel could not secure approval.

Within a matter of weeks, Mr. Montel returned to the Newark City building plans inspection department with supposed revised construction plans, which reflected the professional stamp and signature of Respondent. But, the plans showed substandard features.

On December 11, 2001, Mr. Collier, as the City of Newark Building Official, wrote a letter to Mr. Montel. The letter stated that the fourth code compliance review for the construction plans would not result in approval of the documents. The plans were rejected for a fourth time. Mr. Collier's letter directed that restaurant owners "must directly hire an architect or engineer to prepare the drawings."

Because Respondent's name appeared on the fourth set of construction plans for the auxiliary building to the restaurant, Mr. Collier sent a copy of the letter to Respondent, as well as the Board.

Then, Mr. Collier filed with the Board a formal complaint regarding Respondent

5. At the hearing, Mr. Collier established that at the time Mr. Montel submitted the construction plans for the utility building, no exemption existed for preparation of plans other than by a licensed civil/ structural engineer or licensed architect.

6. Eric Allan Walter ("Mr. Walter"), Complainant's expert witness, appeared at the hearing to offer reliable and persuasive evidence. His demeanor, the consistency of his testimony and his attitude towards the proceeding show him to be a credible witness.

Mr. Walter is a licensed professional civil engineer, who is now employed in the Public Works Department for the City of Springfield, State of Oregon. Currently, he engages in plan check engineering work for improvement projects for that city. Before taking the position in the State of Oregon on a date about seven months before the hearing, Mr. Walter worked for about eight years in the Building Department for the City of Napa, Sonoma County, as plan check engineer. He is also a certified plans examiner with ICC

(International Code Council, previously called International Conference of Building Officials) and a certified building inspector.

7. Mr. Walter wrote a technical report, dated January 4, 2003 , that described acts and omissions by Respondent that indicate violations of standards of practice for a professional engineer with regard to preparation of construction documents for a storage shed or utility structure for the restaurant in the City of Newark.

8. Mr. Walter persuasively expressed an expert opinion that Respondent effected a departure from the standard in that Respondent failed to submit to the Newark City Building Department complete, clear and adequate plans and documentation that bore the professional stamp and signature of Respondent. The drawings showed incompleteness, building code errors and illegibility of drawings, which were first presented by unlicensed and unqualified draftsman Montel to the City of Newark building inspections officials. The construction plans purportedly created by Respondent were defective or substandard as follows:

a. The construction plans, which bear the stamp and signature of Respondent, were not created or prepared in a professional manner. The plans were unorganized, illegible and incomplete. The illegible plans could not be properly or adequately plan checked or used for construction purposes;

b. The construction documents and supportive documents failed to provide clear, complete analysis for building code purposes;

c. The plans failed to set forth correct occupancy classifications for the auxiliary structure as based on current building code designations;

d. The construction documents did not include a complete and clear site plan;

e. The plans lacked notations for fire resistive construction components or requirements. The plans failed to indicate fire resistive construction based on proximity to property lines, protection of openings and occupancy separation requirements. The plans did not show a minimum "one hour" fire wall absent of overhangs. The plans indicated an overhang of an unacceptable dimension;

f. Notwithstanding several specific plan check inspectors' directives, the construction plans failed to include the location of a water heater on the floor plans;

g. The plans showed a proposed door that did not comply with State of California disabled persons access requirements. The plans lacked a 12-inch return wall clearance on the push side of an entry when the door is to be latched. The door lacked closers;

h. The construction plans failed to reflect energy documentation. And the plans failed to account for lighting requirements;

i. The construction documents lacked complete electrical plans, including a panel schedule and load calculations;

j. The construction plans were devoid of plumbing plans for a proposed water heater installation;

k. Due to a proposed low roof slope, the plans specified a roof underlayment that did not comply with California Building Code's table 15 b-1.

l. The construction documents set out roof rafter ventilation that did not comply with minimum dimensions for vent openings. And, the plans did not provide for cross ventilation as required by the California Building Code section 1505.3.

m. The plans failed to show that the auxiliary building, though small, was an adequate commercial building addition that complied with California Building Code section 2320. The plans did not meet dictates under the Code section's "conventional construction provisions."

n. The construction plans did not include adequate structural design and calculations. The plans required structural calculations for the contemplated new structure's cantilevered roof framing, headers and posts. The plans lacked lateral analysis of wall panel requirements. The plans lacked deflection calculations for the wall separations between the proposed utility room and the existing structure.

9. The weight of the evidence established that Respondent did not physically draw, write or execute the fourth set of plans for the proposed construction of a utility structure for a restaurant in the City of Newark. Respondent did little more than remove or erase from the construction plans the name of Mr. Montel, an unlicensed draftsman, and then

he affixed his signature and professional stamp to the fourth set of plans, which were rejected by Newark City building plan inspectors.

10. With regard to the drawings made by Mr. Montel, Respondent as a competent engineer would have needed to begin the project from a starting point as opposed to using most of the work of Mr. Montel. A competent engineer would have discarded the drawings made by Mr. Montel. Respondent presented the Newark City Building Department with drawings and plans that showed no difference between the Montel plans and the plans signed by Respondent.

11. The construction plans that bore Respondent's engineer seal and his signature were not prepared in a professional manner in accordance with industry standards for professional engineers. The construction plans signed and sealed by Respondent were incomplete and illegible.

ii. Unprofessional Conduct – Aiding and Abetting An Unlicensed Person

12. James Ackley, Senior investigator for the Dept of Consumer Affairs, appeared at the hearing to offer credible and persuasive evidence.

In May 2002, Mr. Ackley conducted an investigation. During the course of the investigation, Mr. Ackley interviewed both Mr. Montel and Respondent.

Mr. Montel made statements against his interest in an interview with Mr. Ackley. Mr. Montel told Mr. Ackley that after the City of Newark officials rejected the construction plans for the project for a third time, the draftsman took the plans to Respondent. Respondent purported suggested changes to the plans that were actually drawn or made by Mr. Montel. Respondent erased the name of Mr. Montel and then affixed his signature and stamp to the plans, which were rejected on a fourth occasion by city building plan inspectors for the City of Newark.

In an interview with Mr. Ackley on July 24, 2003, Respondent made admissions to Mr. Ackley. Respondent told the investigator that he had not employed Mr. Montel with regard to any aspect of the preparation of the construction plans for the auxiliary building to the restaurant in the City of Newark. Respondent told Mr. Ackley that the actual drawing of the plans was executed by Mr. Montel upon the instructions given by Respondent. Respondent informed the investigator in July 2002 the construction project for the utility room was probably not exempt from the requirement under the law that a licensed architect or engineer was needed to complete the plans, construction documents and responsive correspondence to municipal building plan inspectors.

13. Mr. Stephen Montel appeared at the hearing of this matter. By his demeanor, his attitude towards the proceeding, his disposition in making implausible assertions and his tendency towards exaggeration, Mr. Montel was not a credible witness. His testimony can not be trusted as being candid and honest.

Mr. Montel is not believed that after City of Newark building officials rejected for a third time the construction plans for the subject auxiliary building that he became an agent or subordinate to Respondent. Mr. Montel is not credible when he claimed that Respondent provided significant assistance in an effort to improve the quality of the drawings for the new structure for the Yong Kang Restaurant in the City of Newark.

Mr. Montel was unreliable when he asserted that Respondent hired him as a subordinate in concluding the work of drafting construction plans for the utility structure for the subject restaurant in the City of Newark

14. Respondent appeared at the hearing, but his lack of candid acceptance of responsibility for his neglect and his unreliable assertions regarding his participation in Mr. Montel's inadequate work, coupled with his implausible contentions regarding supposedly ill-grounded motivations of Newark city officials, show him not to be credible or compelling.

Respondent was not persuasive that Newark City officials erred by a determination that did not apply an exemption for the construction of the utility room for the restaurant.

Respondent was not persuasive that Mr. Montel acted as his agent or employee so as to become a "subordinate" within the meaning of Business and Professions Code section 6740[1].

15. Respondent aided and abetted Mr. Montel, an unlicensed individual, to unlawfully engage in the work reserved for licensed professional engineers. Respondent's unprofessional conduct manifested when he allowed his "title block" to be stamped on poorly crafted construction plans, and when he signed incomplete, inadequate and illegible plans, which were prepared by Mr. Montel, an unqualified and unlicensed person.

16. After Respondent assumed a role in the submission of plans to the City of Newark, he failed to provide adequate management or control as a licensed engineer over the project.

Matters in Mitigation

17. Respondent has held a license as a civil engineer for more than 35 years.

18. Two witnesses appeared at the hearing to offer compelling evidence in support of Respondent's years of competent provision of professional services.

---

[1] Business and Professions Code section 6740 provides, in part, that "A subordinate to a civil, electrical or mechanical engineer … , insofar as he acts solely in such capacity, is exempt from registration under the provisions" of the Code's Chapter 7.

a. Mr. Laren Simmons, a licensed civil engineer, has known Respondent for about 28 years. Mr. Simmons and Respondent worked for the City of Hayward.

In the early 1970s, Mr. Simmons and Respondent formed MSD Engineers. They worked together for more than 20 years.

Mr. Simmons knows that Respondent has a reputation in the professional community of engineers as being a good engineer. Respondent is known to fulfill promises made by him and to be an honest individual. But, Mr. Simmons has no personal knowledge regarding the preparation of construction plans for the project site.

b. Harold Brian Davis has known Respondent for about 28 years.

Mr. Davis is a licensed land surveyor.

Mr. Davis gained the acquaintance of Respondent when the men worked for the City of Hayward. Mr. Davis and Respondent formed a business partnership about 20 years ago. Mr. Davis knows Respondent's reputation in the business community. Respondent is a conscientious, ethical and law-abiding professional. In all dealings with Mr. Davis, Respondent has never shown himself to neglect professional standards as a professional engineer. But, Mr. Davis did not participate in the project in Newark.

19. Complainant offers no record that shows past disciplinary action against the professional engineer registration held by Respondent.

20. The vast bulk of Respondent's current, limited practice involves residential structures.

Matters in Aggravation

21. After Respondent assumed responsibility for preparation of construction plans, neither Mr. Montel nor he made adequate attempts to comply with the instructional comments by the City of Newark Building Plans/Compliance Review officials to submit complete, accurate, legible plans for structure of the auxiliary structure.

Costs of Investigation and Prosecution

22. Complainant sought an order for costs of investigation and prosecution by the Accusation in this matter. But, Complainant withdrew the certification of costs during the hearing of this matter. No basis exists for an order of costs against Respondent.

LEGAL CONCLUSIONS

1. Business and Professions Code section 6775, subdivision (c), establishes, in part, that the Board may suspend for a period not to exceed two years or may revoke the

certificate of a professional engineer "[w]ho has been found guilty … of negligence or incompetence in his … practice."

Cause exists to suspend or revoke the certification issued to Respondent to act as a professional engineer pursuant to Business and Professions Code section 6775, subdivision (c), by reason of the matters set out in Factual Findings 3 through 11.

2. Business and Professions Code section 6775, subdivision (f), sets forth, in part, that the Board may suspend for a period not to exceed two years or may revoke the certificate of a professional engineer "[w]ho aids or abets any person in the violation of any provision of" the Code's Chapter 7, which pertains to professional engineers.

Cause exists to suspend or revoke the certification issued to Respondent to act as a professional engineer pursuant to Business and Professions Code section 6775, subdivision (f), by reason of the matters set out in Factual Findings 12 through 16.

3. Respondent assisted Mr. Steve Montel in the unlicensed practice of civil engineering. Mr. Montel entered into a contractual agreement with owners of a restaurant for preparation of construction plans for a utility building adjacent to the restaurant. It was Mr. Montel who traveled to the site to effect a view of the project site, to take measurements and to prepare the drawings. Under a scheme to frustrate the objective of municipal plan check inspectors, Respondent conspired with Mr. Montel to remove the signature of the draftsman and then to affix Respondent's signature and professional engineer's stamp to the drawings, which retained substandard qualities. Respondent's acts and omissions show, at a minimum, negligence and incompetence. Also, his conduct showed his conscious intent to aid and abet Mr. Montel to engage in the provision of services for which a professional engineer's or architect's license was required.

4. Business and Professions Code section 125.3 provides, in part, that the Board "may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

Under the facts established by the weight of the evidence, Complainant is entitled to an order that directs Respondent to pay reasonable costs of investigation and prosecution. However, Complainant withdrew the certification in support of an order of costs. Hence, an order for cost recovery cannot be made, unless the matter reviewed under a petition for reconsideration.

ORDER

Civil Engineering Registration No. C 17810 issued to Respondent Leslie Curtis Marquoit is revoked. The revocation shall be stayed for three (3) years, during which time Respondent shall be placed on probation subject to the following terms and conditions:

1. Respondent shall obey all federal, state, and local laws governing the practice of professional engineering and professional land surveying in California.

2. Respondent shall submit and/or cause to be submitted special reports as required by the Board.

3. Respondent shall provide the Board not later than 30 days after the decision becomes effective with evidence that he has notified all clients and employers with whom he has a current or continuing contractual or employment relationship of the offense, findings, and discipline imposed and shall provide the Board with the name and business address of each person required to be so notified.

4. Within two years of the effective date of the decision, Respondent shall successfully complete and pass, with a grade of "C" or better, two college-level courses, approved in advance by the Board or its designee. Respondent shall provide the Board with an official transcript as proof of successful completion within 60 days of the completion date of each course.

5. Within two years of the effective date of the decision, Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. Respondent shall provide the Board with an official transcript as proof of successful completion within 60 days of the completion date of the course.

6. Respondent shall successfully take and pass the entire second division examination in the discipline in which he is registered.

7. The period of probation shall not run during the time Respondent is residing or practicing outside the jurisdiction of California. If, during probation, Respondent moves out of the jurisdiction of California to reside or practice elsewhere, Respondent is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.

8. Upon successful completion of probation, including the fulfillment of all conditions, Respondent's engineering registration will be restored.

9. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke his probation and reinstate the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed

against respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, during probation the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

Dated: September 29, 2004

Original Signed

PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

BILL LOCKYER, Attorney General
of the State of California
MARETTA D. WARD, State Bar No. 176470
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1384
Facsimile: (415) 703-5480

Attorneys for Complainant

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LESLIE CURTIS MARQUOIT** **44 Leeds Court East** **Danville, CA 94526** **Civil Engineer License No. C 17810** **Respondent.**	Case No. 745-A **ACCUSATION**

Complainant alleges:

PARTIES

1. Cindi Christenson, P.E. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board for Professional Engineers and Land Surveyors, Department of Consumer Affairs.

2. On or about January 2, 1968, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 17810 to Leslie Curtis Marquoit (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2005, unless renewed.

//

//

//

JURISDICTION

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

4. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

"(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

"(f) Who aids or abets any person in the violation of any provision of this chapter.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

5. Respondent is subject to disciplinary action under section 6775 (b) and section 6775 (f). The circumstances are as follows:

6. On or about November 2001, Respondent aided and abetted Stephen Montel in the unlicenced practice of civil engineering. Respondent placed his stamp and seal on drawing plans prepared by one Stephen Montel (who is not a licenced architect or engineer) of an edifice that was to be an addition to an existing commercial building located at 35144 Newark Blvd. in Newark, California. The plans for the edifice were submitted by Stephen Montel to the City of Newark for final approval. The plans were rejected by the City of Newark on the grounds that they were not prepared by a licensed architect or engineer.

//

//

//

//

//

//

PRAYER

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

1. Revoking or suspending Civil Engineer License Number C 17810, issued to Leslie Curtis Marquoit;

2. Ordering Leslie Curtis Marquoit to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 10/27/03

Original Signed

CINDI CHRISTENSON, P.E.
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

-SF2003200672
40005941.wpd
als:081903

EXHIBIT B

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition For Modification of Probation of: LESLIE CURTIS MARQUOIT 44 Leeds Court East Danville, Ca 94526 Civil Engineer License No. C17810 Petitioner	OAH No. N2006060175

DECISION

On November 16, 2006, in San Francisco, California, this matter was heard by a quorum of the Board for Professional Engineers and Land Surveyors, Arthur P. Duffy, Board President. Administrative Law Judge M. Amanda Behe of the State of California Office of Administrative Hearings presided.

Supervising Deputy Attorney General Linda K. Schneider represented the Office of the Attorney General.

James W. Rushford, Rushford & Bonotto, LLP, represented petitioner.

FACTUAL FINDINGS

1. On December 5, 2005, petitioner Leslie Curtis Marquoit wrote to the Board requesting a reduction in penalty, a time extension, and what he termed "exoneration." The letter was deemed a Petition for Modification of Probation pursuant to Business and Professions Code section 6780.

2. On January 2, 1968, the Board issued Civil Engineer License No. C17810 to petitioner. Effective December 10, 2004, petitioner's license was revoked, however, revocation was stayed and he was placed on three years probation on various terms and conditions. The license will expire on June 30, 2007, unless renewed.

3. On December 10, 2004, in a disciplinary action captioned "In the Matter of the Accusation Against: Leslie Curtis Marquoit" Case No. 745-A, petitioner's license was revoked, with the revocation stayed and probation imposed for three years on specified terms and conditions including the following:

> 4. Within two years of the effective date of the decision, Respondent shall successfully complete and pass, with a grade of 'C' or better, two college-level courses, approved in advance by the Board or its designee. Respondent shall provide the Board with an official transcript as proof of successful completion within 60 days of the completion date of each course.
>
> 6. Within two and one-half (2½) years of the effective date of the decision, Respondent shall take and achieve the passing score as set by the Board for the California Special Civil Seismic Principles examination. The Respondent shall be required to pay the application fee as described in Section 407 of Title 16 of the California Code of Regulations. Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

4. Petitioner seeks relief from the requirement that he pass the Seismic Principles examination, and requests an additional year to complete the required courses and the Laws and Rules examination. If he is not granted the former request he seeks an additional year to pass the Seismic Principles examination.

Petitioner was angry about the discipline of his license, and a week after notification of that action was devastated by the death of his daughter. For a long time he did not intend to make the effort to retain his license, and took no steps to comply with the probationary terms. He has since been encouraged by professional colleagues, including those who testified at hearing, to continue working and take the steps necessary to complete probation.

Petitioner testified that he has had difficulty identifying suitable classes to comply with the terms of probation.[1] The Board is not persuaded by the argument that the Seismic Principles examination has little if any relation to petitioner's practice. He acknowledged in his testimony that his current practice involves taking responsible charge for structural elements including full seismic considerations and determinations of lateral and vertical loads.

5. Petitioner testified that he recognizes that his conduct in the work which was the subject of Case No. 745-A, and specifically signing drawings done by an unqualified

[1] Petitioner may seek assistance and information regarding available classes from the Board's Enforcement Coordinator.

person, was improper. He has adjusted his practice to assure that he will not stamp plans that he does not create himself or have created by a qualified person under his direct supervision.

Petitioner worked as an engineer for Container Corporation, the East Bay Municipal Utility District, and the Oakland Redevelopment Agency. He then worked for the City of Hayward, and retired from that position 16 years ago.

Petitioner limits his practice to small residences and additions to homes. He is 74 years old and wants to continue the practice of engineering to keep busy and to work on small projects for which designers, architects, and homeowners have difficulty obtaining engineering services. He currently works with approximately 20 contractors in the San Ramon Valley area.

6. Petitioner seeks relief from the requirement that he pass the Seismic Principles examination, and requests an additional year to complete the required courses and the Laws and Rules examination. If he is not granted the former request he seeks an additional year to pass the Seismic Principles examination.

7. Laverne "Bud" Simmons, a civil engineer, has known petitioner over 30 years including 23 years when they both worked for the City of Hayward. Since his retirement he has worked with petitioner from time to time on various projects, and he opined that petitioner is an excellent engineer and ethical person. Mr. Simmons described that petitioner donated his time to a church remodel project. Mr. Simmons also testified that it is important to stay busy in retirement.

David Clayton is an architect credentialed to practice in England, and whose career of 40 years had included hospital design. He has known petitioner for 45 years. For the past 13 years he has designed homes in California, and used petitioner on as many as 100 projects when he needs an engineer. Mr. Clayton opined that petitioner is an ingenious engineer who provides an essential service.

LEGAL CONCLUSIONS

Cause exists to modify the probation previously ordered in Case No. 745-A.

ORDER

The Petition to Modify Probation is granted in part, with the following modifications to the conditions of probation:

> 4 and 6. Within one year of the effective date of this Decision, petitioner shall successfully complete and pass, with a grade of 'C' or better, two college-level courses, approved in advance by the Board or its designee and provide the Board with an official

transcript as proof of successful completion within 60 days of the completion date of each course **OR** take and achieve the passing score as set by the Board for the California Special Civil Seismic Principles examination. If petitioner selects the examination, he shall be required to pay the application fee as described in Section 407 of Title 16, California Code of Regulations.

This decision shall become effective on December 10, 2006.

IT IS SO ORDERED November 16, 2006.

BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

BY Original Signed