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

In the Matter of the Accusation Against: **GORDON NEIL POWERS** **11474 10th Avenue** **Hesperia, CA 92345-2026** **Civil Engineer Licence No. C 32077** **Land Surveyor License No. L 4629** Respondent.	Case No. 886-A **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 17, 2010, Complainant David E. Brown, in his official capacity as the Executive Officer of the Board for Professional Engineers and Land Surveyors, Department of Consumer Affairs, filed Accusation No. 886-A against Gordon Neil Powers (Respondent) before the Board for Professional Engineers and Land Surveyors.

2. On or about August 14, 1980, the Board for Professional Engineers and Land Surveyors (Board) issued Civil Engineer Licence No. C 32077 to Respondent. The Civil Engineer Licence expired on December 31, 2006, and has not been renewed.

3. On or about March 8, 1978, the Board issued Land Surveyor License No. L 4629 to Respondent. The Land Surveyor License expired on September 30, 2006, and has not been renewed.

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4. On or about March 16, 2010, V. Cruz, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 886-A, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: P.O. Box 297, Victorville, CA 92393. A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

5. On or about March 23, 2010, the aforementioned documents served at the P.O. Box address were returned by the U.S. Postal Service marked "Forward Time Expired, Return to Sender." The documents also had a forwarding sticker from the Post Office giving a forwarding address for Respondent of "11474 10th Avenue, Hesperia, Ca 92345-2026."

6. On or about March 24, 2010, V. Cruz, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 886-A, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's forwarding address that was provided by the Post Office, which is: 11474 10th Avenue, Hesperia, CA 92345-2026.

7. On or about May 17, 2010, the aforementioned documents served at 11474 10th Avenue in Hesperia, California were returned by the U.S. Postal Service marked "Unclaimed."

8. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

9. Business and Professions Code section 118 states, in pertinent part:

> (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.

10. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall

ORDER

IT IS SO ORDERED that Civil Engineer License No. C 32077 and Land Surveyor License No. L 4629 issued to Respondent Gordon Neil Powers are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

Pursuant to Business and Professions Code sections 6780 and 8785, Respondent may petition for reinstatement of the revoked licenses not less than one (1) year from the effective date of this decision.

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
State of California

Exhibit A
Accusation No. 886-A

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

In the Matter of the Accusation Against: **GORDON NEIL POWERS** **11474 10TH Avenue** **Victorville, CA 92393** **P.O. Box 297** **Victorville, CA 92393** **Land Surveyor License No. L 4629** **Civil Engineer License No. C 32077** Respondent.	Case No. 886-A **A C C U S A T I O N**

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 8, 1978, the Board for Professional Engineers and Land Surveyors issued Land Surveyor License Number L 4629 to Gordon Neil Powers (Respondent). The Land Surveyor License was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2006.

3. On or about August 14, 1980, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 32077 to Respondent. The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and expired on December 31, 2006.

JURISDICTION

4. 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 (Code) unless otherwise indicated.

5. Section 118, subdivision (b), of the Code provides that the expiration, surrender or cancellation 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.

6. Section 8780 of the Code states, in pertinent part,

> The board may receive and investigage 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:
>
> . . . .
>
> (d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.

STATUTORY PROVISIONS

7. Section 8762(b)(4) of the Code states, in pertinent part,

> After making a field survey in conformity with the practice of land surveying, the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following: the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which

are not ascertainable from an inspection of the subdivision map, official map, or record of survey.

8. California Code of Regulations, title16, section 464(c) states, in pertinent part,

> The corner record shall be filed within 90 days from the date a corner was found, set, reset, or used as control in any survey. The provisions for extending the time limit shall be the same as provided for a record of survey in Section 8762 of the Code.

COSTS

9. 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.

CAUSE FOR DISCIPLINE

(Violating Board Regulations)

10. Respondent is subject to disciplinary action under Code section 8780(d) for violations of the provisions of Code section 8762(b)(4) in that Respondent failed to file a Record of Survey or Corner Record with the Orange County Surveyor's Office for the northwest corner of Dale Street and Lampson Avenue in Garden Grove, California and described as Corner Record 2004-1365. The circumstances are as follows:

11. In 2004, Respondent and L.G., another civil engineer, performed a survey at Lampson Avenue and Beach Boulevard in Garden Grove, California. They used the intersection of Lampson Avenue and Dale Street as a reference monument for the survey, which is more particularly described as Corner Record 2004-1365. Monuments[1] bearing Respondent's Land Surveyor license number were placed in the curb marking the reference point for the survey. L.G. told Respondent that he had filed the proper paperwork and recorded the parcel map regarding the survey performed at Lampson Avenue and Beach Boulevard. On November 28, 2004, Respondent was advised by the Joint Professional Practices Committee that a Corner Report had

[1] A monument or tag is a small, round metal marker usually embedded in the curb and is used as a reference mark in land surveying. The monument has the license number on it of the land surveyor who placed the marker.

not been filed with the Orange County Surveyor's Office regarding the survey monuments that were placed at the northwest corner of Dale Street and Lampson Avenue in Garden Grove, California. Respondent failed to file a Corner Record with the Surveyor's Office as prescribed by law.

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 Land Surveyor License Number L 4629 issued to Gordon Neil Powers;

2. Revoking or suspending Civil Engineer License Number C 32077 issued to Gordon Neil Powers;

3. Ordering Gordon Neil Powers to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and

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

DATED: 2/17/10

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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