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

In the Matter of the Accusation and Petition to Revoke Probation Against:	)	
JOHN HARVEY HANSEN 3012 Antonino Avenue Bakersfield, CA 93308	)	Case No. 958-A OAH No. 20111110846
Civil Engineer License No. C 26544,	)	
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 this matter.

This Decision shall become effective on October 5, 2012.

IT IS SO ORDERED August 30, 2012.

Original Signed

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

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

In the Matter of the Accusation and Petition to Revoke Probation Against: JOHN HARVEY HANSEN, Civil Engineer License Number C 26544, Respondent.	Case No. 958-A OAH No. 2011110846

PROPOSED DECISION

Administrative Law Judge Ralph B. Dash heard this matter in Bakersfield, California on May 30 and 31, 2012.

Terrence M. Mason, Deputy Attorney General, represented Complainant.

John Harvey Hansen (Respondent) represented himself.

Oral and documentary evidence having been received and the matter having been submitted, the Administrative Law Judge makes the following Proposed Decision.

FINDINGS OF FACT

1. David E. Brown made the Accusation and Petition to Revoke Probation in his official capacity as the Executive Officer of the Board for Professional Engineers and Land Surveyors (Board).

2. On March 10, 1976, the Board issued Civil Engineer License Number C 26544 to Respondent. The license is due to expire on March 31, 2014.

3. This proceeding marks the sixth time Respondent has been brought before the Board in connection with proceedings regarding his license. Respondent's certified license history (Exhibit 2) reads, in pertinent part, as follows:

> Effective April 29, 1996, pursuant to the Decision of the Board . . . said license was revoked; however, said revocation was stayed, and [Respondent] was placed on probation for a period of three years upon certain terms and conditions. Effective November 17, 1997 . . . said license was revoked; however the revocation was

stayed and [Respondent] was placed on probation for a period of five years on certain terms and conditions. Effective October 6, 2000, said license was revoked. Effective November 14, 2003 . . . said license was reinstated. However, said license was then immediately revoked; however, said revocation was stayed, and [Respondent] was placed on probation for a period of five years upon certain terms and conditions. Effective June 13, 2005 . . . said license was revoked; however, said revocation was stayed, and [Respondent] was placed on probation for a period of five years upon certain terms and conditions. Pursuant to the terms of the order, said probationary period has been continued due to the submittal of the matter to the Office of the Attorney General for the filing of a Petition to Revoke Probation.

4. The 1996 proceeding arose out of, among other things, Respondent's failure to timely complete a final parcel map for a client. Among the excuses Respondent offered in explanation of his failure were his financial problems. In her Proposed Decision March 19, 1996, adopted by the Board as its final decision, Judge Magnuson wrote, "It appears the respondent was simply unwilling to put in the time and effort which would have been required to obtain the requisite approvals. While it was understandable that dealing with the plan checking process was frustrating and unnecessarily time consuming, it was the same system that all other similarly situated were successfully negotiating on a daily basis."

5. The 1997 proceeding to revoke Respondent's probation arose out of Respondent's failure to make restitution ordered in the 1996 proceeding, his failure to reimburse the Board for cost recovery and his failure to complete an ethics course. Respondent again excused his failures based on his poor economic condition.

6. The 2000 revocation of Respondent's license again involved Respondent's failure to make restitution and cost recovery payments and his failure to complete the ethics course. Respondent again excused his failure to make restitution and pay costs on the sad state of his economic affairs. However, he did not even attempt to offer an excuse for his failure to take the ethics course. In his Proposed Decision dated August 4, 2000, adopted by the Board as its final decision, Judge Mitchell made the following Finding: "With respect to Condition No. 7, respondent has not even begun, much less successfully completed, a course in professional ethics, and he made it abundantly clear during the hearing that he resents having been ordered to take such a course and has deliberately failed to do so."

7. After the Board reinstated Respondent's license, on a probationary basis in 2003,[1] the Board again revoked Respondent's license in 2005, this time pursuant to a stipulation in which Respondent admitted all of the allegations contained in the Petition to Revoke Probation. Among the allegations Respondent admitted were that he failed to obey the terms of his most recent probation by his failure to make payments, his failure to refrain from the practice of civil engineering at a time his license was suspended, and his failure to timely complete and pass the California Laws and Board Rules Examination.

---

[1] As applicable here, the conditions of probation include "obey all laws" (Condition 2); submit "special reports" as required (Condition 3); and, the continuing jurisdiction of the Board in the event a Petition to Revoke Probation is filed (Condition 6).

8. The instant proceeding involves two unrelated properties. The first involved what was known as the "Markley Project." In that matter, a general building contractor hired Respondent to prepare an Engineered Grading Inspection Report on a parcel of land in Bakersfield on which the contractor wanted to build a house. A county building inspector had noticed that there was unpermitted fill dirt where the house was to be constructed. He required the grading report before construction could begin. The purpose of requiring the report was to confirm that the lot on which the house was to be built, a lot that had been cut out of a hillside, was firm, stable and could support the weight of the house.

9. Respondent prepared the report (Exhibit 5, page 7) in three stages over a seven month period. In the first section of the report, dated October 17, 2006, Respondent certified, as a soils engineer, that, "All earthen fills were placed upon properly prepared base material, benched where required and compacted in accordance with the approved grading plan, soils report and applicable provisions of the Kern County Grading Code. Based on filed observations and testing, the site has been adequately prepared for its intended use . . . ." In the second section of the report, also dated October 17, 2006, Respondent certified, as a civil engineer, "The rough grading work has been substantially completed in accordance with the approved plans. The site has been graded to approximate rough and grade elevations and temporary erosions and sedimentation control have been installed." In the final section of the report, dated May 30, 2007, Respondent certified, as a civil engineer, that, "The grading work has been satisfactorily completed in accordance with the approved plans . . . ." Thereafter, the contractor constructed a house on the site.

10. Respondent's certifications were false. According to substantial expert evidence presented at the hearing, a portion of the lot had three and one-half feet of loose fill which subsided after the house was built and the Markleys purchased it. The loose fill at the southeast corner of the house did not provide any support to the structure. This was a violation of the 2001 California Building Code, section 1806.5.3 which requires the footings of the structure to be "founded in firm material." The loose fill subsided more than the house settled, causing the foundation to separate from the footings. This caused numerous wide and extensive cracks in the foundation slab, with some cracks having vertical offsets. Humps and sags appeared in the foundation. Interior walls and exterior stucco cracked. Door frames deformed so they could no longer close properly. Broad areas of the tiled floors began to delaminate.

11. The Markleys had purchased the house for $350,000. The cost to repair the foundation alone, which requires drilling deep holes through the foundation and installing anchors and brackets, is $93,342.92 (Exhibit 5, page 23). This does not include any cosmetic repair. The estimate for that job (Exhibit 5, page 26) is $59,422.50. Having already paid $70,000 as a down payment on the house (signing a mortgage of $280,000 for the balance of the purchase price), the Markleys could not afford to spend an additional $152,765.42 to have their home restored. In the summer of 2010, they moved out of the house and the bank foreclosed on their mortgage.

12. In his defense, Respondent offered a long, rambling account of what he believed might have caused the problems at the Markley project, none of which included his own negligence. He opined that perhaps the concrete had been poured on days that were too hot. This "explanation" was debunked by expert rebuttal testimony.

13. The second of the two projects in which Respondent's involvement is alleged as grounds for license discipline is the Mountain Valley Association (MVA) project. MVA is a homeowners association which had hired a contractor to pave certain roads in their community. The pavement was asphalt, and members of the MVA homeowners association believed the contractor did not pave the roads with sufficient asphalt to meet the required length, width and depth specifications. On October 5, 2009, the association mailed letters to several local engineering firms seeking bids for a survey to determine if the roads had, in fact, been paved according to the specifications.

14. Respondent received an MVA bid notice and responded by letter dated October 12, 2009 (Exhibit B to Exhibit 10). In that letter, Respondent represented to MVA,

> Hansen Engineering has for the last twenty-five (25) years been providing good engineering and inspection services, at reasonable prices to all of our client Cities and Districts. We would like to extend this service to the Mountain Valley Association. . . . Hansen Engineering is a complete service firm doing engineering designs, field surveys, soils and material testing. There are three registered engineers, two staff engineers, and four engineering technicians to serve the Mountain Valley Association.
>
> [¶] . . . [¶]
>
> We are prepared to commence providing Engineering Services immediately and possess both the staff and resources necessary for timely completion of all related work.

15. Respondent attached his fee schedule for professional services, and his resume, to his letter. Thereafter, Respondent spoke by with John Koresko, the MVA Secretary/Treasurer. They went over, in detail, the scope of work and the association's need for immediate service. Mr. Koresko informed Respondent that time was of the essence because of a potential statute of limitations problem in the event MVA sued the paving contractor. Respondent and his son met with Mr. Koresko at the community and walked the project with him. Respondent was awarded the contract and received a $500 deposit for the work to be performed. He told Mr. Koresko that he would send over a written contract and would have the work completed by the end of November 2009.

16. Respondent accepted the MVA deposit but never sent them a contract and never did the work, despite repeated calls from Mr. Koresko. On January 1, 2010, Mr. Koresko sent Respondent a letter (Exhibit D to Exhibit 10) essentially begging him to get on with the project. He wrote, in part, "You have us at your mercy and I can't stress enough that

we really need to get moving on this in the event our suspicions pan out and the last two pavings are not up to specs. As you may recall, I mentioned that all the pavings may be in breach and, if so, the statute of limitations is running. Please let me know your intentions."

17. At hearing, Respondent admitted he had no good reason for his failure to complete, or even start, the MVA project. He stated, "I wish that I had done it; we could have used the money." Respondent testified that Mr. Koresko said he was in no particular hurry for Respondent to do the work but never explained how that statement squared with Mr. Koresko's January 1, 2010 letter. Respondent then offered another rambling justification for his not doing the work, including that he was doing MVA a favor because he would just be taking their money to obtain evidence that would not be useable in court as he did not have the specifications for the original paving project. It was almost impossible to follow Respondent's reasoning, particularly as all the project entailed was the taking of core samples from the roads to measure the depth of the asphalt.

18. Respondent offered a letter dated September 23, 2010 (Exhibit F), as evidence that he had returned the $500 retainer to MVA, a check which the letter specifically references. In the letter Respondent states, in part,

> Hansen Engineering has been engulfed by the current economic hard times and for the past several months have (sic) not been able to support your project. I reget (sic) to inform you that we will not be able to honour our October 12, 2009 "Proposal for Inspection" that we made to Mountain Valley Association. Our ability to perform for (sic) has been hindered by a number of factors, such as staff reductions (from 15 to 3), staff injury's (sic), relocating business due to downsizing, scheduling issues (staff attending college) and weather conditions (a very wet winter). We were not able to establish a schedule to perform the requested work for Mountain Valley Association.

19. A copy of the front of a check which the letter references was attached to Exhibit F. The check is dated May 13, 2011. Respondent did not offer a copy of the back of the check showing that it had been cashed. In all probability, the check was never sent and both the letter and the check were fabricated by Respondent. The letter is dated September 23, 2010, and was mailed on or about that date, yet it references the check, which is dated May 13, 2011. When asked how the letter could reference a check not drawn until more than eight months after the letter was written, Respondent testified that held on to the original signed letter until he had the money to ensure the check could be cashed. On cross-examination, Respondent was shown the signed original of his September 2010 letter (Exhibit 13) which Respondent mailed at or about the time it was dated. Comparison of Exhibit 13 to Exhibit F shows that the signatures do not match, meaning Exhibit F is not a copy of Exhibit 13. Respondent could not explain coherently how the original letter and the purported copy of the letter came to bear different signatures. Nor could Respondent explain how his alleged financial difficulties in September 2010 could in any manner be related to his October 12, 2009 letter where he stated, "We are prepared to commence providing Engineering Services immediately and possess both the staff and resources necessary for

timely completion of all related work." In sum, the entirety of Respondent's testimony was given little weight as it bore the distinct air of recent fabrication.

20. Exhibit 12 consists of three letters sent to Respondent by Board personnel. Enforcement Analyst Christine Doering sent two letters, the first dated March 10, 2010. The first letter asked Respondent to respond by April 10, 2010, in writing, to the complaint filed on the Markely project. In that letter, Ms. Doering reminded Respondent that under the terms of his probation (specifically, condition 3) his written response was considered a "special report" and that his failure to file that report would be considered a violation of his probation. Ms. Doering's second letter, dated May 10, 2010, was identical to the first letter, except that it required Respondent to provide a special report on the MVA project by no later than May 25, 2010. Respondent failed to provide any report. On June 10, 2010, Nancy A. Eissler, the Board's Enforcement Program Manager, notified Respondent that because he failed to comply with the terms of his probation, the matter would be submitted to the Attorney General's office for the filing of a Petition to Revoke Probation.

21. The Board reasonably incurred costs, including the fees of the Attorney General, in the sum of $9,987.50 in connection with the prosecution of this matter.

LEGAL CONCLUSIONS

1. Business and Professions Code section 6775 provides, in relevant part:

> The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional engineer licensed under this chapter or any person granted temporary authorization pursuant to Section 6760 and make findings thereon. By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer licensed under this chapter or may revoke the temporary authorization granted to any person pursuant to Section 6760 on any of the following grounds:
>
> [¶] . . . [¶]
>
> (c) Any negligence or incompetence in his or her practice.
>
> (d) A breach or violation of a contract to provide professional engineering services.
>
> [¶] . . . [¶]
>
> (h) A violation of any provision of this chapter or any other law relating to or involving the practice of professional engineering.

2. Respondent's license is subject to discipline under subdivisions (c) and (h) above in that he did not meet the applicable standard of care in certification when in his Engineered Grading Inspection Report he certified that the engineered fill underneath what would become the foundation of a house complied with all referenced codes, requirement, and standards by reason of Findings 8 through 12.

3. Business and Professions Code section 6749, subdivision (a), provides that a professional engineer "shall use a written contract when contracting to provide professional engineer services." That section goes on to specify the elements that each contract must contain.

4. Respondent violated the provisions of Business and Professions Code section 6775, subdivision (h), by his failure to provide a written contract for the MVA project as set forth in Findings 13 through 16.

5. Respondent violated the provisions of Business and Professions Code section 6775, subdivision (d), by his failure to complete the MVA project pursuant to the oral contract he made as set forth in Findings 13 through 19.

6. Respondent violated Condition 2 of his probation (obey all laws) by his failure to comply with California Building Code, section 1806.5.3, and the provisions of the Professional Engineers Act (Bus. & Prof. Code 6700 et seq.), by reason of Findings 8 through 19.

7. Respondent violated Condition 3 of his probation (submit special reports) by reason of Finding 20.

8. The Board is entitled to recover from Respondent the sum of $9,987.50 under the provisions of Business and Professions Code section 125.3 by reason of Finding 21.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Civil Engineer License Number C 26544, together with all licensing rights appurtenant thereto, issued to John Harvey Hansen are revoked.

2. John Harvey Hansen shall pay to the Board the sum of $9,987.50 at such time and in such manner as the Board, in its discretion, may require.

Date: 6-29-12

Original Signed

RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General
TERRENCE M. MASON
Deputy Attorney General
State Bar No. 158935
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6294
Facsimile: (213) 897-2804
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 and Petition to Revoke Probation Against: **JOHN HARVEY HANSEN** 2816 K Street Bakersfield, CA 93308 **Civil Engineer License No. C 26544** Respondent.	Case No. 958-A **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

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

2. On or about March 10, 1976, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 26544 to John Harvey Hansen (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2012, 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.

"(d) Who has been found guilty by the board of any breach or violation of a contract to provide professional engineering services.

. . .

"(h) Who violates any provision of this chapter."

5. Section 6749 of the Code states, in pertinent part:

"(a) A professional engineer shall use a written contract when contracting to provide Professional engineering services to a client pursuant to this chapter. The written Contract shall be executed by the professional engineer and the client, or his or her representative, prior to the professional engineer commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of the services to be provided to the client by the professional engineer.

(2) A description of any basis of compensation applicable to the contract, and the Method of payment agreed upon by the parties.

(3) The name, address, and license or certificate number of the professional engineer, and the name and address of the client.

(4) A description of the procedure that the professional engineer and the client will use to accommodate additional services.

(5) A description of the procedure to be used by any party to terminate the contract."

6. Section 125.3 of the 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 to exceed the reasonable costs of the investigation and enforcement of the case.

ACCUSATION

THE MARKLEY PROJECT (INV. NO. 2009-12-391)

7. On or about 2006, a general contractor, was retained to build a 2,085 square foot residence at 24500 Yucca Court in Kern County, California. A county building inspector noticed unpermitted fill dirt where the house was to be constructed and the county demanded a permit prior to commencement of construction. An Engineered Grading Inspection Report was required for issuance of the permit. Respondent was hired to prepare the inspection report. He certified that all referenced codes, requirements and standards had been complied with.

8. Within days of Respondent's report construction of the house began on the fill. In April 2008, Ashley and Jennifer Markley purchased the new home for $350,000. The house immediately began to exhibit symptoms of differential foundation settlement. Wide, extensive and numerous cracks appeared in the foundation slab. Some cracks had substantial vertical offsets. Humps and sags appeared within the foundation slab and a shower pan. Interior walls and exterior stucco cracked. Door frames deformed so doors no longer closed properly. Broad areas of floor tile delaminated. All of these problems were indicative of serious soils problems underneath the house.

9. The Markleys paid another civil engineer, Brian Marier, approximately $2,000 to conduct a Residential Structure Settlement Evaluation for the house. In a written report dated September 30, 2009, Marier noted, among other findings, that loose fill had subsided more than the house had settled and there was a gap under the foundation. He also observed that settlement of the house was partially due to shrinkage (due to seasonal soil moisture content variations) of "clayey soils" and partially due to subsidence of loose fill underlying the house. He also wrote that "the loose fill underlying the southeast corner of the house does not provide any support to the structure." The Markleys were subsequently quoted a price of $93,342.92 to prepare a

foundation underpinning for the house and an additional $59,422.50 to repair ancillary damage. In a written report to the Board, civil engineer Patrick Minturn wrote that it might be "more feasible to tear the house down and start over."

FIRST CAUSE FOR DISCIPLINE

(Negligence)

10. Respondent is subject to disciplinary action under section 6775, subsections (c) and (h) in that he did not meet the applicable standard of care in his certification when in his Engineered Grading Inspection Report he certified that the engineered fill underneath what would become the foundation of the house complied with all referenced codes, requirements, and standards. Paragraphs 7 through 9 are incorporated by reference as full set forth herein.

THE MOUNTAIN VALLEY ASSOCIATION PROJECT (INV. NO. 2010-03-054)

11. The Mountain Valley Association ("MVA") is a homeowners association serving a large housing tract in Kern County, California. The association had paid to have several miles of road serving the tract paved, and in 2009 the MVA Board of Directors came to suspect that they may have been shorted on the amount of paving material used and that the roadway did not comply with contract specifications with regard to length, width, and depth. Contemplating litigation and aware that the statute of limitations was running, they issued a Request for Proposals for Professional Engineering Services which were to include inspection and measurements of the roadways, sample "cores" or "plugs" of the pavement, and completion of a written report.

12. On or about October 12, 2009, Respondent responded to the Request for Proposals with a letter of interest, his C.V., and a rate schedule. Respondent did not submit a written contract to provide professional engineering services.

13. On or about November 4, 2009, Respondent met with MVA officers to discuss the prospective project and was specifically asked for a written contract. Respondent did not furnish one, but entered into a verbal contract with MVA to provide engineering services and he was paid $500 as a retainer.

14. On or about January 1, 2010, an MVA officer wrote a letter to Respondent noting the retainer fee paid, reiterating that time was of the essence, and requesting Respondent provide engineering services expeditiously. Respondent failed to do so.

SECOND CAUSE FOR DISCIPLINE

(Negligence)

15. Respondent is subject to disciplinary action under section 6775, subsections (c) and (h) in that he did not meet the applicable standard of care in that he failed to execute a written contract. Paragraphs 11 through 14 are incorporated by reference as full set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Breach/ Violation of Contract)

16. Respondent is subject to disciplinary action under section 6775, subsections (d) and (h), in conjunction with section 6749, subsection (a), in that he failed to proceed with work per his verbal contract with MVA. Paragraphs 11 through 14 are incorporated by reference as full set forth herein.

PETITION TO REVOKE PROBATION

AUTHORITY FOR REVOCATION

17. **Condition 6** of Respondent's probation provided:

> "If the Respondent violates the probationary conditions in any respect, the Board, after giving the 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 the Respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final."

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws and Regulations)

18. At all times after the effective date of Respondent's probation, **Condition 2** stated:

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

19. Respondent's probation is subject to revocation because he failed to comply with **Condition 2** in that he failed to comply with provisions of the Professional Engineers Act (section 6700 et seq.) as described in paragraphs 7 through 14 above.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Submit Reports)

20. At all times after the effective date of Respondent's probation, **Condition 3** stated:

> "**Submit Reports.** The Respondent shall submit such special reports as the Board may require."

21. Respondent's probation is subject to revocation because he failed to comply with **Condition 3**. The facts and circumstances regarding this violation are as follows:

a. On March 10, 2010, a letter was sent to Respondent by the Board requesting his written response to an on-going investigation relating to Case No. 2009-12-391 (the Markley project referenced in paragraphs 7 through 9 above). The letter advised Respondent that his response would be considered a special report pursuant to **Condition 3** of his probation and that his response report was due by April 11, 2010. Respondent failed to submit any response.

b. On May 10, 2010, another letter was sent to Respondent by the Board requesting his written response to an on-going investigation relating to Case No. 2010-03-054 (the MVA project referenced in paragraphs 11 though 14 above). The letter advised Respondent that his response would be considered a special report pursuant to **Condition 3** of his probation and that his response report was due by May 25, 2010. Respondent again failed to submit any response.

DISCIPLINE CONSIDERATIONS

22. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about April 29, 1996, in a prior disciplinary action entitled *In the Matter of the Accusation Against John Harvey Hansen* before the Board for Professional Engineers and Land Surveyors, in Case Number 574-A. Respondent's license was revoked;

however that revocation was stayed and Respondent was placed on probation for a period of three (3) years upon certain terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

23. To additionally determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about November 17, 1997, in a prior disciplinary action entitled *In the Matter of the [First] Petition to Revoke Probation Against John Harvey Hansen* before the Board for Professional Engineers and Land Surveyors, Respondent's license was revoked; however that revocation was stayed and Respondent was placed on probation for a period of five (5) years upon certain terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

24. To additionally determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about October 6, 2000, in a prior disciplinary action entitled *In the Matter of the Second Petition to Revoke Probation Against John Harvey Hansen* before the Board for Professional Engineers and Land Surveyors, Respondent's license was revoked. That decision is now final and is incorporated by reference as if fully set forth.

25. To additionally determine the degree of discipline, if any, to be imposed on Respondent, effective November 14, 2003, pursuant to a decision entitled *In the Matter of the Petition for Reinstatement of Revoked License of John Harvey Hansen* before the Board for Professional Engineers and Land Surveyors, Respondent's license was reinstated. The license was then immediately revoked; however that revocation was stayed and Respondent was placed on probation for a period of five (5) years upon certain terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

26. To additionally determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 13, 2005, in a prior disciplinary action entitled *In the Matter of the [Third] Petition to Revoke Probation Against John Harvey Hansen* before the Board for Professional Engineers and Land Surveyors, Case No. 574-A, Respondent's license was again revoked; however that revocation was stayed and Respondent was once again

placed on probation for a period of five (5) years upon certain terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

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. 574-A and imposing the disciplinary order that was stayed, thereby revoking Civil Engineer License Number C 26544 issued to John Harvey Hansen;

2. Revoking or suspending Civil Engineer License Number C 26544 issued to John Harvey Hansen;

3. Ordering John Harvey Hansen 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: 10/18/10

Original Signed

DAVID E. BROWN
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

LA2010503708
(tm10/18/10)

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: JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308 Civil Engineer License No. C 26544 Respondent.	Case No. 574-A OAH No. L-2005010006

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers and Land Surveyors, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 13, 2005.

It is so ORDERED May 13, 2005.

Original Signed

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

BILL LOCKYER, Attorney General
of the State of California
TERRENCE M. MASON, State Bar No. 158935
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6294
Facsimile: (213) 897-2804

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: JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308 Civil Engineer License No. C 26544 Respondent.	Case No. 574-A OAH No. L-2005010006 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Cindi Christenson, P.E. (Complainant) is the Executive Officer of the Board for Professional Engineers and Land Surveyors. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Terrence M. Mason, Deputy Attorney General.

2. Respondent JOHN HARVEY HANSEN (Respondent) is represented in this proceeding by attorney James P. Corn, whose address is Stol Rives LLP, 770 L Street, Suite 800, Sacramento, CA 95814-3359.

3. On or about March 10, 1976, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 26544 to JOHN HARVEY HANSEN (Respondent). The license will expire on March 31, 2006, unless renewed.

JURISDICTION

4. Petition to Revoke Probation No. 574-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 September 21, 2004. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to Revoke Probation No. 574-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. 574-A. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 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. 574-A.

9. Respondent agrees that his Civil Engineer License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board for Professional Engineers and Land Surveyors or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. 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 settlement, 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 Settlement 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.

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

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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 26544 issued to Respondent JOHN HARVEY HANSEN is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board

the amount of $3,090.50 minus $275.44 payment he has already submitted, for a total remaining balance of $2,815.06. The full amount shall be paid within thirty (30) months of the effective date of the decision. Payments may be made in installments.

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

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

4. **Ethics Course.** The Respondent shall successfully complete and pass the course "Engr Ethics PDH-40: Intermediate Studies in Engineering Ethics" as offered by the Murdough Center for Engineering Professionalism, Texas Tech University. In the alternative, Respondent may submit an equivalent professional ethics course for review and possible approval by the Board prior to completion of any such course. The professional ethics course required by this condition shall be completed within three (3) years of the effective date of the decision. Respondent shall provide verifiable proof in writing to the Board that he has successfully completed a Board-approved professional ethics course.

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

6. **Violation of Probation.** If the Respondent violates the probationary conditions in any respect, the Board, after giving the 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 the Respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

7. **Completion of Probation.** Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the Respondent's license

shall be unconditionally restored.

ACCEPTANCE

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

DATED: April 18, 2005.

Original Signed

JOHN HARVEY HANSEN
Respondent

I have read and fully discussed with Respondent JOHN HARVEY HANSEN the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: April 19, 2005.

Original Signed

JAMES P. CORN
Attorney for Respondent

///

///

///

///

///

///

///

///

ENDORSEMENT

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

DATED: 4/20/05.

BILL LOCKYER, Attorney General
of the State of California

Original Signed

TERRENCE M. MASON
Deputy Attorney General

Attorneys for Complainant

TOTAL P.07
TOTAL P.07

Exhibit A

Petition to Revoke Probation No. 574-A

BILL LOCKYER, Attorney General
of the State of California
LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2562
Facsimile: (213) 897-2804

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: JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308 Civil Engineer License No. C 26544 Respondent.	Case No. 574-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 (Board), Department of Consumer Affairs.

2. On or about March 10, 1976, the Board issued Civil Engineer License No. C 26544 to John Harvey Hansen (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2006, unless renewed.

3. In a disciplinary action entitled "In the Matter of the Accusation Against: John Harvey Hansen," Case No. 574-A, the Board for Professional Engineers and Land Surveyors, issued a decision, effective April 29, 1996, in which Respondent's civil engineer license was revoked. The revocation, however, was stayed and Respondent's civil engineer

license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4. In a disciplinary action entitled "In the Matter of the (First) Petition to Revoke Probation Against: John Harvey Hansen," Case No. 574-A, the Board for Professional Engineers and Land Surveyors, issued a decision, effective November 17, 1997, in which Respondent's civil engineer license was revoked. The revocation, however, was stayed and Respondent's civil engineer license was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit B and is incorporated by reference.

5. In a disciplinary action entitled "In the Matter of the (Second) Petition to Revoke Probation Against: John Harvey Hansen," Case No. 574-A, the Board for Professional Engineers and Land Surveyors, issued a decision, effective October 6, 2000, in which Respondent's civil engineer license was revoked. A copy of that decision is attached as Exhibit C and is incorporated by reference.

6. In a disciplinary action entitled "In the Matter of the Petition for Reinstatement to Revoke License Against: John Harvey Hansen," Case No. 574-A, the Board for Professional Engineers and Land Surveyors, issued a decision, effective November 14, 2003, in which Respondent's Civil Engineer License was reinstated. The license, however, was immediately revoked, but was stayed and Respondent's civil engineer license was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit D and is incorporated by reference.

PETITION TO REVOKE PROBATION

(Noncompliance with Terms and Probation)

7. Effective November 14, 2003, Respondent's civil engineer license was placed on probation for five (5) years with terms and conditions including, but not limited to the following:

A. Term No. 1, "The license, together with its incidental rights and privileges, is hereby suspended for a period not to exceed two years in totality commencing upon the effective

date hereof and concurrently with the reinstatement order; the said order of suspension may terminate within the said two year period at such time as petitioner shall furnish the Board with proof to the Board's satisfaction that he has commenced the four six-month serial installment payments of restitution to the Di Donnas, in the manner as ordered hereinafter."

B. Term No. 2, "Petitioner shall pay to Michael and Julia Di Donna the sum of $13,435.76 in five equal payments and shall pay the first installment on or before the effective date hereof, and pay each of the remaining four installments at the expiration of four equal six-month intervals thereafter. Petitioner shall furnish to the Board verifiable proof of each such payment immediately following the making of such payment.

C. Term No. 3, "Petitioner shall reimburse the Board the sum of $3,090.50 as and for its costs incurred in the prosecution of this matter within thirty months following the effective date hereof."

D. Term No. 6, "Within sixty (60) days of the effective date of the decision, the petitioner shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board."

GROUNDS FOR REVOKING PROBATION

8. Grounds exist for revoking probation and imposing the order of revocation of Respondent's license for failing to comply with the following terms:

A. Term No. 1: Respondent has failed to refrain from practicing civil engineering, while his license is suspended. In February 2004, Respondent performed a final grading inspection and prepared an engineered grading inspection report, which was signed and stamped with Respondent's professional engineer's stamp.

B. Term No. 2: Respondent failed to furnish to the Board with verifiable proof of each such payment immediately following the making of such payment.

C. Term No. 3: Respondent failed to reimburse the Board the sum of $3,090.50 for its costs incurred in the prosecution of this matter within thirty months following the effective date of the reinstatement decision. On November 14, 2003, Respondent submitted a check for a partial payment to the Board.

D. Term No. 6: Respondent failed to complete and pass, within sixty (60) days of the effective date of the decision, the California Laws and Board Rules examination, as administered by the Board.

DISCIPLINE CONSIDERATIONS

9. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges the following:

a. On or about April 29, 1996, as set forth in paragraph 3, above, the Board for Professional Engineers and Land Surveyors disciplined Respondent's civil engineer license by placing it on probation for three (3) years for violating Business and Professions section 8780, subdivisions (a) and (f).

b. On or about November 17, 1997, as set forth in paragraph 4, above, the Board for Professional Engineers and Land Surveyors disciplined Respondent's civil engineer license by placing it on probation for five (5) years for failure to comply with probation, specifically Condition No. 5 (payment of Board's costs in the amount of $3,090.50) of the Proposed Decision issued on March 19, 1996 and adopted by the Board on April 29, 1996.

c. On or about October 6, 2000, as set forth in paragraph 5, above, the Board for Professional Engineers and Land Surveyors, issued a decision, in which Respondent's civil engineer license was revoked for failure to comply with Condition Nos. 2 (special reports to Board), 4 (payment plan for Board's costs), 5 (payment plan for restitution), and 7 (ethics course) of the probation that became effective on November 17, 1997.

d. On or about November 14, 2003, as described in paragraph 6, above, the Board for Professional Engineers and Land Surveyors reinstated Respondent's civil engineer license on a probationary basis for a period of five (5) years with terms and conditions.

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, Case No. 574-A and imposing the disciplinary order that was stayed thereby revoking Civil Engineer License No. C 26544 issued to John Harvey Hansen;

2. Revoking or suspending Civil Engineer License No. C 26544, issued to John Harvey Hansen;

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

DATED: 9/21/04

Original Signed

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

03551110-LA2004601276
I:\all\yost\draft pleadings\pet2revoke-hansen
jz

Exhibit A

Decision and Order

Board for Professional Engineers and Land Surveyors Case No. 574-A

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

In The Matter Of the Accusation Against: JOHN HARVEY HANSEN 44933 Fern Avenue Lancaster, CA 93534 R.C.E. License No. C 26544, Respondent.	No. 574-A OAH No. L-9502051 **DECISION**

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

This Decision shall become effective on April 29, 1996.

IT IS SO ORDERED this 29th day of March, 1996.

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

Original Signed
By

rfm

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

In the Matter of the Accusation Against:	)	Agency Case No. 574-A
	)	OAH Case No. L-9502051
JOHN HARVEY HANSEN 44933 Fern Avenue Lancaster, California 93534	)	
R.C.E. License No. C 26544	)	
Respondent.	)	

PROPOSED DECISION

This matter came on regularly for hearing before Carolyn D. Magnuson Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California on June 20 and 21, 1995 and August 9, 1995.

The complainant was represented by Timothy Newlove, Deputy Attorney General.

John Harvey Hansen appeared personally and represented himself.

Oral and documentary evidence was received, and the record was left open for post hearing briefs. The complainant's brief was received August 17, 1995 and marked as Exhibit 29. The respondent's brief was received September 20, 1995 and marked as Exhibit F. There was no reply brief submitted. The record was closed, and the matter submitted.

The Administrative Law Judge finds the following facts:

I

The accusation was brought by Harold L. Turner solely in his official capacity as the Executive Officer of the Board of Registration for Professional Engineers and Land Surveyors ("Board").

II

At all relevant times, John Harvey Hansen ("respondent") held registration No. C 26544, which was originally granted to him by the Board on March 10, 1976.

III

From some time prior to July 1987 through the present, respondent has practiced in Bakersfield, California as a professional engineer doing business as Hansen Engineering.

IV

Michael and Julia DiDonna ("DiDonnas") owned 90 acres of land located in the Angeles Crest Mountains of Los Angeles County ("county"). The property was divided into two parcels, one of 70 acres and one of 20 acres. The property was bordered to the north by Big Pines Highway.

There was a recreational vehicle park on the property which obtained its water from a well on the property. In order to operate the park, the DiDonnas had to obtain, inter alia, approval of the water system.

V

In July 1987, the DiDonnas and respondent entered into an oral agreement for respondent to obtain approval of the water system, to survey the property and to prepare final parcel maps subdividing both parcels. Subsequently, the DiDonnas decided to subdivide only the larger parcel.

The DiDonnas agreed to pay respondent by the hour, but payment was not due until the project was finished. Respondent provided the DiDonnas with a rate schedule for professional services, and it was expected that respondent's charges would be consistent with the rates on the schedule.

VI

In October 1988, respondent billed the DiDonna's $4,635.69 for work done to date. The water system application, survey of water facilities and water system map accounted for $2,021.50 of the bill. The remaining $2,614.19 was for surveying the property, for drafting and calculations, and for preparation of the tentative parcel map.

In May 1989, respondent sent the DiDonnas a bill containing additional charges of $815.00 for surveying and engineering work.

The DiDonnas protested the charge in the initial bill of $324.00 for surveying the water system, since they had done the measurements and had prepared a diagram of the system themselves. Respondent reduced the charges by $324.00.

VII

In February 1989, the DiDonnas paid respondent $3,000.00. In May 1989, they paid another $2,000.00. In February 1990, they paid the remaining balance of the bills sent to that date of $179.76.[1]

In addition, the DiDonnas paid a geologist $2,910.00 for a geological assessment of the property. They also paid $625.00 to have a trench dug on the property as part of the geologic assessment. The geologist's report was required by the county before the tentative parcel map would be approved.

The DiDonnas paid Los Angeles County $2,345.00 in fees for processing their application to split their parcel.

VIII

In June 1989, respondent submitted Tentative Map No. 19880 to Los Angeles County on behalf of the DiDonnas.

In August 1989, the DiDonnas received conditional approval of their tentative parcel map. They had two years in which to submit an acceptable final parcel map.

The conditions included, inter alia, a requirement that they dedicate a 32 foot right of way for Big Pines Highway and make an offer to dedicate a 40 foot right of way for the highway; both easements were to be measured from the latest approved centerline on Big Pines Highway.

The county also required them to "[p]rovide [an] IEC approved centerline for limited secondary highway standards on Big Pines Hwy."

IX

After approval of the tentative parcel map, respondent and the DiDonnas discussed what needed to be done to comply with the county's conditions and to obtain approval of the final parcel map.

---

[1] It is not clear why the DiDonnas paid the bill, since payment was not to be made until the project was complete.

Respondent informed the DiDonnas at that time that, because of the nature of the conditions imposed, the cost to obtain the final map would go up, but he could not estimate how much. Respondent told the DiDonnas that they could retain another engineer to obtain the final parcel map, but Mr. DiDonna said that they did not want to change engineers and directed respondent to keep the costs as low as possible.

The agreement continued on a time and materials basis with payment due upon the completion of the project.

XIII

Work commenced on the final parcel map. And in April 1990, respondent sent the DiDonnas a bill for $7,234.41. Of that amount, $742.00 was for work done prior to approval of the tentative parcel map.

The DiDonnas contested the bill, and respondent and the DiDonnas agreed that he would submit no further bills to the DiDonnas until the project was completed. At that time, they would pay respondent for his work.

In 1990, the DiDonnas paid the County of Los Angeles $1,402.00 in processing fees for the final parcel map.

XIV

On March 15, 1990, respondent submitted to the county Parcel Map No. 19880. That parcel map was returned to respondent for corrections and revisions.

In May 1990, the second draft of the parcel map was submitted for review. Again, it was returned to respondent for further work.

In November 1990, a revised parcel map was submitted to the county for the third time. Again, the map was deemed not satisfactory by the plan checker.

XV

Respondent had very little experience obtaining lot splits from Los Angeles County. He was not familiar with all of the techniques and protocols which affected the acceptability of a map, many of which were a matter of custom and practice and were not available in written form.

Each of the rejected parcel maps was accompanied by explanatory notes written on the maps and by an attached checklist. Unfortunately, some of the information provided was not easily comprehended. Moreover, each of the subsequent reviews found problems with material which had appeared on prior maps without objection.

Respondent and/or his staff did contact county officials for information to help them revise the map to meet county specifications.

XVI

At the beginning of 1991, respondent's business was drastically reduced by the recession; there was very little money coming in. Respondent informed his clients that, in order to stay in business, respondent would have to give priority to work which was being paid for as it was done.

Because the DiDonnas were not paying until the project was completed, work on their project would be done only if paying work was not available. The DiDonnas did not agree to this procedure.

In July 1991, business was so bad at Hansen Engineering that respondent took a full time position with the City of Lancaster, California. Respondent did not entirely close his own business, but he only had evenings and weekends to devote to it.

XVII

Difficulty in getting in touch with respondent had been a chronic problem for the DiDonnas. In early 1991, communication between the parties ceased. Ultimately, when the phone was not being answered at Hansen Engineering, the DiDonnas drove to Bakersfield to try to locate respondent. When they learned that respondent was working for the City of Lancaster, they drove to that city and attempted to locate respondent at the city hall.

The parties do not agree about most of what happened when they met at city hall. They do agree that respondent promised to call the DiDonnas that evening, and he did not. Respondent states that he did not make the promised call because he was angry about the way the DiDonnas had behaved at their meeting.

XVIII

The time for filing the final parcel map was running out, so Mrs. DiDonna obtained a year's extension of time in which to file.

XIX

Shortly thereafter, the DiDonnas contacted the Board about the problems they were having with respondent. The Board wrote respondent twice about the complaint that had been filed against him. In December 1991, respondent replied to this correspondence.

Respondent told the Board's investigator that he was unable to complete the project because of problems with the County of Los Angeles, the loss of his support personnel and his need to take a full time job.

Eventually, respondent agreed to try to complete the final parcel map. He was told that all contact with the DiDonnas was to be made through the Board's investigator.

XX

In June 1992, Hansen informed the Board that the parcel map was ready for resubmission. The DiDonnas then paid the County of Los Angeles $555.00 for processing fees. They also paid the geologist another $100.00.

XXI

The fourth map was reviewed by a new plan checker and was rejected and returned to respondent at the end of July. This reviewer had an new list of problems with, and deficiencies of, the map.

Respondent arranged a meeting with the county staff to discuss and resolve the plan check problems.

In July, 1992, respondent's computer aided drafting system containing the DiDonnas' project became inoperative, making revisions difficult.

XXII

At this time, the first extension of time in which to file the final parcel map was running out. Respondent paid $400.00 to obtain another year's extension.

XXIII

When the Board interceded on behalf of the DiDonnas, respondent slowly and reluctantly began to work on the project again in the hope that he could avoid disciplinary action. In August 1992, when respondent learned that the Board would be pursuing disciplinary action against him, he discontinued all work on the DiDonna project.

On August 29, 1993, the approval of the tentative map expired.

XXIV

Respondent claims that he was "frustrated" from completing the contract with the DiDonnas because of conditions and actions beyond his control.

In particular, respondent complains that the DiDonnas interfered with the work by changing the scope of the project and by countermanding work orders and directions given by respondent.

The evidence does not support this view. The project was the DiDonnas'. Unless the contract provided otherwise, they could quite properly determine the scope of the project, including telling respondent's employees that they did or did not wish certain actions taken. Respondent's remedy was to charge the DiDonnas for the costs associated with such changes.

In any case, there was no credible evidence that such interactions with respondent's staff were significant or that the impact of such conduct on respondent's ability to complete the project was substantial. In fact, by reducing the scope of the project, the DiDonnas should have made it easier for respondent to complete the contract because there was less work involved.

XXV

Respondent also complains that the DiDonnas' failure to pay him during the course of the work on the final parcel map prevented him from completing the project.

He states, "It was understood that the DiDonnas' project would continue be [sic] allocated time as it became available after completing work for paying customers and that if they wanted immediate action a payment for work performed would be required." That may have been the understanding which respondent desired; it certainly was not one to which the DiDonnas had acceded.

The agreement between respondent and the DiDonnas was that they would pay respondent's bill when he had completed the project. Thus, until there was a final parcel map, the DiDonnas owed nothing to respondent.

Respondent's unilateral decision, to give priority to work for those who were paying him as their projects progressed, may have been economically necessary from his point of view; but it did not alter the terms of his agreement with the DiDonnas. By requiring interim payments as a condition for continuing to actively work on the DiDonnas' project, respondent was, in effect, attempting to coerce money from the DiDonnas to which respondent was not yet entitled.

XXVI

Respondent also charges that the DiDonnas harassed him and his staff both personally and indirectly through their attorney and the Board's employees.

There is no doubt that relations between the parties became acrimonious over the course of their relationship. Certainly each of them was irritated and upset by the other(s). Nonetheless, it does not appear that anything which the DiDonnas did or said was unreasonable under the circumstances. Certainly, there was no evidence that their alleged harassment of respondent was of a nature to interfere with his ability to complete the project, only with his inclination to finish it.

XXVII

Respondent further argues that the lack of timely and coherent processing of the final parcel map by the Los angeles County Public Works Department also contributed to the prevention of completion of this project.

It is true that the plan checking of the final map could have, and probably should have, been done more effectively and efficiently. However, there was no doubt that, had respondent persevered, he could have produced a final map which was acceptable to the county.

It appears that respondent was simply unwilling to put in the time and effort which would have been required to obtain the requisite approvals. While it was understandable that dealing with the plan checking process was frustrating and unnecessarily time consuming, it was the same system that all others similarly situated were successfully negotiating on a daily basis.

XXVIII

Respondent claims that he should not be required to pay restitution to the DiDonnas because they benefited from the services he provided in that the services for which they paid were rendered: the tentative parcel map was approved, the parcel maps were checked and the geology report done.

However, these services were of value only if the final parcel map were successfully obtained. When he failed to complete the project, respondent stripped the tentative parcel map, the plan checks, the geology report and his prior work for the DiDonnas of all value.

XXIX

It is troubling that respondent fails to recognize his responsibility in failing to complete the project and blames everyone but himself.

In fact, respondent is entirely responsible. There were difficulties in completing the contract, but none of them was insurmountable.

The most basic difficulty was that respondent failed to make a written contract with the DiDonnas, and that deficiency led to many of the subsequent problems between the parties.

Further, respondent made a bad bargain when he agreed to wait for payment until the project was finished. When the agreement ultimately became an economic hardship for respondent, he was unwilling to honor his contract. In effect, respondent chose his personal interests over his professional obligations to the DiDonnas.[2]

There was no frustration of purpose with this contract; there was no impossibility to complete: there was no failure of consideration; the terms of the contract were reasonably ascertainable.

The problem was that respondent chose not to complete the contract because it was too difficult, too expensive, too frustrating, involved people who were too annoying, or any combination thereof.

XXX

There is nothing in the record or respondent's conduct or attitude which suggests that he would conduct himself differently if similar circumstances should arise again or even that he recognizes that he failed in his professional responsibilities.

XXXI

It is important to note that, except for the instant action, respondent's record is clear.

It is also relevant that respondent was under great financial and professional stress at the time.

Unfortunately, there is no other evidence of mitigation, extenuation or rehabilitation.

XXXII

Post trial, complainant acknowledged that the evidence produced at trial did not establish that respondent had acted negligently or incompetently.

---

[2] The losses sustained by the DiDonnas far exceed the out of pocket expenses for which they are entitled to compensation from respondent.

XXXIII

The Board submitted a cost bill in the amount of $9,117.94. $1,032.94 for technical expert costs, $3,330.00 for investigation costs and $4,755.00 for Attorney General costs.

However, since the Board prevailed on only one of the three causes of action pleaded, it would not be fair or reasonable to impose the full costs on respondent, although he should pay for those costs associated with the count on which he was found culpable.

Complainant's counsel has stated that approximately 70% of his time and all of the technical expert costs were properly allocated to the causes of action which have not been sustained. Thus, the reasonable charge for the attorney's services would be $1,425.50. There should be no charge for the expert's services.

The proration of costs claimed for investigative services is more difficult to calculate. However, it is safe to assume that no more than 50% of the investigative time was dedicated to the breach of contract aspect of the case.[3] Thus, $1,665.00 is the fair and reasonable cost of investigative services.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Cause exists to suspend or revoke respondent's license pursuant to Business and Professions Code section 8780(f) for breach of contract

II

Cause does not exist to suspend or revoke respondent's license pursuant to Business and Professions Code section 8780(a) for practicing incompetently.

III

Cause does not exist to suspend or revoke respondent's license pursuant to Business and Professions Code section 8780(a) for practicing negligently.

---

[3] Because much of the evidence was relevant to all of the causes of action, it is probable that a greater percentage of the investigators' time (as compared to the attorney's time) is properly allocated to the breach of contract count.

IV

Cause exists pursuant to Business and Professions Code section 125.3 to require respondent to reimburse the Board for its reasonable costs of investigation and enforcement in the amount of $3,090.50.

V

Cause exists pursuant to Government Code section 11519(d) to require respondent to pay Michael and Julia DiDonna restitution in the amount of $13,435.76 for damages they suffered because of respondent's breach of contract.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Professional Engineer's Registration number C 26544 previously issued to John Harvey Hansen is revoked; however, the revocation is stayed, and respondent is put on probation for the term of three years on the following terms and conditions:

1. Respondent's registration shall be suspended for 60 days, with 30 days of that time stayed. The 30 days actual suspension shall commence on the effective date of this decision.

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

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

4. No later than 30 days after the effective date the this decision, respondent shall provide the Board 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. During the period of probation, respondent shall provide a similar notification of his discipline to each new client and employer and shall report to the Board the name and address of each individual or entity so notified.

5. Respondent shall reimburse the Board for the reasonable costs of the investigation and enforcement of the case in the amount of $3,090.50 within 90 days of the effective date of the decision. The period of probation shall not

end, and the respondent's registration shall not be renewed, unless respondent has paid all costs as ordered, except as provided in Business and Professions Code section 125.3(g)(2).

6. The period of probation shall not run during any time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out 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.

7. Within two years of the effective date of this 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.

8. Within six months of the effective date of this decision, respondent shall provide verifiable proof to the Board that restitution for his breach of contract in the amount of $13,435.76 has been paid to Michael and Julia DiDonna. The period of probation shall not end unless respondent has paid all restitution as ordered.

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 revocation. 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 actions, during probation, the Board shall have continuing jurisdiction until all matters are finally resolved, and the period of probation shall be extended until all matters are final.

10. Upon successful completion of probation, including the fulfillment of all conditions, respondent's registration will be unconditionally restored.

Dated: March 19, 1996

Original Signed

CAROLYN D. MAGNUSON
Administrative Law Judge
Office of Administrative Hearings

DANIEL E. LUNGREN, Attorney Genera
of the State of California
TIMOTHY L. NEWLOVE
Deputy Attorney General
State Bar No. 73428
California Department of Justice
300 South Spring Street, 5th Floor
Los Angeles, California 90013
Telephone: (213) 897-2559

Attorneys for Complainant

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

In the Matter of the Accusation Against: JOHN HARVEY HANSEN 44933 Fern Avenue Lancaster, Calif. 93534 R.C.E. License No. C 26544 Respondent.	Case No. 574-A ACCUSATION

Complainant, Harold L. Turner, for cause of accusation against John Harvey Hansen alleges as follows:

PARTIES

1. Complainant, Harold L. Turner, is the Executive Officer of the Board of Registration for Professional Engineers and Land Surveyors (hereinafter the "Board") and brings this Accusation solely in his official capacity.

2. On March 10, 1976, the Board granted to respondent John Harvey Hansen (hereinafter "Hansen") Registration No. C 26544 as a civil engineer under the provisions of the Professional Engineers Act, Chapter 7, Business and Professions Code Section 6700 et. seq.. At all times material herein,

respondent was and is licensed by the Board as a civil engineer. His registration expires on March 31, 1996.

JURISDICTION

3. Under Business and Professions Code Section 8780, by a majority vote, the Board may suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer whom it finds guilty of certain enumerated violations.

4. At all times material herein, respondent Hansen was conducting land surveying withiin the meaning of Business and Professions Code Section 8726.

FIRST CAUSE OF ACCUSATION

BREACH OF CONTRACT

5. Complainant incorporates herein by this reference the Preamble and each of the allegations set forth in Paragraphs 1 through 4 hereinabove.

6. Business and Professions Code Section 8780(f) provides that the Board may take disciplinary action against a licensed land surveyor or registered civil engineer whom it finds guilty of a breach of contract in connection with the practice of land surveying.

7. Government Code Section 11519(d) provides that, in relation to Decisions rendered under the California Administrative Procedure Act, specified terms of probation may include an order of restitution which requires the party or parties to a contract against whom the Decision is rendered to compensate the other party or parties to a contract damaged as a

result of a breach of contract by the party against whom the Decision is rendered. Government Code Section 11519(d) further provides that in such cases, the Decision shall include findings that a breach of contract has occurred and shall specify the amount of actual damages sustained as a result of such breach.

8. Respondent Hansen's registration as a civil engineer is subject to discipline under Business and Professions Code Section 8780(f) and respondent is subject to the payment of damages under Government Code Section 11519, in that respondent breached a contract in connection with the practice of land surveying, according to the following facts:

A. In October, 1986, Michael and Julia DiDonna (hereinafter collectively "DiDonna") purchased 90 acres of land in Valyermo, California. The property is located in the Angeles Crest Mountains in Los Angeles County. The property is hilly and divided into a 70 acre parcel and a 20 acre parcel. Big Pines Highway forms the northern border of the parcels.

B. In July, 1987, DiDonna and respondent Hansen entered into a verbal contract whereby in exchange for monetary payment respondent agreed to survey the 90 acres, survey the water lines on the 70 acre parcel which contains a ranch and a mobile home park, and obtain a lot split for both parcels. Subsequently, DiDonna requested respondent to obtain a lot split for only the 70 acre parcel.

C. On February 20, 1989, DiDonna paid respondent $3,000 toward his work on the project. On May 26, 1989, DiDonna paid respondent an additional $2,000 for his work on the project.

During 1989, DiDonna paid AAKO Geotechnical $2,910 for geological studies and reports on the subject property which were required by the Department of Regional Planning of Los Angeles County (hereinafter "Los Angeles County").

D. In or about June, 1989, respondent Hansen submitted a Tentative Map No. 19880 to Los Angeles County on behalf of DiDonna. Tentative Map No. 19880 concerned the subject 20 and 70 acre parcels owned by DiDonna. On August 29, 1989, Los Angeles County approved Tentative Map No. 19880 subject to the performance of certain enumerated conditions. The conditions included the requirements that the Final Parcel Map dedicate a right of way of 32 feet from the latest approved centerline on Big Pines Highway and make an offer of a future right of way of 40 feet from the latest approved centerline on Big Pines Highway. Approval for the Tentative Map expired in two years, or by August 29, 1991.

E. On March 1, 1990, respondent Hansen submitted Parcel Map No. 19880 to Los Angeles County on behalf of DiDonna. The said Parcel Map concerned the subject 70 acre parcel and was submitted under the Subdivision Map Act (Government Code Section 66410 et. seq.) as a final map. The said Parcel Map and subsequently submitted Parcel Maps, described hereinbelow, was submitted pursuant to the verbal contract between DiDonna and respondent in which respondent agreed to obtain a lot split of the 70 acre parcel. In or about April, 1990, Los Angeles County returned Parcel Map No. 19880 to respondent for corrections and revisions.

F. On May 23, 1990, respondent Hansen submitted Parcel Map No. 19880 to Los Angeles County for a second check on behalf of DiDonna. In August, 1990, Los Angeles County returned the said Parcel Map to respondent for corrections and revisions.

G. On November 19, 1990, respondent Hansen submitted Parcel Map No. 19880 to Los Angeles County for a third check on behalf of DiDonna. In or about December, 1990, Los Angeles County returned the said Parcel Map to respondent for corrections and revisions.

H. Thereafter, notwithstanding the subject verbal contract with DiDonna, respondent ceased work on the project. In June, 1991, DiDonna obtained a one year extension of the approval of the Tentative Map, or to August 29, 1992.

I. On July 2, 1992, after urging by both DiDonna and the Enforcment Unit of the Board, respondent Hansen submitted Parcel Map No. 19880 to Los Angeles County for a fourth check. On July 30, 1992, Los Angeles County again returned the said Parcel Map to respondent for corrections and revisions. The primary problem with Parcel Map No. 19880 was respondent's failure to properly align Big Pines Highway as required by the conditions of approval of the Tentative Map.

J. In June, 1992, prior to the fourth submission of Parcel Map No. 19880, DiDonna paid $855 to Los Angeles County for review of said map. On September 1, 1992, Los Angeles County extended by one year the approval of the Tentative Map, or to August 29, 1993.

K. In September, 1992, respondent Hansen met with

employees of the Department of Regional Planning of Los Angeles County who explained what work was needed to submit a satisfactory Parcel Map No. 19880. Nevertheless, respondent failed and continues in his failure to submit a Final Map on the 70 acre parcel owned by the DiDonnas.

L. On August 29, 1993, the approval of Tentative Map No. 19880 expired. DiDonna must now begin the process anew in order to obtain a lot split of the subject 70 acre parcel.

SECOND CAUSE OF ACCUSATION

INCOMPETENCE

9. Complainant incorporates herein by this reference the Preamble and each of the allegations set forth in Paragraphs 1 through 4 hereinabove.

10. Business and Professions Code Section 8780(a) provides that the Board may discipline a licensed land surveyor or registered engineer whom it finds guilty of incompetency in the practice of land surveying.

11. Respondent Hansen's registration as a civil engineer is subject to discipline by the Board under Business and Professions Code Section 8780(a), in that respondent was incompetent in the practice of land surveying, according to the following facts:

A. Complainant incorporates herein by this reference each of the allegations set forth in Paragraphs 8A to 8L hereinabove.

B. Respondent Hansen was incompentent on the DiDonna project in the following manner:

(1) At the time he entered into the verbal contract with DiDonna, respondent failed to determine the extent and cost of work necessary to obtain a lot split for the subject 70 acre parcel.

(2) After approval of Tentative Map No. 19880, respondent failed to determine the extent and cost of work necessary to align Big Pines Highway in order to submit an acceptable final map.

(3) After approval of Tentative Map No. 19880, respondent failed to confer with employees of the Department of Regional Planning of Los Angeles County in order to determine the county's requirements for presenting an acceptable alignment of Big Pines Highway on Parcel Map No. 19880.

(4) Respondent was unable to properly align Big Pine Highway on Parcel Map No. 19880 in four submittals of said Parcel Map to Los Angeles County.

THIRD CAUSE OF ACCUSATION

NEGLIGENCE

12. Complainant incorporates herein by this reference the Preamble and each of the allegations set forth in Paragraphs 1 through 4 hereinabove.

13. Business and Professions Code Section 8780(a) provides that the Board may discipline a licensed land surveyor or registered civil engineer whom it finds guilty of negligence in the practice of land surveying.

14. Respondent's registration as a civil engineer is

subject to discipline by the Board under Business and Professions Code Section 8780(a), in that respondent was negligent in the practice of land surveying, according to the following facts:

A. Complainant incorporates herein by this reference each of the allegations set forth in Paragraphs 8A through 8L hereinabove.

B. Respondent Hansen was negligent on the DiDonna project in the following manner:

(1) After approval of Tentative Map No. 19880, respondent failed to confer with employees of the Department of Regional Planning of Los Angeles County in order to determine the county's requirements for presenting an acceptable alignment of Big Pines Highway on Parcel Map No. 19880.

(2) Respondent was unable to properly align Big Pine Highway on Parcel Map No. 19880 in four submittals of said Parcel Map to Los Angeles County.

COST RECOVERY

15. Business and Professions Code Section 125.3 provides that, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs, 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.

16. Under Business and Professions Code Section

101(i), the Board of Registration for Professional Engineers and Land Surveyors was and is a board within the Department of Consumer Affairs of the State of California. Pursuant to Business and Professions Code Section 125.3, the Board hereby requests the Administrative Law Judge who issues a Proposed Decision in this matter to include an Order which provides for the recovery by the Board of the costs of investigation and enforcement of this case against respondent Hansen according to proof.

WHEREFORE, Complainant prays that a hearing be held and that the Board of Registration for Professional Engineers and Land Surveyors make its order:

1. Revoking or suspending the Registration No. C 26544 of civil engineer held by respondent John Harvey Hansen.

2. Directing respondent John Harvey Hansen to pay damages for breach of contract to Michael and Julia DiDonna, pursuant to Government Code Section 11519(d), according to proof.

3. Directing respondent John Harvey Hansen to pay to the Board the actual and reasonable costs of the investigation and prosecution of the case under Business and Professions Code Section 125.3, according to proof.

/

/

/

/

/

/

4. Taking such other and further action as may be deemed proper and appropriate.

DATED: November 23, 1994

Original Signed

Harold L. Turner
Executive Officer
Board of Registration for
Professional Engineers and
Land Surveyors
Department of Consumer Affairs
State of California

Complainant

Exhibit B

Decision and Order

Board for Professional Engineers and Land Surveyors Case No. 574-A

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

In the Matter of the Petition to Revoke Probation against:	)	
	)	No. 574-A
JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308	)	OAH No. L-9612069
Civil Engineer Registration No. C 26544	)	

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 of Registration for Professional Engineers and Land Surveyors. Good cause for the granting of the petition has not been shown; therefore, the Petition for Reconsideration is hereby denied.

The Decision ordered by the Board of Registration for Professional Engineers and Land Surveyors shall become effective upon expiration of the Order Granting Stay of Execution of Decision on November 17, 1997.

IT IS SO ORDERED this 13th day of November, 1997.

Original Signed

QUANG D VU, P.E.
PRESIDENT
BOARD OF REGISTRATION FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS
Department of Consumer Affairs
State of California

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

In the Matter of the Petition to Revoke Probation Against: JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308 License No. C 26544, Respondent.	)	No. 574-A OAH No. L-9612069 **DECISION**

Pursuant to Government Code section 11517(b), the Board of Registration for Professional Engineers and Land Surveyors of the State of California hereby adopts the attached Proposed Decision of the Administrative Law Judge as its Decision in the above-entitled matter.

In adopting this Proposed Decision as its Decision, the Board of Registration for Professional Engineers and Land Surveyors has made the following technical or other minor changes pursuant to Government Code section 11517(b)(3):

A. Condition #5 of the Order of the Decision is corrected to read as follows:

5. Respondent shall pay restitution for his breach of contract to the DiDonnas in the sum of thirteen thousand, four hundred thirty-five dollars and seventy-six cents ($13,435.76) according to a payment schedule mutually acceptable to Respondent and the Board. Respondent shall provide verifiable proof to the Board that the restitution has been paid as ordered. The period of probation shall not end unless Respondent has paid all restitution as ordered.

B. The address of record of the respondent, John Harvey Hansen, as shown in the caption, is corrected to read as follows:

JOHN HARVEY HANSEN
3012 Antonino Street
Bakersfield, CA 93308

This Decision shall become effective on October 16, 1997.

IT IS SO ORDERED this 11th day of September, 1997.

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

By Original Signed

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

In the Matter of the Petition to Revoke Probation Against:	)	Case No. 574-A
JOHN HARVEY HANSEN 44933 Fern Avenue Lancaster, California 93534	)	OAH No. L-9612069
License No. C 26544	)	
Respondent.	)	

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on June 10, 1997.

Complainant, Cindi Christenson, P.E., was represented by Timothy L. Newlove, Deputy Attorney General.

Respondent, John Harvey Hansen ("Respondent"), was present and represented himself.

Oral and documentary evidence was received and the matter was submitted for decision.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Accusation was made by Cindi Christenson, P.E., Complainant, who is the Executive Officer of the Board of Registration for Professional Engineers and Land Surveyors of the State of California ("the Board"), acting in her official capacity.

///

2. On March 10, 1976, the Board granted to Respondent Registration No. C 26544 as a civil engineer under the provisions of the Professional Engineers Act, Chapter 7, Business and Professions Code section 6700 et. seq. The registration will expire on March 31, 2000 unless renewed.

3. On June 20 and 21, 1995 and August 9, 1995, this matter came on regularly for hearing before Administrative Law Judge Carolyn D. Magnuson, bearing the caption "In the Matter of the Accusation Against: John Harvey Hansen" (Case No. 574-A; OAH No. L-9502051) ("the underlying case"). The Accusation arose out of professional services Respondent had provided to Michael and Julia DiDonna ("the DiDonnas") between 1987 and 1992. In her Proposed Decision, Judge Magnuson revoked Respondent's registration, stayed the revocation and placed Respondent on probation under certain terms and conditions. Five such terms and/or conditions were that (1) Respondent's registration be actually suspended for thirty (30) days, (2) Respondent was to notify all current and new clients and employers of his offense, findings and discipline imposed, (3) Respondent was to reimburse the Board for the reasonable costs of the investigation and enforcement of the case in the sum of three thousand, ninety dollars and fifty cents ($3090.50), (4) Respondent was to provide verifiable proof to the Board, within six (6) months of the effective date of the decision, that he had paid restitution to the DiDonnas in the sum of thirteen thousand, four hundred thirty-five dollars and seventy-six cents ($13,435.76), and (5) that Respondent was to successfully complete and pass a professional ethics course within two years of the effective date of the decision. Judge Magnuson's Proposed Decision was adopted by the Board on March 29, 1996. The effective date of the decision was April 29, 1996.

4. Respondent has complied with all terms and conditions of the probation except for reimbursement to the Board of the costs of investigation and enforcement, payment of the restitution to the DiDonnas, and completion of the professional ethics course.

5. Respondent's failure to reimburse the Board its costs and to pay restitution to the DiDonnas stems from financial problems Respondent encountered beginning in 1991. At that time, an economic recession occurred and Respondent's engineering firm experienced a severe loss in business. That downturn eventually resulted in Respondent having to obtain employment as a City Engineer with the City of Lancaster in order to cover his bills. He was forced to let his employees go. However, he continued to use some of them on a part-time, per-project basis.

6. Respondent left his employ with the City of Lancaster in May of 1992 and re-opened his own firm. He presently has only one employee who serves as a "jack of all trades".

///

7. Respondent has not enjoyed much economic success in his business.[1] During the years 1993, 1994 and 1995, he had business income of $17,135, $27,835 and $29,650, respectively.[2] His business has been detrimentally impacted by the probation requirement that he notify each of his potential clients that he is presently on probation with the Board.

8. Respondent is forty thousand to sixty thousand dollars ($40,000-$60,000) in debt. He is slowly paying those bills. He is six (6) months behind in his rent. He did not choose to ignore the Board's decision with respect to reimbursement and restitution. He simply has had insufficient funds to make those payments. He is willing to pay what he owes pursuant to a feasible payment schedule.

9. Respondent has been married for twenty-two (22) years. He has three adolescent children. His wife is an elementary school teacher.

10. Engineering is Respondent's only career. He has been working in that career for over twenty (20) years. He has served as a grader and examination writer for the Board and presently educates government engineers and plan checkers in his work in the private sector. He is the Local President of the American Society of Professional Engineers. The DiDonnas' complaint is the only one he has had.

11. In the Prayer of the Petition to Revoke Probation, Complainant sought reimbursement of reasonable costs of investigation and prosecution of this case, pursuant to Business and Professions Code section 125.3, according to proof. However, at the hearing, no evidence was offered on that issue.

DETERMINATION OF ISSUES

Pursuant to the foregoing Findings of Fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists to suspend or revoke Respondent's license for failure to comply with the terms of his probation, as set forth in Findings 3, 4 and 8.

---

[1]Respondent's business generated a six figure annual income prior to the 1991 recession.

[2]Respondent only recently filed his 1996 income tax return. He does not know whether his business did well or not because he spent the year preoccupied with his father's kidney surgery. Respondent believes his business income was approximately the same as it was in 1995.

2. Cause does not exist to require Respondent to reimburse the Board for reasonable costs of investigation and prosecution of this case, as set forth in Finding 11.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Professional Engineer's Registration number C 26544 issued to Respondent, John Harvey Hansen, is revoked; however, the revocation is stayed, and respondent is placed on probation for a period of five (5) years on the following terms and conditions:

1. Respondent shall obey all federal, state, and local laws and rules 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 in both this and the underlying case, and shall provide the Board with the name and business address of each person required to be so notified. During the period of probation, Respondent shall provide similar notification of his discipline to each new client and employer and shall report to the Board the name and address of each individual or entity so notified.

4. Respondent shall reimburse the Board for the costs of the investigation and enforcement of the underlying case, in the amount of three thousand, ninety dollars and fifty cents ($3090.50) according to a payment schedule mutually acceptable to Respondent and the Board. The period of probation shall not end until full payment is made.

5. Respondent shall pay restitution for his breach of contract to the DiDonnas in the sum of thirteen thousand, four hundred thirty-five dollars and seventy-six cents ($13,435.76) according to a payment schedule mutually acceptable to Respondent and the Board. The payments shall be made to the Board which will, in turn, forward them to the DiDonnas. The period of probation shall not end unless Respondent has paid all restitution as ordered.

///

6. 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.

7. Within one (1) year of the effective date of this 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 sixty (60) days of the completion date of the course.

8. 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.

9. Upon successful completion of probation, including the fulfillment of all conditions, Respondent's license/registration will be restored.

DATED: June 23, 1997

Original Signed

H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

DANIEL E. LUNGREN, Attorney General
of the State of California
TIMOTHY L. NEWLOVE
Deputy Attorney General
State Bar No. 73428
California Department of Justice
110 West A Street, Suite 1100
Post Office Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-3034

Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: JOHN HARVEY HANSEN 44933 Fern Avenue Lancaster, California 93534 License No. C 26544 Respondent.	NO. 574-A PETITION TO REVOKE PROBATION

The Complainant, Cindi Christenson, P.E., for cause of revocation of probation against John Harvey Hansen, alleges as follows:

PARTIES

1. The Complainant, Cindi Christenson, P.E., is the Executive Officer of the Board of Registration for Professional Engineers and Land Surveyors of the State of California (hereinafter the "Board") and makes this Petition to Revoke Probation solely in her official capacity.

///

2. On March 10, 1976, the Board granted to respondent John Harvey Hansen (hereinafter "Hansen") Registration No. C 26544 as a civil engineer under the provisions of the Professional Engineers Act, Chapter 7, Business and Professions Code § 6700 et. seq. Respondent's registration expires on March 31, 2000.

JURISDICTION

3. Under Business and Professions Code § 8780, by a majority vote, the Board may suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer whom it finds guilty of certain enumerated violations.

4. Effective April 29, 1996, in the administrative disciplinary proceeding entitled In the Matter of the Accusation Against: John Harvey Hansen, Case No. 574-A, before the Board of Registration for Professional Engineers and Land Surveyors of the State of California, the civil engineer registration of respondent Hansen was revoked, the revocation was stayed, and the registration was placed on probation to the Board for three (3) years under certain terms and conditions, including the following conditions:

A. "Respondent shall reimburse the Board for the reasonable costs of the investigation and enforcement of the case in the amount of $3,090.50 within 90 days of the effective date of the decision."

///

B. "Within six months of the effective date of this decision, respondent shall provide verifiable proof to the Board that restitution for his breach of contract in the amount of $13,435.76 has been paid to Michael and Julia DiDonna."

5. Respondent Hansen is subject to a revocation of probation in that he has failed to pay the Board the costs of investigation and enforcement and the DiDonnas the restitution required in the Decision described in Paragraph 4 hereinabove,

WHEREFORE, Complainant prays that a hearing be held and that the Board of Registration for Professional Engineers and Land Surveyors make its Order:

1. Revoking the probation and setting aside the stay order in Board Case No. 574-A and imposing a revocation of the civil engineer registration of respondent John Harvey Hansen.

2. Directing respondent John Harvey Hansen to pay to the Board of Registration for Professional Engineers and Land Surveyors the reasonable costs of investigation and prosecution of this case, pursuant to Business and Professions Code § 125.3, according to proof.

///

///

///

///

///

///

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

DATED: October 31, 1996

Original Signed

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

Complainant

Exhibit C

Decision and Order

Board for Professional Engineers and Land Surveyors Case No. 574-A

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

In the Matter of the Petition to Revoke the Probation of:	)	
JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308	)	Case No. 574-A OAH No. L2000060180
License No. C 26544,	)	
Respondent.	)	

DECISION

Pursuant to Government Code section 11517, the Board for Professional Engineers and Land Surveyors of the State of California hereby adopts the attached Proposed Decision of the Administrative Law Judge as its Decision in the above-entitled matter.

In adopting this Proposed Decision as its Decision, the Board for Professional Engineers and Land Surveyors has made the following technical or other minor changes pursuant to Government Code section 11517(c)(2)(C):

Factual Findings 3 is corrected to read as follows:

3. In an order dated March 29, 1996, the Board revoked respondent's license, effective April 29, 1996, for breach of contract. The revocation was stayed for three years on terms and conditions that included reimbursing the Board in the amount of $3,090.50 for its costs, paying $13,435.76 restitution to clients Michael and Julia DiDonna, and successfully completing a course in professional ethics. The costs were to be reimbursed within 90 days, the restitution was to be paid within six months, and the course in ethics was to be completed within two years.

This Decision shall become effective on October 6, 2000.

IT IS SO ORDERED this 7th day of September, 2000.

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 Petition to Revoke the Probation of:	Case No. 574-A
	OAH NO. L200060180
JOHN HARVEY HANSEN,	
Respondent.	

PROPOSED DECISION

This matter was heard on August 3, 2000, at Los Angeles, by Jerry Mitchell, Administrative Law Judge of the Office of Administrative Hearings. The complainant was represented by Julie A. Cabos, Deputy Attorney General. The respondent was present and represented himself.

FACTUAL FINDINGS

1. This Petition to Revoke Probation was made and filed by Cindi Christenson, P.E., in her official capacity as Executive Officer, Board for Professional Engineers and Land Surveyors (hereinafter "Board"), Department of Consumer Affairs, State of California.

2. On or about March 10, 1976, the Board issued Civil Engineer License No. C26544 to John Harvey Hansen (hereinafter "respondent"). At all times pertinent hereto, the license was in full force and effect.

3. In an order dated March 29, 1996, the Board revoked respondent's license, effective April 29, 1996, for breach of contract, practicing incompetently and practicing negligently. The revocation was stayed for three years on terms and conditions that included reimbursing the Board in the amount of $3,090.50 for its costs, paying $13,435.76 restitution to clients Michael and Julia DiDonna, and successfully completing a course in professional ethics. The costs were to be reimbursed within 90 days, the restitution was to be paid within six months, and the course in ethics was to be completed within two years.

4. In a decision dated September 11, 1997, that was to become effective October 16, 1997, but was stayed until November 17, 1997, the Board revoked respondent's license for failure to pay the $3,090.50 to the Board and the $13,435.76 to the DiDonnas. Respondent had not completed the ethics course, but that did not constitute a violation of probation because the two years he had been given to complete the course had not elapsed. The

revocation that became effective on November 17, 1997, was stayed for five years on terms and conditions that included the following:

> Condition No. 2: Respondent shall submit and/or cause to be submitted special reports as required by the Board.
>
> Condition No. 4: Respondent shall reimburse the Board for its costs of the Investigation and enforcement of the underlying case, in the amount of Three thousand, ninety dollars and fifty cents ($3,090.50) according to a payment schedule acceptable to Respondent and the Board. The period of probation shall not end until full payment is made.
>
> Condition No. 5: Respondent shall pay restitution for his breach of contract to the DiDonnas in the sum of thirteen thousand, four hundred thirty-five dollars and seventy-six cents ($13,435.76) according to a payment schedule mutually acceptable to Respondent and the Board. Respondent shall provide verifiable proof to the Board that the restitution has been paid as ordered. The period of probation shall not end unless Respondent has paid all restitution as ordered.
>
> Condition No. 7: Within one (1) year of the effective date of this decision, Respondent shall successfully complete and pass a course in professional ethics approved by the Board or its designee. Respondent shall provide the Board with an official transcript as proof of successful completion within Sixty (60) days of the completion date of the course.
>
> Condition No. 8: 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.

5. It is alleged that respondent has failed to comply with Condition Nos. 2, 4, 5 and 7 of the stay that became effective on November 17, 1997.

(a) With respect to Condition No. 2, respondent failed to respond to a letter from the Board, dated October 8, 1998, requiring him to submit a special report October 30, 1998, indicating his acceptance of a payment plan proposed by the Board or proposing a payment plan, himself. He has, therefore, violated Condition No. 2.

(b) With respect to Condition No. 4, respondent has not paid any part of the $3,090.50 that he was to pay the Board "according to a payment schedule acceptable to

Respondent and the Board." However, no such payment schedule has been agreed upon. Therefore, the allegation that respondent violated Condition No. 4 is found not to have been proved.

(c) With respect to Condition No. 5, respondent has not paid any part of the $13,435.76 that he was to pay the DiDonnas "according to a payment schedule mutually acceptable to Respondent and the Board." However, no such payment schedule has been mutually agreed upon. Therefore, the allegation that respondent violated Condition No. 5 is found not to have been proved.

(d) With respect to Condition No. 7, respondent has not even begun, much less successfully completed, a course in professional ethics, and he made it abundantly clear during the hearing that he resents having been ordered to take such a course and has deliberately failed to do so. He has, therefore, willfully violated Condition No. 7.

LEGAL CONCLUSIONS

Condition No. 8 of the stay and probation that became effective on November 17, 1997 provides in pertinent part that 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. Respondent has violated probation as set forth in Factual Finding 5(a) and (d). His probation may, therefore, be revoked, and the order revoking his license reinstated. In determining the appropriate order to be made under these circumstances, due consideration was given to the fact that respondent has been on probation twice and has violated each of those probations. It would, therefore, be futile to place him on probation again.

ORDER

The stay of the order, dated September 11, 1997, revoking respondent John Harvey Hansen's Civil Engineer's License, No. C26544, is hereby vacated, and his probation and license are revoked.

DATED: August 4, 2000

Original Signed

JERRY MITCHELL
Administrative Law Judge

BILL LOCKYER, Attorney General
of the State of California
MICHAEL R. GRANEN, State Bar No. 63350
Deputy Attorney General
300 S. Spring Street, Ste. 500
Los Angeles, California 90013
Telephone: (213) 897-2537

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: JOHN HARVEY HANSEN 3012 Antonino Street Bakersfield, CA 93308 Civil Engineer License No. C 26544 Respondent.	NO. 574-A PETITION TO REVOKE PROBATION

Complainant Cindi Christenson, P.E., for causes for discipline, alleges:

PARTIES

1. Complainant Cindi Christenson, P.E. makes and files this Petition to Revoke Probation in her official capacity as Executive Officer, Board for Professional Engineers and Land Surveyors (hereinafter the "Board"), Department of Consumer Affairs, State of California.

LICENSE STATUS

2. On or about March 10, 1976, the Board issued Civil Engineer License No. C26544 to John Harvey Hansen (hereinafter "Respondent"). The License was in full force and effect at all times relevant herein, except that it has been the subject of discipline as set forth below, and will expire on March 31, 2000 unless renewed.

JURISDICTION

3. Business and Professions Code Section 8780 provides that the Board may revoke or suspend the license of any civil engineer who it finds guilty of certain enumerated violations.

4. Business and Professions Code Section 118(b) provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Effective April 29, 1996 respondent's license was revoked, said revocation was stayed and respondent was placed on probation under certain terms and conditions including, but not limited to: reimbursement to the Board of the costs of investigation and enforcement of the underlying case, in the amount of three thousand, ninety dollars and fifty cents ($3,090.50); payment of $ 13, 435.76 in restitution and successful completion and passing a professional ethics course by April 29, 1998.

6. Effective October 16, 1997, based upon respondent's failure to comply with the above listed conditions of probation (with the exception of the ethic course provision which respondent was not required to complete by that date) respondent's license was ordered revoked, however, once again said revocation was stayed and respondent was placed on five years probation on various terms and conditions including, but not limited to, the following:

a. Condition Number 2: "Respondent shall submit and/or cause to be submitted special reports as required by the Board."

b. Condition Number 4: "Respondent shall reimburse the Board for the costs of the investigation and enforcement of the underlying case, in the amount of three thousand, ninety dollars and fifty cents ($3,090.50) according to a payment schedule mutually acceptable to Respondent and the Board. The period of probation shall not end until full payment is made."

c. Condition Number 5: "Respondent shall pay restitution for his

breach of contract to the DiDonnas in the sum of thirteen thousand, four hundred thirty-five dollars and seventy-six cents ($13,435.76) according to a payment schedule mutually acceptable to Respondent and the Board. Respondent shall provide verifiable proof to the Board that the restitution has been paid as ordered. The period of probation shall not end unless Respondent has paid all restitution as ordered."

d. Condition 7: "Within one (1) years of the effective date of this 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 sixty (60) days of the completion date of the course."

CAUSE FOR REVOCATION OF PROBATION

7. Respondent's probation is subject to revocation in that respondents has failed to comply with the conditions of probation imposed by the Board, by failing to comply with conditions of probation numbers 2, 4, 5 and 7 of the Board's decision of October 16, 1997.

WHEREFORE, complainant requests that a hearing be held on the matters alleged herein, and that following said hearing, the Board issue a decision:

1. Revoking or suspending Civil Engineer License Number C 26544 issued to respondent JOHN HARVEY HANSEN;
2. Taking such other and further action as may be deemed proper and appropriate.

DATED: March 31, 2000

Original Signed

Cindi Christenson, P.E., Executive Officer
Board for Professional Engineers
and Land Surveyors
Department of Consumer Affairs
State of California

Complainant

03551110-LA99AD1723

Exhibit D

Decision and Order

Board for Professional Engineers and Land Surveyors Case No. 574-A

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

In the Matter of the Petition for Reinstatement of Revoked License of: JOHN HARVEY HANSEN 3012 Antonino Avenue Bakersfield, CA 93308 Petitioner.	Board No. 574-A OAH No. L2003080303

DECISION ON PETITION FOR REINSTATEMENT

This matter came on regularly for hearing before a quorum of the above-entitled Board on Thursday, September 25, 2003 at Glendale, California. Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, presided during an open session of the Board held for the purpose of receiving evidence and argument concerning the petition of John Harvey Hansen for reinstatement of his revoked license, but took no part in the Board's deliberations held during an executive session of the Board convened for that purpose.

Susan Ruff, Deputy Attorney General, appeared on behalf of the Attorney General of the State of California. John Harvey Hansen, petitioner, appeared personally without legal counsel.

The parties presented oral and documentary evidence, argued their respective positions, and submitted the matter to the Board for its Decision. The Board finds, concludes and orders as follows:

Findings of Fact

1. On March 10, 1976, the Board granted License Number C 26544 as a Civil Engineer to John Harvey Hansen.

2. In July of 1987, Mr. Hansen entered into a contract with Michael and Julia Di Donna to prepare final parcel maps for land owned by them in the Angeles Crest Mountains of Los Angeles County. After a series of mishaps, characterized by many plan checks, billing disputes, miscommunication coupled with many instances of no communication, the County's approval of the Di Donna's tentative maps expired in 1993, six years after the engineering work was begun.

3. Petitioner's problems with the Di Donnas lead to an initiation of an administrative proceeding which first resulted in a stayed revocation of petitioner's license and a three-year probationary order. The first order in this case was made on April 29, 1996. Subsequently, the Board made its order modifying petitioner's probation, and imposing a five-year term on November 17, 1997. Then on October 6, 2000, petitioner's probation, as well as his license, was revoked outright.

4. During the seven year life of this proceeding, petitioner's practice has steadily dwindled, and his business operation shrunk to minimal level. Petitioner attributes this to the probationary requirement that he notify all clients that he was on probation to the Board, and the reason for such probation.

5. Because of this, petitioner's ability to earn enough money to meet his financial obligations as they became due has sharply diminished.

6. Among the conditions of probation imposed upon petitioner was a requirement that he make restitution to the Di Donnas of $13,435.76, and reimburse the Board its reasonable costs incurred in the prosecution of this administrative proceeding in the sum of $3,090.50. Respondent has made no payment on these two accounts. During the past two or three years, he has been financially unable to do so because of the circumstances described in Findings 4 and 5 above.

7. Respondent has presented evidence of his good character and reliability as an engineer. There is no evidence of any other professional problems beyond the Di Donna matter.

8. Respondent has evidenced his willingness to comply with the two payment orders described above, but has requested that the Board relieve him from the duty to disclose the existence of this administrative proceeding to his clients, and potential clients. Were the Board to grant him this relief, he believes his ability to meet his financial obligations will be materially enhanced.

Conclusions of Law

Under the foregoing facts and circumstances, the Board has jurisdiction to consider this petition for Reinstatement of Revoked License pursuant to Section 11522 of the Government Code.

Order

License RCE 26544 to practice in the State of California as a registered civil engineer, heretofore revoked for cause, is hereby reinstated, but again immediately revoked; provided, however, the instant order of revocation is hereby stayed and petitioner again placed on probation for a period of five years commencing upon the effective date hereof, upon each and all of the following terms and conditions:

1. The license, together with its incidental rights and privileges, is hereby suspended for a period not to exceed two years in totality commencing upon the effective date hereof and concurrently with the reinstatement order; the said order of suspension may terminate within the said two year period at such time as petitioner shall furnish the Board with proof to the Board's satisfaction that he has commenced the four six-month serial installment payments of restitution to the Di Donnas, in the manner as ordered hereinafter.

2. Petitioner shall pay to Michael and Julia Di Donna the sum of $13,435.76 in five equal payments and shall pay the first installment on or before the effective date hereof, and pay each of the remaining four installments[1] at the expiration of four equal six-month intervals thereafter. Petitioner shall furnish to the Board verifiable proof of each such payment immediately following the making of such payment.

3. Petitioner shall reimburse the Board the sum of $3,090.50 as and for its costs incurred in the prosecution of this matter within thirty months following the effective date hereof.

4. The petitioner shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.

5. The petitioner shall submit such special reports as the Board may require.

6. Within sixty (60) days of the effective date of the decision, the petitioner shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

7. The petitioner shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. Such course shall be completed on or before the expiration of thirty-six months from the effective date hereof.

8. The period of probation shall be tolled during the time the petitioner is practicing exclusively outside the State of California. If, during the period of probation, the petitioner practices exclusively outside the State of California, the petitioner shall immediately notify the Board in writing.

---

[1] Being the second through the fifth installment payments.

9. If petitioner violates the probationary conditions in any respect, the Board, after giving petitioner 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 petitioner, 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.

10. Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the petitioner's license shall be unconditionally restored.

Dated this 14th day of October, 2003 and effective on the 14th day of November, 2003.

BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

by Original Signed
(name)

Board President
(title)