

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

In the Matter of the Accusation Against:	)	
	)	
ENGLES SZE-LEE SHEN	)	Case No. 853-A
1111 Corporate Center Drive, #302	)	
Monterey Park, CA 91754	)	OAH No. 2011100840
	)	
Civil Engineer License No. C 18906,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DENYING PETITION FOR RECONSIDERATION**

The Petition for Reconsideration filed by the respondent in the above-entitled matter has been read and considered by the Board for Professional Engineers, Land Surveyors, and Geologists. Good cause for the granting of the petition has not been shown; therefore, the Petition for Reconsideration is hereby denied.

The Decision issued by the Board for Professional Engineers, Land Surveyors, and Geologists shall become effective upon expiration of the Order Granting Stay of Execution of Decision on **July 29, 2012**.

IT IS SO ORDERED 6/28/12.

Original Signed  
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BOARD FOR PROFESSIONAL ENGINEERS,  
LAND SURVEYORS, AND GEOLOGISTS  
Department of Consumer Affairs  
State of California

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

In the Matter of the Accusation Against:	)	
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ENGLES SZE-LEE SHEN	)	Case No. 853-A
1111 Corporate Center Drive, #302	)	
Monterey Park, CA 91754	)	OAH No. 2011100840
	)	
Civil Engineer License No. C 18906,	)	
	)	
Respondent.	)	
_____	)	

ORDER GRANTING STAY OF EXECUTION OF DECISION

A Decision in the above matter was issued by the Board for Professional Engineers, Land Surveyors, and Geologists on May 25, 2012, to become effective on June 29, 2012. Pursuant to the provisions of Government Code sections 11519 and 11521, a stay of execution of the decision in this matter is issued to allow the Board for Professional Engineers, Land Surveyors, and Geologists sufficient time to receive and consider a Petition for Reconsideration from the respondent.

Execution is stayed until **July 29, 2012**.

DATED: June 25, 2012.

*Original Signed*

\_\_\_\_\_  
NANCY A. EISSLER  
Enforcement Program Manager  
Board for Professional Engineers, Land Surveyors,  
and Geologists  
Department of Consumer Affairs  
State of California

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

In the Matter of the Accusation and First	)	
Supplemental Accusation against:	)	
	)	
ENGLES SZE LEE SHEN	)	Case No. 853-A
1111 Corporate Center Drive, Suite 302	)	
Monterey Park, CA 91754	)	OAH No. 2011100840
	)	
Civil Engineer License No. C 18906,	)	
	)	
Respondent.	)	
_____	)	

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on June 29, 2012.

IT IS SO ORDERED May 25, 2012.

*Original Signed*  
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BOARD FOR PROFESSIONAL ENGINEERS,  
LAND SURVEYORS, AND GEOLOGISTS  
Department of Consumer Affairs  
State of California

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

In the Matter of the Accusation and First  
Supplemental Accusation Against:

**ENGLES SZE LEE SHEN,**

Civil Engineer License No. C 18906,

Respondent.

Case No. 853-A

OAH No. 2011100840

**PROPOSED DECISION**

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on February 21-22, 2012, in Los Angeles. The record was closed and the matter was submitted for decision at the conclusion of the hearing.

M. Travis Peery, Deputy Attorney General, represented Joann Arnold (Complainant).

Engles Sze Lee Shen (Respondent) was present and represented himself.

**FACTUAL FINDINGS**

*Parties and Jurisdiction*

1. On April 4, 1969, the Board for Professional Engineers, Land Surveyors, and Geologists (Board) issued Civil Engineer License Number C 18906 to Respondent. The license was in full force and effect at all times relevant and will expire on June 30, 2013.

2. The Accusation was brought by Complainant's predecessor. Respondent submitted a Notice of Defense, which contained a request for a hearing to contest the charges. Complainant subsequently brought the First Supplemental Accusation in her official capacity as the Interim Executive Officer of the Board.

3. During the hearing, the Accusation and First Supplemental Accusation were amended over the objections of Respondent. The amendments to the two operative pleadings were discussed on the record and are reflected in a document entitled "Amendment of Accusation and First Supplemental Accusation to Conform to Proof," which was incorporated into exhibit 1.

4. On June 7, 2001, the Board issued Citation No. 5073-L against Respondent for violating Business and Professions Code section 136,<sup>1</sup> and California Code of Regulations, title 16, section 412 (failure to notify the Board within 30 days of a change of address of record), and Code section 8762 (failure to file a record of survey or notify the County Surveyor's Office of any delay in the filing of a record of survey within 90 days of setting tagged monuments). Respondent was ordered to pay an administrative fine of \$600 to the Board. The citation became final. Respondent paid the fine.

*Liu Parcel*

5. In May 2003, Respondent surveyed a parcel of land on Vraviss Circle in the City of Chino Hills. The land was owned by Jeff Liu, Adjoining Parcel Number (APN) 1031-071-06 (Liu Parcel).

6. Respondent prepared a Record of Survey. On July 21, 2003, Respondent filed the Record of Survey with the San Bernardino County Surveyor's Office. On or about September 23, 2003, Dan Moye (Moye), the San Bernardino County Surveyor, sent a letter informing Respondent of numerous deficiencies in the Record of Survey.

7. By a letter dated March 8, 2004, Respondent replied to Mr. Moye's letter, in which he admitted his Record of Survey was incomplete, and intimated that such was due to his busy schedule. Though he stated he did not intend to "defend this record of survey," Respondent provided some explanation for some of the deficiencies noted by Mr. Moye, some of which are discussed below.

8. Mr. Moye was so concerned with the deficiencies he saw in Respondent's Record of Survey that he forwarded a copy of his September 23, 2003 letter to the Board. The Board began investigating the matter, which included forwarding Respondent's Record of Survey, Mr. Moye's letter, and other materials, to an expert witness in the profession of civil engineering, Patrick J. Minturn, who is currently Director of Public Works for Shasta County. Mr. Minturn agreed with Mr. Moye's deficiency findings, with a few minor exceptions. Mr. Minturn's experience in this field is impressive, and his opinions expressed during the hearing were clearly articulated, based on supporting evidence, well reasoned and persuasive. Thus, the combination of opinions expressed by (former) County Surveyor Moye (who has since retired) and expert witness Minturn were sufficient to clearly and convincingly establish the findings below. On the other hand, Respondent presented little evidence opposing these opinions, other than his own testimony which was vague or not persuasive for reasons explained in more detail below.

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<sup>1</sup> All further statutory references are to the Business and Professions Code (Code), and all further regulatory references are to title 16 of the California Code of Regulations (Regulation).

9. Respondent departed from the standard of care in his profession when he failed to include required information in the Record of Survey. Specifically, Respondent omitted the boilerplate statements required by Code section 8764.5 regarding the surveyor's statement, the county surveyor's statement, and the county recorder's statement. Respondent also omitted additional information that should have been included as a note regarding the analysis and methodology he used required by Code section 8764.

10. Respondent departed from the standard of care in his profession by relying on the Assessor's Parcel Map to resolve the boundary of the Liu Parcel in creating the Record of Survey. Assessor Parcel Maps are to be used for taxation purposes only and are not to be relied upon to determine parcel boundaries, mainly because they are generally not accurate and are not created for purposes of establishing boundaries.

11. Respondent departed from the standard of care in his profession by performing inadequate research in preparing the Record of Survey. The Liu Parcel posed a complicated boundary problem for several reasons. The parcel had been involved in a prior subdivision. The chain of title in how the Liu Parcel and several adjoining parcels were created was not straightforward. Vravis Circle is a street that was dedicated to the public in anticipation of developing the adjoining parcels, including the Liu Parcel. In sum, this situation warranted extensive research of the way the Liu parcel, and adjoining parcels, were created, including a search of the chain of title. Respondent failed to conduct that research. Only the legal description for the Liu Parcel was submitted with the Record of Survey, but there was an error in the legal description in that document, which Respondent did not explain. Respondent similarly failed to conduct sufficient research to properly evaluate the relationship and uncertainties regarding the ownership of the underlying fee between the Liu Parcel and Vravis Circle. As Mr. Moye explained in his letter to Respondent, the lack of research and/or his failure to explain the situation in more detail left the County Surveyor unclear regarding the legal description of the Liu Parcel and its relationship with Vravis Circle.

12. Respondent departed from the standard of care in his profession by failing to carefully resolve the northwesterly boundary of Parcel 1. The Liu Parcel is a portion of Parcel 1, as shown on Parcel Map No. 2340. Based on the problems and difficulties referenced above, it was necessary for Respondent to carefully resolve the northwesterly boundary for Parcel 1 in order to clarify the northwesterly boundary for the Liu Parcel. Since the northwesterly boundary was a critical part of the Liu Parcel boundary and had been surveyed before, careful research by Respondent of that prior statement of the boundary would have allowed Respondent to establish that part of the Liu Parcel and to work off that certain position in an effort to clarify the remaining boundary lines.

13. It was not established that Respondent departed from the standard of care in his profession by accepting a not-of-record monument for the southwest corner of the Record of Survey, labeled "Fd. 1 I.P. L.S. 5479." Mr. Minturn opined that while Respondent's failure to attempt to verify the position given was questionable, it was not necessarily improper or a breach of the standard of care.

14. Respondent departed from the standard of care in his profession by failing to use the literal wording of the legal description for the Liu Parcel over the Assessor's Parcel Map. The problem here was that the closing leg of the legal description of the Liu Parcel lacks a distance call, meaning the loop creating the boundary would not properly close, or put another way, the boundary would not end where it began. This problem had to do with the confusion regarding how the adjoining parcels were created and the order of events in how those parcels were created, which required more research. Instead of conducting that research to clarify this situation, Respondent simply used the information from the Assessor's Parcel Map, and failed to explain this problem in the Record of Survey.

15. Respondent departed from the standard of care in his profession by setting monuments using wooden hubs measuring two inches by two inches. Monuments must be made of durable material, such as metal, that will remain at a location long afterward for subsequent surveyors to find, as required by Code section 8771, subdivision (a), which is the standard of care in the profession. Wood is not durable for this purpose and is not used in the profession as a permanent monument for this reason.

16. Respondent subsequently re-submitted a Record of Survey for the Liu parcel to be recorded, which addressed some, but not all of the deficiencies noted by Mr. Moyer. For example, Respondent failed to support his legal description for the Liu Parcel along the area of the boundary where it would not close, and failed to provide supporting research to resolve the potential issue of senior rights in that area.

17. Respondent had not anticipated this survey would be so complicated. Once he realized how much research was required, compared to how much he would be paid by Mr. Liu, Respondent decided to take a number of short-cuts in preparing the Record of Survey and let other projects take priority. As Respondent initially explained to Mr. Moyer, the press of business caused him to omit the required boilerplate information from the Record of Survey he initially filed. As demonstrated by his initial explanation to Mr. Moyer, Respondent knew full well that information from the Assessor's Parcel Map cannot be used to establish boundaries in a record of survey. Respondent simply decided to use that information because it was close to what his work had revealed up to that point and he did not want to take the extra steps. Respondent conducted some research on the parcel, but it was inadequate and did not provide answers to the problems presented by this complicated situation. In any event, Respondent provided none of his research to Mr. Moyer or gave him any indication of the problems he was encountering, meaning his research was of no use. Respondent blames many of the problems he encountered on mistakes and errors contained in prior survey records or recorded documents done by others. Yet, Respondent did very little to highlight those problems or reconcile them for the County Surveyor. That was what he was supposed to do. Finally, Respondent testified that he used wooden monuments because he knew the decking contractor would have to trench in the same area and remove them. However, the standard of care in such instances is to make a durable monument in an off-set position away from danger of being removed but close enough to give evidence of the proper location.

18. It was not established that Respondent was incompetent in his practice of land surveying by heavily relying on the Assessor's Parcel Map to resolve the Liu Parcel boundary. It is known in the industry that Assessor Parcel Maps should not be so used, and it is clear that Respondent understood the same. He expressed that understanding in his letter of March 2004 to Mr. Moyer, and again while testifying. His decision to use that information in preparing the Record of Survey for the Liu Parcel was not the result of his ignorance or lack of training or experience in this field; it was simply a by-product of sloppiness and his desire to take short-cuts.<sup>2</sup>

### *Joshua Street Survey*

19. In or about June 2001, Respondent was retained by the Mei family to do a survey on property located near Joshua Street, in San Bernardino County (Joshua Survey), prepare an application for a parcel subdivision of that property, present the project at public meetings, and record a parcel map. Respondent's fee was \$7,500.

20. On or about July 26, 2001, Respondent performed the survey. On March 7, 2005, Respondent submitted a Corner Record to the County Surveyor regarding his survey.

21. On September 8, 2005, Mr. Moyer sent Respondent a letter informing him of numerous deficiencies he found in the Corner Record and requesting him to revisit the field, update his measurements, and file a Record of Survey. Mr. Moyer also forwarded a copy of his September 8, 2005 letter to the Board. The Board investigated this matter concurrently with the Liu matter discussed above, including forwarding Respondent's Corner Record, Mr. Moyer's letter, and other materials, to Mr. Minturn.

22. Mr. Minturn agreed with some of Mr. Moyer's deficiency findings, with the exceptions noted below. Where the two are in agreement, as indicated, such is sufficient to clearly and convincingly establish the findings below. On the other hand, Respondent presented little evidence opposing these opinions, other than his own testimony which was vague and not persuasive for reasons explained in more detail below.

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<sup>2</sup> Incompetence generally is defined as a lack of knowledge or ability in the discharging of professional obligations. Often, incompetence results from a correctable fault or defect. (*James v. Bd. of Dental Examiners* (1985) 172 Cal.App.3d 1096, 1109.) The technical term "incompetency" generally is used to indicate an absence of qualification, ability or fitness to perform a prescribed duty or function. (*Pollak v. Kinder* (1978) 85 Cal.App.3d 833, 838.) In this case, Mr. Minturn simply opined that Respondent was incompetent for so heavily relying on the Assessor's Parcel Map. He did not offer an opinion that the various deficiencies of Respondent's Record of Survey demonstrated that Respondent lacked the skill, ability and expertise to handle such a complicated survey, i.e., that he demonstrated incompetence in his overall performance of the Liu Parcel survey.

23. It was not established that Respondent departed from the standard of care in his profession in the way that he reset the C-N 1/16 corner at the intersection of Beaver Avenue and Muscatel Street. Although Mr. Minturn concedes that Mr. Moye had a reasonable concern in the way that Respondent reset that corner, he opined that Respondent was not necessarily negligent in how he did so.

24. Respondent departed from the standard of care in his profession by failing to use an appropriate method of setting the N 1/16 corner for sections 25 and 30. The controlling monument at the northeast corner of section 25 was not recovered by Respondent to establish the section line. Respondent should have used the Single Proportionate Measurement method along Baldy Mesa Road to do so. Although Respondent used the Single Proportionate Measurement method, he used it incorrectly, i.e., he started at Beaver Avenue, which was appropriate, but he failed to also use Baldy Mesa Road, which was not appropriate. Respondent departed from the standard of care by incorrectly using the Single Proportionate Measurement method to establish the corner in question.

25. It was not established that Respondent departed from the standard of care in his profession by failing to provide reference information for N 1/4, section 25, and tag number of E 1/4, section 25. Although Mr. Minturn concedes that Mr. Moye's request for that reference information was reasonable, he concluded that Respondent was not negligent in failing to provide it initially.

26. It was not established that Respondent departed from the standard of care in his profession in the way he showed measured bearings and distances on the Corner Record. Mr. Minturn conceded that although he was dubious of the accuracy of Respondent's measurements, he had insufficient information to conclude that Respondent breached the standard of care in this regard.

27. Respondent departed from the standard of care in his profession by submitting a Corner Record instead of a Record of Survey. Code section 8773, subdivision (b), requires a Record of Survey to be filed instead of a Corner Record when a corner from a previous recorded survey (a lost corner) cannot be located and must be reestablished. This law also serves as the standard of care in this profession. Corner Records are appropriate only for routine surveys in which all prior corners can easily be located. In this case, Respondent had to reestablish a lost corner. The standard of care required him to file a Record of Survey instead of a Corner Record.

28. Respondent departed from the standard of care in his profession by failing to submit the Corner Record within 90 days from the date of the survey. Regulation 464, subdivision (c), required that the Corner Record be submitted within 90 days of the survey, which also serves as the standard of care in this profession. It took almost four years for Respondent to submit his Corner Record.

29. Respondent explained that the delay in submitting the Corner Record was due to various circumstances. For example, the property owners changed their mind mid-way through the process regarding how many parcels to subdivide the property into. The subdivision process was slow and laborious. At some point, the property owners hired another individual to complete the subdivision process, who filed a Record of Survey unbeknownst to Respondent. However, it was not established that any of these events occurred within 90 days of the time Respondent initially conducted his survey. In any event, none of these events excused Respondent from complying with the law. Respondent's explanation why he decided to file a Corner Record instead of a Record of Survey was unclear and unpersuasive.

30. It was not established that Respondent was incompetent in his practice of land surveying regarding the method he used in setting the N 1/16 corner for sections 25 and 30. Mr. Minturn testified that Respondent was incompetent in this regard because he failed to use the Single Proportionate Measurement method to establish the northeast corner. However, in reality, Respondent used the Single Proportionate Measurement method, he simply used it incorrectly. It was not established that Respondent lacked the qualification, ability or fitness to perform that method of measurement. (See footnote no. 2 above.)

#### *Lieng Survey*

31. In May 2004, Mui Lieng hired Respondent to perform land surveying services for her property located at 705 Padilla Street in San Gabriel, California. Respondent was hired under a verbal agreement to establish the boundaries of Ms. Lieng's property and document the encroachment on her property of a neighbor's fence for litigation purposes. Respondent did not advise Ms. Lieng that a written contract was required by law for his services, nor did she indicate a reluctance to execute a written contract. Ms. Lieng agreed to pay Respondent \$1,500 for his work, which she later did.

32. On May 22, 2004, Respondent surveyed Ms. Lieng's property, set monuments at or near the four corners of her property and then prepared a draft Record of Survey. However, Respondent advised Ms. Lieng that if he recorded the Record of Survey, it would show the encroaching fence and would become a permanent record. Respondent advised Ms. Lieng that if he waited to file the Record of Survey until the fence encroachment issue was resolved, the Record of Survey would reflect conditions with no fence appearing on the map. Ms. Lieng agreed.

33. In July 2005, Ms. Lieng resolved the fence encroachment matter and had the fence removed from her property. At that time, she advised Respondent of the resolution. Over the next three years, Ms. Lieng contacted Respondent's office over 20 times to urge him to action, but she received little or no response. In November 2008, Respondent filed a draft Record of Survey, which was reviewed and returned to him the same day for corrections. Respondent did not record the Record of Survey until November 17, 2009.

34. As was established by the persuasive expert testimony of Mr. Minturn, Respondent departed from the standard of care in his profession, as follows:

A. Respondent failed to execute a written contract to provide professional land surveying services, which is required by Code section 8759, and is the standard of care in the profession.

B. Once Respondent conducted a field survey and set monuments, he was required to file the Record of Survey within 90 days, as required by Code section 8762 and the standard of care in the profession. Over four years elapsed between the time that Respondent conducted his field survey and set monuments, and when he finally filed the draft Record of Survey. Although Respondent and Ms. Lieng discussed delaying the filing of the draft Record of Survey for reasons related to her litigation, such is not a valid reason to delay filing a Record of Survey once the field survey is done and monuments set. Respondent failed to advise Ms. Lieng of this legal requirement when they initially discussed his services. Moreover, Code section 8762, subdivision (d), allows a delay in filing a Record of Survey in limited instances, when the county surveyor has been advised of the delay in writing, including the reason for the delay and the estimated duration of the delay. By failing to advise Ms. Lieng of the legal requirements of filing a Record of Survey once a field survey is done and monuments set, or utilizing the provision of Code section 8762, subdivision (d), Respondent departed from the standard of care when he delayed in filing the draft Record of Survey.

C. Once Respondent's draft Record of Survey was returned to him with corrections, he had 60 days to re-submit it, as required by Code section 8767, which is the standard of care in the profession. Nearly one year lapsed after the draft Record of Survey was returned to Respondent before he finally recorded it.

#### *Other Relevant Facts*

35. Respondent has been in private practice his entire career. He still works full-time, and has one part-time employee. In over 40 years of licensure with the Board, Respondent has no prior history of disciplinary action. He previously held a similar license in Arizona, but it expired. Respondent has no known civil judgments against him relating to his professional license, except for one recent small claims judgment in the amount of \$600.

36. It was not established that Respondent caused any financial damage to the three consumers involved in this case. However, it does appear that all three consumers were dissatisfied with Respondent's work. In the Liu Parcel, for example, Mr. Liu hired another professional to complete the survey of his property. In the Joshua Survey, the Mei family paid Respondent only half of his fees and subsequently hired another professional to complete the survey and subdivision project. Although Ms. Lieng paid Respondent's fee in full and he ultimately recorded a Record of Survey, she was obviously unhappy with his extreme delay in doing so.

37. Respondent has accepted responsibility for most of his shortcomings revealed in this matter. No evidence was presented indicating that he has changed his survey procedures in light of the three complaints involved in this case.

*Costs*

39. As established by cost certifications submitted under Code section 125.3, the Board has incurred the following costs in the investigation and prosecution of this matter:

A.	Mr. Minturn's technical expert fees	\$ 1,950.00
B.	Department of Justice attorneys' fees	\$22,675.75
		<hr/> <hr/>
	Total	\$24,625.75

40. The first attorney from the Department of Justice assigned to this matter worked on the case in 2009 and 2010 and incurred fees totaling \$9,732.50. The attorney who actually prosecuted the case became involved in it in 2011 and since then has incurred a substantial amount of the total attorneys' fees.

41. The recent economic downturn has negatively impacted Respondent's business and personal finances. He has lost one property to foreclosure and has been forced to sell another. This explains why he is continuing to work full-time at his age. For this reason, Respondent does not believe that he can fully pay a significant cost order.

LEGAL CONCLUSIONS

*Burden and Standard of Proof*

1. The burden of proof in this discipline matter involving a professional license is on Complainant, and the standard of proof is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) (Factual Findings 1-3.)

*Cause for Discipline Under the Accusation*

2. Respondent is subject to disciplinary action under Code section 8780, subdivision (b), with regard to the Liu Parcel, in that Respondent was negligent in the practice of professional land surveying. However, it was not established that Respondent was incompetent in the practice of professional land surveying on this project. (Factual Findings 5-18.)

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3. Respondent is subject to disciplinary action under Code section 8780, subdivision (d), with regard to the Liu Parcel, in that Respondent committed acts of unprofessional conduct by violating provisions of the Professional Land Surveyors' Act, namely, Code sections 8764 (omitting required information of analysis and methodology), 8764.5 (omitting boilerplate information), and 8771, subdivision (a) (using wood as a durable monument). (Factual Findings 5-18.)

4. Respondent is subject to disciplinary action under Code section 8780, subdivision (b), with regard to the Joshua Survey, in that Respondent was negligent in the practice of professional land surveying. However, it was not established that Respondent was incompetent in the practice of professional land surveying on this project. (Factual Findings 19-30.)

5. Respondent is subject to disciplinary action under Code section 8780, subdivision (d), with regard to the Joshua Survey, in that Respondent committed acts of unprofessional conduct by violating provisions of the Professional Land Surveyors' Act, namely, violating Code section 8773, subdivision (b) (submitting a corner record when a record of survey was required), and Regulation 464, subdivision (c) (failing to submit a corner record within 90 days of survey). (Factual Findings 19-30.)

#### *Cause for Discipline Under the First Supplemental Accusation*

6. Respondent is subject to disciplinary action under Code section 8780, subdivision (b), with regard to the Lieng Survey, in that Respondent was negligent in the practice of professional land surveying. (Factual Findings 31-34.)

7. Respondent is subject to disciplinary action under Code section 8780, subdivision (d), with regard to the Lieng Survey, in that Respondent committed acts of unprofessional conduct by violating provisions of the Professional Land Surveyors' Act, namely, Code sections 8759 (failing to execute a written contract); 8762 (failing to file a record of survey within 90 days of setting monuments); and 8767 (failing to re-submit a record of survey with 60 days). (Factual Findings 31-34.)

#### *Disposition*

8A. The Board has not published disciplinary guidelines per se, but it has promulgated Regulation 419, which provides that a minimum disciplinary order shall be reproof and the maximum shall be revocation (subd. (a)); if warranted by extenuating or mitigating factors, a disciplinary order may be stayed under probationary conditions for a period of at least two years (subd. (b)); and any decision containing a stayed disciplinary order shall include a variety of recommended conditions, depending on the established misconduct (subd. (c)). In addition, the Board makes public on its website past disciplinary decisions reached through hearing or settlement.

8B. In this case, it was established that Respondent was negligent and violated core laws pertaining to his profession on three different projects. His violations are sufficiently serious as to call into question his ability to properly conduct surveys without the necessity of some remediation. Yet, it was not proven that Respondent has taken any steps to remedy the methods that resulted in his misconduct. Therefore, serious discipline is warranted to protect the public.

8C. On the other hand, it was not established that the drastic measure of revocation is warranted. There are several mitigating facts that are in Respondent's favor. For example, after over 40 years of licensure with the Board, Respondent has no prior disciplinary history. None of the established misconduct involved dishonesty, fraud, misrepresentation or similar forms of intentional malfeasance. The three projects in question occurred several years ago. It was not established that Respondent was incompetent in this matter. These factors tend to show that Respondent's problems are explained by sloppiness over years of performing land surveys. It was not established that Respondent is unable to handle complicated surveys, just that he was willing to take short-cuts when surveys became more difficult than they appeared initially. Respondent was candid and cooperative during the hearing of this matter and accepted a large measure of responsibility for his violations, which is demonstrative of a person willing to accept his faults and correct them. Although the three consumers involved in this case were obviously unhappy with Respondent's services, it was not established that any were financially harmed.

8D. Under the circumstances, a stayed revocation of Respondent's license for a probationary period of four years is warranted. Since Respondent was negligent on multiple occasions and violated core laws, it is appropriate to require him to take and pass the Board's examination and appropriate college level courses. So too is requiring him to give notification of this discipline to his clients. The absence of intentional malfeasance means a suspension and ethics courses are not warranted. (Factual Findings 1-37.)

#### *Costs*

9A. A licensing board is entitled to reasonable costs incurred in the investigation and prosecution of a disciplinary matter pursuant to Code section 125.3.

9B. In the California Supreme Court case of *Zuckerman vs. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the court outlined three factors that must exist in a valid cost recovery scheme. One factor is to reduce or eliminate costs in a manner that will insure a licensee with a potentially meritorious defense or claim is not deterred from exercising his or her right to a hearing. With regard to that factor, the court described the following circumstances where costs should be reduced or eliminated: (1) when a licensee would be unfairly penalized by using the hearing process to dismiss some but not all charges or to reduce the severity of proposed discipline; (2) if a licensee will be financially unable to make later payments; and (3) when the involved board has conducted a disproportionately large investigation to prove a licensee has engaged in relatively innocuously misconduct. (*Id.* at p. 45.)

9C. In this case, each of the *Zuckerman* factors exist, in varying degrees. For example, although Complainant proved the bulk of her case, Respondent still prevailed on the two incompetence claims, a victory for a professional licensee that is not insignificant. Moreover, Respondent is experiencing financial difficulties and is not sure he can fund the entire cost bill. Finally, there appears to be a duplication of effort by Complainant's counsel, in that Complainant's former attorney was replaced by the current prosecutor midway through the case, resulting in a what can be argued to be a disproportionately large attorneys' fees total. Under these circumstances, a reduction of the total costs by eliminating the first attorney's charges is warranted. Therefore, the Board shall be reimbursed costs totaling \$14,893.25 (Factual Findings 39-41.)

### ORDER

Civil Engineer License No. C 18906, issued to Respondent Engles Sze Lee Shen, is revoked. The revocation is stayed and Respondent's license is placed on probation for a period of four years under the following terms:

1. **Obey All Laws.** Respondent shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.
2. **Submit Reports.** Respondent shall submit such special reports as the Board may require.
3. **Tolling of Probation.** The period of probation shall be tolled during the time Respondent is practicing exclusively outside the state of California. If, during the period of probation, Respondent practices exclusively outside the state of California, Respondent shall immediately notify the Board in writing.
4. **Violation of Probation.** If Respondent violates the probationary conditions in any respect, the Board, after giving Respondent 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 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.
5. **Completion of Probation.** Upon successful completion of all of the probationary conditions and the expiration of the period of probation, Respondent's license shall be unconditionally restored.
6. **Costs Recovery.** Respondent shall reimburse the Board reasonable costs of its investigation and prosecution of this matter in the amount of \$14,893.25, by no later than six months before the expiration of the period of probation. The Board may agree in writing to

allow Respondent to pay these costs according to an installment plan. Failure to pay the costs shall constitute a violation of the probationary conditions.

7. **Examination.** Within 60 days 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.

8. **Notification.** Within 30 days of the effective date of the decision, Respondent shall provide the Board with evidence that he has provided all persons or entities with whom he has a contractual or employment relationship such that the relationship is in the area of practice of professional engineering and/or professional land surveying in which the violation occurred with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or entity required to be so notified. During the period of probation, Respondent may be required to provide the same notification of each new person or entity with whom he has a contractual or employment relationship such that the relationship is in the area of practice of professional engineering and/or land surveying in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

9. **Take and Pass College Level Courses.** No later than six months before the expiration of the period of probation, Respondent shall successfully complete and pass, with a grade of "C" or better, three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of the violations established in this matter. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars.

Dated: March 8, 2012

*Original Signed*  
\_\_\_\_\_  
ERIC SAWYER  
Administrative Law Judge  
Office of Administrative Hearings

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2 GLORIA A. BARRIOS  
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 853-A

13 **ENGLES SZE LEE SHEN**  
1111 Corporate Center Drive, No. 302  
Monterey Park, CA 91754

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

14 **Civil Engineer License No. C 18906**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. David Brown (Complainant) brings this Accusation solely in his official capacity as  
20 the Executive Officer of the Board for Professional Engineers and Land Surveyors, Department  
21 of Consumer Affairs.

22 2. On or about April 4, 1969, the Board for Professional Engineers and Land Surveyors  
23 (Board) issued Civil Engineer License No. C 18906 to Engles Sze Lee Shen (Respondent). The  
24 Civil Engineer License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on June 30, 2011, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

1  
2       4.     Section 118, subdivision (b) provides that the suspension, expiration, surrender,  
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
4 action during the period within which the license may be renewed, restored, reissued or  
5 reinstated.

6       5.     Section 8780 states, in pertinent part:

7       “The board may receive and investigate complaints against licensed land surveyors and  
8 registered civil engineers, and make findings thereon.

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

13       . . . .

14       “(b)   Any negligence or incompetence in his or her practice of land surveying.

15       . . . .

16       “(d)   Any violation of any provision of this chapter or of any other law relating to or  
17 involving the practice of land surveying.”

18       6.     Section 8762 states, in pertinent part:

19       “(a)   Except as provided in subdivision (b), after making a field survey in conformity  
20 with the practice of land surveying, the licensed surveyor or licensed civil engineer may file with  
21 the county surveyor in the county in which the field survey was made, a record of the survey.

22       “(b)   Notwithstanding subdivision (a), after making a field survey  
23 in conformity with the practice of land surveying, the licensed land surveyor or licensed civil  
24 engineer shall file with the county surveyor in the county in which the field survey was made a  
25 record of the survey relating to land boundaries or property lines, if the field survey discloses any  
26 of the following:

27       ///

28       ///

1 (1) Material evidence or physical change, which in whole or in part does not  
2 appear on any subdivision map, official map, or record of survey previously recorded or  
3 properly filed in the office of the county recorder or county surveying department, or map  
4 or survey record maintained by the Bureau of Land Management of the United States.

5 (2) A material discrepancy with the information contained in any subdivision  
6 map, official map, or record of survey previously recorded or filed in the office of the  
7 county recorder or the county surveying department, or any map or survey record  
8 maintained by the Bureau of Land Management of the United States. For purposes of this  
9 subdivision, a "material discrepancy" is limited to a material discrepancy in the position of  
10 points or lines, or in dimensions.

11 (3) Evidence that, by reasonable analysis, might result in materially alternate  
12 positions of lines or points, shown on any subdivision map, official map, or record of  
13 survey previously recorded or filed in the office of the county recorder or the county  
14 surveying department, or any map or survey record maintained by the Bureau of Land  
15 Management of the United States.

16 (4) The establishment of one or more points or lines not shown on any subdivision  
17 map, official map, or record of survey, the positions of which are not ascertainable from  
18 an inspection of the subdivision map, official map, or record of survey.

19 (5) The points or lines set during the performance of a field survey of any parcel  
20 described in any deed or other instrument of title recorded in the county recorder's office  
21 are not shown on any subdivision map, official map, or record of survey.

22 "(c) The record of survey required to be filed pursuant to this section shall be filed  
23 within 90 days after the setting of boundary monuments during the performance of a field survey  
24 or within 90 days after completion of a field survey, whichever occurs first.

25 "(d) (1) If the 90-day time limit contained in subdivision (c) cannot be complied with  
26 for reasons beyond the control of the licensed land surveyor or licensed civil engineer, the 90-day  
27 time period shall be extended until the time at which the reasons for delay are eliminated. If the  
28 licensed land surveyor or licensed civil engineer cannot comply with the 90-day time limit, he or

1 she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a letter  
2 stating that he or she is unable to comply. The letter shall provide an estimate of the date for  
3 completion of the record of survey, the reasons for the delay, and a general statement as to the  
4 location of the survey, including the assessor's parcel number or numbers.

5 (2) The licensed land surveyor or licensed civil engineer shall not initially be  
6 required to provide specific details of the survey. However, if other surveys at the same  
7 location are performed by others which may affect or be affected by the survey, the  
8 licensed land surveyor or licensed civil engineer shall then provide information requested  
9 by the county surveyor without unreasonable delay.

10 “(e) Any record of survey filed with the county surveyor shall, after being examined by  
11 him or her, be filed with the county recorder.”

12 7. Section 8764 states:

13 “The record of survey shall show the applicable provisions of the following consistent with  
14 the purpose of the survey:

15 “(a) All monuments found, set, reset, replaced, or removed, describing their kind, size,  
16 and location, and giving other data relating thereto.

17 “(b) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of  
18 map, and north arrow.

19 “(c) Name and legal designation of the property in which the survey is located, and the  
20 date or time period of the survey.

21 “(d) The relationship to those portions of adjacent tracts, streets, or senior conveyances  
22 which have common lines with the survey.

23 “(e) Memorandum of oaths.

24 “(f) Statements required by Section 8764.5.

25 “(g) Any other data necessary for the intelligent interpretation of the various items and  
26 locations of the points, lines, and areas shown, or convenient for the identification of the survey  
27 or surveyor, as may be determined by the civil engineer or land surveyor preparing the record of  
28 survey.

1 "The record of survey shall also show, either graphically or by note, the reason or reasons, if  
2 any, why the mandatory filing provisions of paragraphs (1) to (5), inclusive, of subdivision (b) of  
3 Section 8762 apply.

4 "The record of survey need not consist of a survey of an entire property."

5 8. Section 8764.5 states:

6 "Statements shall appear on the map as follows:

7 SURVEYOR'S STATEMENT

8 "This map correctly represents a survey made by me or under my  
9 direction in conformance with the requirements of the Professional Land  
10 Surveyors' Act at the request of \_\_\_\_\_

11 Name of Person Authorizing Survey in \_\_\_\_\_, 20\_\_.

12 (Signed and sealed) \_\_\_\_\_

13 L.S. (or R.C.E.) No. \_\_\_\_\_

14 License expiration date \_\_\_\_\_

15 COUNTY SURVEYOR'S STATEMENT

16 "This map has been examined in accordance with Section 8766 of the Professional Land  
17 Surveyors' Act this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

18 (Signed and Sealed) \_\_\_\_\_

19 County Surveyor

20 L.S. (or R.C.E.) No. \_\_\_\_\_

21 License expiration date \_\_\_\_\_

22 RECORDER'S STATEMENT

23 "Filed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_ .m. in Book \_\_\_\_ of \_\_\_\_ at page \_\_\_\_\_, at the  
24 request of \_\_\_\_\_. (Signed) \_\_\_\_\_

25 County Recorder

26 "No other statements may appear on the face of the map except those required or  
27 authorized by this article."

28 ///





1 d. Respondent failed to conduct additional research to evaluate the relationship and  
2 uncertainties regarding the ownership of the underlying fee for Vravis Circle.

3 e. Respondent failed to carefully resolve the northwesterly boundary of Parcel 1. The  
4 Liu Parcel is a portion of Parcel 1, as shown on Parcel Map No. 2340. The Northwesterly  
5 boundary of the R/S is a portion of the Northwesterly boundary of Parcel 1. Respondent failed to  
6 research the history of that boundary in detail and search for and use the controlling monuments  
7 for Parcel 1.

8 f. Respondent accepted a not-of-record monument for the Southwest corner of the R/S,  
9 which is the common corner with adjoining parcel, APN 1031-071-05, a monument labeled, Fd.  
10 1" I.P. L.S. 5479. Respondent failed to attempt to verify the position given.

11 g. Respondent failed to use the literal wording of the legal description for the Liu Parcel  
12 and relied on the Assessor's Parcel Map. The current legal description for adjoiner, APN 1031-  
13 071-05 is written in an exception format and has been that way for some time through the chain  
14 of title, as follows:

15 1. On or about May 18, 1982, Paul A. Vravis & Co., Inc. granted both parcels, APN  
16 1031-071-05 and the Liu Parcel, in that order to Paul A. Vravis & Co., Inc. with separate metes  
17 and bounds legal descriptions for each. On or about March 11, 1988, Fullerton Savings and Loan  
18 granted parcel APN 1031-071-05 to Marcia Ward, with the exception format. Sometime between  
19 1982 and 1988 the parcel went into separate ownership and the legal description for parcel APN  
20 1031-071-05 was changed. In order to resolve this boundary, it would be necessary to know the  
21 order of these events.

22 2. In 1989, a R/S of parcel, APN 1031-071-05 was filed in Book 78 of Surveys at  
23 Page 72 (78RD72). The northeast boundary of APN 1031-071-05, as shown on 78RS72 was  
24 discrepant with the southwest boundary of the R/S per the legal description, implying that APN  
25 1031-071-05 had senior rights. This is because the parcels went into separate ownership before  
26 the legal description for APN 1031-071-05 was changed. Respondent failed to research the  
27 situation to verify or discredit the 78RS72 boundary resolution.  
28



1 pages 89 and 90. Respondent's C/R indicates finding a 1" I.P. bent out of position and resetting  
2 at 2" I.P. with his tag. Parcel Map 16452 finds a 1" I.P. with his tag at that location  
3 approximately 0.5 feet north of the monument set by Parcel Map 9993. Parcel Map 16452  
4 verified the position by finding the returns at right-of-way set by Parcel Map 9993.

5 b. Respondent failed to use an appropriate method of setting the N 1/16 corner for  
6 sections 25 and 30. The controlling monument at the northeast corner of section 25 was not  
7 recovered by Respondent to establish the section line.

8 c. Respondent failed to provide reference for N 1/4, section 25 and tag number of E  
9 1/4, section 25.

10 d. Respondent failed to provide measured bearings and distances shown on record  
11 per Parcel Map 9993, in that there was a discrepancy in Respondent's position at C-N 1/16  
12 corner.

#### 13 FOURTH CAUSE FOR DISCIPLINE

##### 14 (Unprofessional Conduct)

15 19. Respondent is subject to disciplinary action under sections 8780, subdivision (d)  
16 for violating sections 8762, 8767, 8773, subdivision (b), and California Code of Regulations, title  
17 16, section 464, subdivision (c), in that on the C/R-Joshua Survey Respondent committed acts of  
18 unprofessional conduct and violated the provisions of this chapter and other laws relating to or  
19 involving the practice of professional land surveying. Complainant refers to, and by this  
20 reference incorporates, the allegations set forth above in paragraphs 17 and 18, inclusive, as  
21 though set forth fully.

#### 22 DISCIPLINARY CONSIDERATIONS

23 20. To determine the degree of discipline, if any, to be imposed on Respondent,  
24 Complainant alleges that on or about June 7, 2001, the Board issued Citation No. 5073-L against  
25 Respondent for violating section 136 and California Code of Regulations, title 16, section 412  
26 (failure to notify the Board within 30 days of a change of address of record) and 8762 (failure to  
27 file a record of survey or notify the County Surveyor's Office of any delay in the filing of a  
28 record of survey within 90 days of setting tagged monuments). Respondent was ordered to cease

1 and desist violating the laws and to pay an administrative fine to the Board in the total amount of  
2 \$600.00. On or about July 7, 2001 the citation became final.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board issue a decision:

- 6 1. Revoking or suspending Civil Engineer License No. C 18906, issued to Respondent.  
7 2. Ordering Respondent to pay the Board reasonable costs of the investigation and  
8 enforcement of this case, pursuant to section 125.3;  
9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 12/7/09

*Original Signed*  
\_\_\_\_\_  
DAVID BROWN  
Executive Officer  
Board for Professional Engineers and Land Surveyors  
Department of Consumer Affairs  
State of California  
*Complainant*

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25 50477503.doc  
26 Jz-11/5/09

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2 GLORIA A. BARRIOS  
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7

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

11 In the Matter of the First Supplemental  
12 Accusation Against:

13 **ENGLES SZE LEE SHEN**  
14 **1111 Corporate Center Drive, Suite 302**  
**Monterey Park, CA 91754**

15 **Civil Engineer License No. C 18906**

16 Respondent.

Case No. 853-A

**FIRST SUPPLEMENTAL  
ACCUSATION**

17 Complainant alleges:

18 **PARTIES**

19 1. Joanne Arnold (Complainant) brings this First Supplemental Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board for Professional Engineers, Land  
21 Surveyors, and Geologists Department of Consumer Affairs.

22 2. On or about April 4, 1969, the Board for Professional Engineers, Land Surveyors, and  
23 Geologists issued Civil Engineer License Number C 18906 to Engles Sze Lee Shen (Respondent).  
24 The Civil Engineer License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on June 30, 2011, unless renewed.

26 ///

27 ///

1 **JURISDICTION**

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

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

9 . . .

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

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

16 **BOARD COMPLAINT AND INVESTIGATION REPORT NO. 2009-10-319**

17 6. On October 8, 2009, the Enforcement Unit of the Board for Professional  
18 Engineers, Land Surveyors, and Geologists received a complaint form, dated October 6, 2009,  
19 from Mui Lieng against Engles Sze Lee Shen, licensed civil engineer, hereinafter “Respondent”.  
20 Lieng claimed respondent was hired to perform land surveying services in May 2004 for the  
21 property located at 705 Padilla Street in San Gabriel, California. Respondent is authorized to  
22 practice land surveying under the provisions of Business and Professions Code Section 6731, was  
23 hired under a verbal agreement to file a Record for Survey in order to reflect the removal of a  
24 fence encroaching on the property. Respondent advised Lieng that if he recorded the map, it  
25 would have to show the fence and that it would be of permanent record. Respondent advised  
26 Lieng that if he waited to file the Record of Survey until the fence issue was resolved, the map  
27 would reflect conditions with no fence appearing on the map. Lieng agreed, and in July 2005, the  
28 matter was resolved. Respondent, however, failed to meet the terms of the agreement by failing

1 to file the Record of Survey despite several attempts by Lieng to get him to do so.

2 7. The Respondent departed from the standard of care that would be exercised by a  
3 reasonably prudent professional engineer.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Negligence and/or Incompetence in the Practice of Professional Engineering)

6 8. Respondent is subject to disciplinary action under section 8780, subdivision (b), in  
7 that on the Lieng Project, Respondent committed negligence, and/or, incompetence in violation of  
8 the applicable standard of care, including, but not limited to:

9 a. **Failure to file Record of Survey.**

10 1) Respondent failed to file record of survey that was required by his agreement  
11 with Lieng;

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Any violation of any other provisions of this chapter)

14 9. Respondent is subject to disciplinary action under section 8780, subdivision (d), in  
15 that on the Lieng Project, Respondent also committed acts in relation with the Lieng project  
16 which violated other provisions of this chapter, as more fully described above in paragraph 6,  
17 including, but not limited to the following:

18 a. **Failure to execute a written contract to provide professional land surveying**  
19 **services,** as required by Business, and Professions Code Section 8759.

20 b. **Failure to file a Record of Survey, within ninety days of setting monuments,** as  
21 required by Business and Professions Code Section 8762.

22 c. **Failure to re-submit a Record of Survey within sixty days,** as requested by Business  
23 and Professions Code Section 8767.

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**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 18906, issued to Engles Sze Lee Shen;
2. Ordering Engles Sze Lee Shen 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/17/11

*Original Signed*  
JOANNE ARNOLD  
Interim Executive Officer  
Board for Professional Engineers, Land Surveyors and Geologists  
Department of Consumer Affairs  
State of California  
*Complainant*

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60440544.doc

1 KAMALA D. HARRIS  
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8 **BEFORE THE**  
**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND**  
**GEOLOGISTS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
10

11 In the Matter of the Accusation and the First  
Supplemental Accusation Against:

12  
13 **ENGLES SZE LEE SHEN**  
14

15  
16 Respondent.  
17

Case No. 853-A

OAH No. L-2011100840

**AMENDMENT OF ACCUSATION AND**  
**FIRST SUPPLEMENTAL ACCUSATION**  
**TO CONFORM TO PROOF**

18 1. Complainant requests the Accusation in this matter be amended to conform to proof  
19 in the following ways:

20 a. On page 9 of the Accusation under the First Cause for Discipline, add subparagraph  
21 (h) to read "Respondent set 2"x2" hubs with his tag. Wooden monuments are not durable as  
22 required by section 8771, subdivision (a)."

23 b. On page 10 of the Accusation under the Third Cause for Discipline, add subparagraph  
24 (e) to read "Respondent submitted a Corner Record instead of a Record of Survey as required by  
25 section 8773, subdivision (b)."

26 c. On page 10 of the Accusation under the Third Cause for Discipline, add subparagraph  
27 (f) to read "Respondent failed to submit the Corner Record within 90 days from the date of the  
28 survey as required by California Code of Regulations Section 464, subdivision (c)."

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2. Complainant requests the First Supplemental Accusation in this matter be amended to conform to proof in the following way:

a. On page 3 of the First Supplemental Accusation under the First Cause for Discipline, add subparagraph (b) to read "Complainant hereby incorporates paragraph 9, subparagraphs (a-c) as though set forth fully.

Dated: February 21, 2012

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
GLORIA A. BARRIOS  
Supervising Deputy Attorney General

*Original Signed*  
M. TRAVIS PEERY\*  
Deputy Attorney General  
*Attorneys for Complainant*

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