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

In the Matter of the Accusation Against: **HIMATLAL BHAICHAND DAGLI** **3027 Mountain Drive** **Fremont, CA 94555** **Civil Engineer License No. C 28801** Respondent.	Case No. 885-A OAH No. 2010021084

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 September 10, 2010.

It is so ORDERED August 11, 2010.

Original Signed

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

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

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

In the Matter of the Accusation Against: **HIMATLAL BHAICHAND DAGLI** **3027 Mountain Drive** **Fremont, CA 94555** **Civil Engineer License No. C 28801** Respondent.	Case No. 885-A OAH No. 2010021084 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

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

2. Himatlal Bhaichand Dagli (Respondent) is represented in this proceeding by attorney Herbert W. Yanowitz, whose address is 225 Bush Street, Sixth Floor, San Francisco, CA 94104-4207.

3. On or about May 10, 1978, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 28801 to Himatlal Bhaichand Dagli (Respondent). The

license was in full force and effect at all times relevant to the charges brought in Accusation No. 885-A and will expire on December 31, 2010, unless renewed.

JURISDICTION

4. Accusation No. 885-A was filed before the Board for Professional Engineers and Land Surveyors (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 25, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 885-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 Accusation No. 885-A. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; 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 understands and agrees that the charges and allegations listed in Accusation No. 885-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil Engineer License.

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

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

CONTINGENCY

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

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

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

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

ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 28801, issued to Respondent Himatlal Bhaichand Dagli is surrendered and accepted by the Board for Professional Engineers and Land Surveyors.

15. Respondent hereby freely and voluntarily surrenders his Civil Engineer License, Number C 28801. This voluntary surrender shall be deemed a disciplinary action which shall become part of respondent's license history with the Board.

16. Respondent shall lose all rights and privileges as a civil engineer in California as of the effective date of the decision of the Board adopting this stipulation, including the right to use any of the restricted titles associated with his license.

17. Respondent shall cause to be delivered to the Board the pocket identification cards and wall certificate for this license on or before the effective date of the decision of the Board adopting this stipulation.

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

In exchange for these agreements, the Board will waive reimbursement of its costs of investigation and prosecution in this matter.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Herbert W. Yanowitz. I understand the stipulation and the effect it will have on my Civil Engineer License. I enter into this Stipulated Surrender of License and

Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board for Professional Engineers and Land Surveyors.

DATED: June 3rd 2010 Original Signed

HIMATLAL BHAICHAND DAGLI
Respondent

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

DATED: June 3, 2010 Original Signed

HERBERT W. YANOWITZ
Attorney for Respondent

ENDORSEMENT

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

Dated: ~~March 10,~~ 6/15 2010

Respectfully submitted,

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

Original Signed

CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

SF2009405275

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BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
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In the Matter of the Accusation Against: **HIMATLAL BHAICHAND DAGLI** **3027 Mountain Drive** **Fremont, CA 94555** **Civil Engineer License No. C 28801** Respondent.	Case No. 885-A **ACCUSATION**

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 May 10, 1978, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 28801 to Himatlal Bhaichand Dagli (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

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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:

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

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

. . .

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

5. Section 6787 of the Code states, in pertinent part:

"Every person is guilty of a misdemeanor:

. . .

"(b) Who presents or attempts to file as his or her own the certificate of licensure of a licensed professional engineer unless he or she is the person named on the certificate of licensure."

6. Section 8780 of the Code states:

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

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

"(a) Any fraud, deceit, or misrepresentation in his or her practice of land surveying.

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

"(c) Any fraud or deceit in obtaining his or her license.

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

"(e) Any conviction of a crime substantially related to the qualifications, functions, and duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.

"(f) Aiding or abetting any person in the violation of any provision of this chapter.

"(g) A breach or violation of a contract to provide land surveying services.

"(h) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board."

7. Section 8729(a)(3) of the Code states:

"If the business name of a California land surveying business contains the name of a person, then that person shall be licensed by the board as a land surveyor or licensed by the board in any year as a civil engineer. Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of the individual in the business name, shall clearly and specifically designate the license discipline of each individual named."

8. Section 8729(i) of the Code states:

"A current organization record form shall be filed with the board for all businesses engaged in rendering professional land surveying services."

9. Section 8792(b) of the Code states:

"Every person is guilty of a misdemeanor:

. . .

"(b) Who presents as his or her own the license of a professional land surveyor unless he or she is the person named on the license."

. . .

10. Title 16, California Code of Regulations, Section 463(b) states:

"A licensed land surveyor and/or civil engineer who practices or offers to practice land surveying, according to the provisions of Section 8729 of the Code, as a partner, member, or

officer of a partnership, firm, or corporation shall advise the Board within thirty (30) days of such association or termination of association on a form approved by the Board."

11. 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.

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

FIRST CAUSE FOR DISCIPLINE

(NEGLIGENCE)

13. Respondent is subject to disciplinary action under sections 8780(b) and (d) in that he was negligent in his practice of land surveying. The circumstances are as follows:

14. On or about November 1, 2002, Respondent submitted final plans for Building Permit No. 2001/0124/0457S1 to the City of San Francisco. Elevation data on the plans is shown for Lot 3 at the edge of the sidewalk, and at eight angle points around a building. The plan shows all eight angle points at Elevation 90.899 feet which indicates Respondent did not understand the concept of "significant figures.[1]" Moreover, these elevations could not have been properly measured in the field in that it is implausible for such a set of eight discreet measurements to be within .001 of each other.

SECOND CAUSE FOR DISCIPLINE

(INCOMPETENCE)

15. Respondent is subject to disciplinary action under sections 8780 (b) and (d) in that he was incompetent in his practice of land surveying. The circumstances are as follows:

[1] "Significant figures" relates to the relative accuracy of a numerical value. In general, the last digit is considered to be imprecise, owing to random and/or systematic errors. The more accurate a numerical value, the more significant figures are shown. Pavement surfaces are commonly rounded to the nearest hundredth, not to the nearest thousandth.

16. On or about November 1, 2002, Respondent submitted final plans for Building Permit No. 2001/0124/0457S1 to the City of San Francisco. Elevation data on the plans is shown for Lot 3 at the edge of the sidewalk, and at eight angle points around a building. The plan shows all eight angle points at Elevation 90.899 feet which indicates Respondent did not understand the concept of "significant figures." Moreover, these elevations could not have been properly measured in the field in that it is implausible for such a set of eight discreet measurements to be within .001 of each other.

THIRD CAUSE FOR DISCIPLINE

(AIDING AND ABETTING UNLICENSED PERSON)

17. Respondent is subject to disciplinary action under sections 8780 (f) and/or 8729(a)(3) in that he aided and abetted an unlicensed person. The circumstances are as follows:

18. On or about November 1, 2002, Respondent submitted final plans for Building Permit No. 2001/0124/0457S1 to the City of San Francisco. The plans contained the notation: "By: Himat B. Dagli R.C.E 21168 Expires December 31, 2002

Kung-Yuen Chiu and Associates"

19. Kung-Yuen Chiu is not a licensed civil engineer or land surveyor; if a person is named in a land surveying business, then that person must be licensed by the board.

FOURTH CAUSE FOR DISCIPLINE

(FAILING TO FILE ORGANIZATIONAL RECORD)

20. Respondent is subject to disciplinary action under sections 8729(i) and/or Title 16, California Code of Regulations, Section 463(b), in that he failed to file a current organization record form with the board for engaging in professional land surveying services. The circumstances are as follows:

21. As alleged above in paragraph 16, Respondent was associated with Kung-Yuen Chiu and Associates. The board did not have an organization record on file for Kung-Yuen Chiu and Associates.

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FIFTH CAUSE FOR DISCIPLINE

(PRESENTING LICENSE OF ANOTHER)

22. Respondent is subject to disciplinary action under sections 6775(h) and/or 6787(b) in that he presented the license of another professional land surveyor as his own. The circumstances are as follows:

23. On or about November 1, 2002, Respondent submitted final plans for Building Permit No. 2001/0124/0457S1 to the City of San Francisco. The plans contained the notation: "By: Himat B. Dagli R.C.E 21168 Expires December 31, 2002

Kung-Yuen Chiu and Associates"

The license number 21168 was not that of Respondent, but that of another professional land surveyor.

PRAYER

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

1. Revoking or suspending Civil Engineer License Number C 28801, issued to Himatlal Bhaichand Dagli.

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

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

DATED: 4/19/10

Original Signed

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

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