

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **FLOYD EDWARD DAVIS**
13 **4491 Mariposa Creek Circle**
14 **Mariposa, CA 95338**
Civil Engineer License No. C 32951
15 Respondent.

Case No. 992-A
OAH No. 2013050921
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Richard B. Moore, PLS ("Complainant") is the Executive Officer of the Board for
21 Professional Engineers, Land Surveyors, and Geologists. He brought this action solely in his
22 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
23 State of California, by Sterling A. Smith, Deputy Attorney General.

24 2. Respondent Floyd Edward Davis ("Respondent") is represented in this proceeding by
25 attorney Daniel L. Wainwright, whose address is: 5 River Park Place East, P.O. Box 28912
26 Fresno, CA 93720-1501.
27

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 992-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil
4 Engineer License.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

11 RESERVATION

12 11. The admissions made by Respondent herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Board or other professional licensing agency is
14 involved, and shall not be admissible in any other criminal or civil proceeding.

15 CONTINGENCY

16 12. This stipulation shall be subject to approval by the Board. Respondent understands
17 and agrees that counsel for Complainant and the staff of the Board may communicate directly
18 with the Board regarding this stipulation and settlement, without notice to or participation by
19 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
20 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
21 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
22 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
23 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
24 be disqualified from further action by having considered this matter.

25 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
27 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

1 have continuing jurisdiction until all matters are final, and the period of probation shall be
2 extended until all matters are final.

3 **5. Completion of Probation.** Upon successful completion of all of the probationary
4 conditions and the expiration of the period of probation, the Respondent's license shall be
5 unconditionally restored.

6 **6. Examination.** Within 60 days of the effective date of the decision, the Respondent
7 shall successfully complete and pass the California Laws and Board Rules examination, as
8 administered by the Board.

9 **7. Ethics Course.** Within four and one-half (4 ½) years from the effective date of the
10 decision, the Respondent shall successfully complete and pass a course in professional ethics,
11 approved in advance by the Board or its designee.

12 **8. Take And Pass Examinations.** Within four and one-half (4 ½) years of the
13 effective date of the decision, the Respondent shall attend and successfully complete five (5)
14 seminars, conferences, or courses totaling at least five (5) hours of course time. Said seminars,
15 conferences, and courses may be completed on line. Said seminars, conferences, and courses shall
16 be specifically related to civil/structural engineering involving wood, timber, or other related
17 materials. Said seminars, conferences, and courses shall be approved in advance by the Board or
18 its designee; the Board shall not unreasonably withhold said approval. All costs shall be the sole
19 responsibility of the Respondent. The Respondent shall provide the Board with verifiable proof of
20 attendance and/or completion of the seminars, conferences, and courses. For the purposes of this
21 condition, appropriate seminars, conferences, and courses shall be of a type offered by the
22 American Wood Council, the American Society of Civil Engineers, the California Association of
23 Building Officials, or other like and acceptable organizations.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Daniel L. Wainwright. 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, Land Surveyors, and Geologists.

DATED: April 1, 2014 *Original Signed*
FLOYD EDWARD DAVIS
Respondent

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

DATED: April 1, 2014 *Original Signed*
Daniel L. Wainwright, McCormick Barstow LLP,
Attorneys for Respondent

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board for Professional Engineers, Land Surveyors, and Geologists.

Dated: 4/1/2014

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

Original Signed
STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 992-A

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:

Case No. 992-A

13 **FLOYD EDWARD DAVIS, JR.**
dba DAVIS ENGINEERING
14 4491 Mariposa Creek Circle
Mariposa, CA 95338

A C C U S A T I O N

15
16 Civil Engineer License No. C 32951

17 Respondent.
18

19
20 Complainant alleges:

21 **PARTIES**

22 1. Richard B. Moore, PLS (Complainant) brings this Accusation solely in his official
23 capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and
24 Geologists, Department of Consumer Affairs (Board).

25 2. On or about July 15, 1981, the Board issued Civil Engineer License No. C 32951 to
26 Floyd Edward Davis, doing business as Davis Engineering (Respondent). The Civil Engineer
27 License was in full force and effect at all times relevant to the charges brought herein and will
28 expire on June 30, 2014, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board for Professional Engineers, Land
3 Surveyors, and Geologists (Board), Department of Consumer Affairs, under the authority of the
4 following laws. All section references are to the Business and Professions Code unless otherwise
5 indicated.

6 4. Section 6775 of the Business and Professions Code ("Code") states, in pertinent part,
7 that the board may reprove, suspend for a period not to exceed two years, or revoke the certificate
8 of any professional engineer registered under this chapter:

9 ...

10 (b) who has been found guilty by the board of any deceit, misrepresentation, or fraud in his
11 or her practice.

12 (c) who has been found guilty by the board of negligence or incompetence in his or her
13 practice.

14 ...

15 (g) who violates any provision of this chapter.

16 5. Section 8792, subdivision (g), of the Code provides, in pertinent part, that every
17 person is guilty of a misdemeanor who represents himself or herself as, or uses the title of,
18 professional land surveyor, or any other title whereby that person could be considered as
19 practicing or offering to practice land surveying, unless he or she is correspondingly qualified by
20 licensure as a land surveyor under this chapter.

21 6. Section 6735, subdivision (a), of the Code provides, in pertinent part, that all final
22 civil engineering plans and specifications (including structural and geotechnical) and all final
23 civil engineering calculations and reports shall bear the signature and seal or stamp of the
24 licensee, and the date of signing and sealing or stamping.

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

1 **PROJECT AT 4462 ASHWORTH ROAD, MARIPOSA, CALIFORNIA**

2 8. Some time in or about May 2008, Respondent agreed with owner Eric Cranson to
3 provide engineering services for the structural design of a metal building to be erected, including
4 but not limited to foundation engineering for a slab on grade for the building, at a site identified
5 as 4462 Ashworth Road, Mariposa, California (the project).

6 9. Some time before August 2008, Respondent prepared "Recommendations Per 2007
7 California Building Code, Chapter 16 Structural Design, Chapter 18 Soils and Foundation,
8 Chapter 23 Wood." This engineering document, among other things, characterized the Seismic
9 Design Category for the project as "Class C," characterized the Site Class as "Class B," and
10 recommended placement of brace wall panels at thirty-five (35) feet on center.

11 10. Drawings C-1, F-1, F-2 and structural calculations by the Metallic Building
12 Company, "Foundation Calcs" stamped and signed by Respondent, and Metallic Building
13 Company drawing F-1 marked up and initialed by Respondent, were also submitted by
14 Respondent for the project.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Incompetence or Negligence)**

17 11. Complainant incorporates Paragraphs 8-10 above. Respondent is subject to
18 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
19 rendering structural engineering services for the project in that:

20 (a) Respondent characterized the project site to be a Sesimic Design Category (SDC)
21 "Class C" and a Soils Classification "Class B" without an on-site geotechnical investigation of
22 the site, including site-specific sub-surface exploration, laboratory testing and geologic studies.
23 In the absence of such studies, the 2007 California Building Code characterizes the project as
24 Seismic Design Category "D" and Soils Class "D";

25 (b) Respondent recommended that for conventional light construction, brace wall panels
26 can be placed at thirty-five (35) feet on center when, for Seismic Design Category "D," the
27 California Building Code provides that spacing between . . . braced wall lines cannot exceed
28 twenty-five (25) feet.

1 (c) Footing sizes recommended by Respondent are inadequate for the design loads given
2 by the Metallic Building Company for the project, and footing reinforcement is not designed or
3 specified by Respondent;

4 (d) Slab-on-grade reinforcing for the project is neither designed nor specified by
5 Respondent, even though the foundation design utilizes slab-on-grade weight to resist column
6 uplift; and

7 (e) Anchor rod anchorage is not designed or specified by Respondent.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Use of PLS Designation Without Authorization)**

10 12. Respondent incorporates Paragraphs 8-10 above. Respondent is subject to
11 disciplinary action under Code section 6775, subdivision (h), because he violated Code section
12 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
13 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
14 not.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Misrepresentation in Practice of Professional Engineering)**

17 13. Respondent incorporates Paragraphs 8-10 above. Respondent is subject to
18 disciplinary action under Code section 6775, subdivision (b), for misrepresentation in the practice
19 of professional engineering in that in Respondent's "Recommendations Per 2007 California
20 Building Code, Chapter 16 Structural Design, Chapter 18 Soils and Foundation, Chapter 23
21 Wood" for the project, Respondent refers to himself as "Floyd E. Davis, Jr., MS Math, MSCE,
22 MBA, PE, PLS, AICP" when, in fact, Respondent was not a licensed professional land surveyor
23 (PLS).

24 **PROJECT AT 5114 W. WHITLOCK ROAD, MIDPINES, CALIFORNIA**

25 **FOURTH CAUSE FOR DISCIPLINE**

26 14. On or about March 28, 2008, Respondent entered into a letter-agreement with owner
27 Vince Lay to provide structural engineering design requirements, soils and foundation
28 requirements, excavation, grading and fill requirements and wood design requirements for the

1 grading of a proposed residential building pad, including but not limited to foundation
2 engineering, at a site identified as 5114 W. Whitlock Road, Midpines, California (the project).

3 15. In or about April 2008, Respondent prepared "Recommendations Per 2007 California
4 Building Code, Chapter 16 Structural Design, Chapter 18 Soils and Foundation, Chapter 23
5 Wood." This engineering document, among other things, characterized the Seismic Design
6 Category for the project as "Class C," characterized the Site Class as "Class B," and
7 recommended placement of brace wall panels at thirty-five (35) feet on center.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Incompetence or Negligence)**

10 16. Complainant incorporates Paragraphs 14 and 15 above. Respondent is subject to
11 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
12 rendering structural engineering services for the project in that:

13 (a) Respondent characterized the project site to be a Sesimic Design Category (SDC)
14 "Class C" and a Soils Classification "Class B" without an on-site geotechnical investigation of
15 the site, including site-specific sub-surface exploration, laboratory testing and geologic studies.
16 In the absence of such studies, the 2007 California Building Code characterizes the project as
17 Seismic Design Category "D" and Soils Class "D"; and

18 (b) Respondent recommended that for conventional light construction, brace wall panels
19 can be placed at thirty-five (35) feet on center when, for Seismic Design Category "D," the
20 California Building Code provides that spacing between . . . braced wall lines cannot exceed
21 twenty-five (25) feet.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Use of PLS Designation Without Authorization)**

24 17. Respondent incorporates Paragraphs 14 and 15 above. Respondent is subject to
25 disciplinary action under Code section 6775, subdivision (h), because he violated Code section
26 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
27 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
28 not.

1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Incompetence or Negligence)**

3 22. Complainant incorporates Paragraphs 20 and 21 above. Respondent is subject to
4 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
5 rendering structural engineering services for the project in that:

6 (a) Respondent characterized the project site to be a Sesimic Design Category (SDC)
7 "Class C" and a Soils Classification "Class B" without an on-site geotechnical investigation of
8 the site, including site-specific sub-surface exploration, laboratory testing and geologic studies.
9 In the absence of such studies, the 2007 California Building Code characterizes the project as
10 Seismic Design Category "D" and Soils Class "D"; and

11 (b) Respondent recommended that for conventional light construction, brace wall panels
12 can be placed at thirty-five (35) feet on center when, for Seismic Design Category "D," the
13 California Building Code provides that spacing between . . . braced wall lines cannot exceed
14 twenty-five (25) feet.

15 **TENTH CAUSE FOR DISCIPLINE**

16 **(Use of PLS Designation Without Authorization)**

17 23. Respondent incorporates Paragraphs 20 and 21 above. Respondent is subject to
18 disciplinary action under Code section 6775, subdivision (h) because he violated Code section
19 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
20 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
21 not.

22 **ELEVENTH CAUSE FOR DISCIPLINE**

23 **(Misrepresentation in Practice of Professional Engineering)**

24 24. Respondent incorporates Paragraphs 20 and 21 above. Respondent is subject to
25 disciplinary action under Code section 6775, subdivision (b), for misrepresentation in the practice
26 of professional engineering in that in Respondent's letter-agreement with Greg and Michalene
27 Ennis, Respondent refers to himself as "Floyd Davis, MS Math, MSCE, MBA, PE, PLS, AICP"
28 when, in fact, Respondent is not a licensed professional land surveyor (PLS).

1 (d) Slab-on-grade reinforcing is neither designed nor specified by Respondent, even
2 though the foundation design utilizes slab-on-grade weight to resist column uplift; and

3 (e) Anchor rod anchorage is not designed or specified by Respondent.

4 **THIRTEENTH CAUSE FOR DISCIPLINE**

5 **(Use of PLS Designation Without Authorization)**

6 28. Respondent incorporates Paragraphs 25 and 26 above. Respondent is subject to
7 disciplinary action under Code section 6775, subdivision (h) because he violated Code section
8 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
9 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
10 not.

11 **FOURTEENTH CAUSE FOR DISCIPLINE**

12 **(Misrepresentation in Practice of Professional Engineering)**

13 29. Respondent incorporates Paragraphs 25 and 26 above. Respondent is subject to
14 disciplinary action under Code section 6775, subdivision (b), for misrepresentation in the practice
15 of professional engineering in that in Respondent's "Building/Structure Recommendations 2007
16 California Building Code, Chapters 16, 18 and 23" for the project and the aforesaid
17 letter-agreement, Respondent refers to himself with the designations "MS Math, MSCE, MBA,
18 PE, PLS, AICP" when, in fact, Respondent is not a licensed professional land surveyor (PLS).

19 **PROJECT AT 5038 OAK ROAD, MARIPOSA, CALIFORNIA**

20 30. Some time before in or about July 2008, Respondent made a verbal agreement with
21 Barry Brouillette to provide structural engineering services, including but not limited to
22 foundation engineering, for a slab on grade for the building for placement of a modular residence
23 on a site identified as 5038 Oak Road, Mariposa, California.

24 31. Some time in or about August 2008, Respondent prepared "Recommendations Per
25 2007 California Building Code, Chapters 16 Structural Design Chapter 18 Soils and Foundation
26 Chapter 23 Wood." This engineering document, among other things, characterized the Seismic
27 Design Category (SDC) for the project as "Class C," characterized the Soils Classification as
28 "Class B," and recommended placement of brace wall panels at thirty-five (35) feet on center.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Incompetence or Negligence)**

3 32. Complainant incorporates Paragraphs 30 and 31 above. Respondent is subject to
4 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
5 rendering structural engineering services for the project in that:

6 (a) Respondent characterized the project site to be a Sesimic Design Category (SDC)
7 "Class C" and a Soils Classification "Class B" without an on-site geotechnical investigation of
8 the site, including site-specific sub-surface exploration, laboratory testing and geologic studies.
9 In the absence of such studies, the 2007 California Building Code characterizes the project as
10 Seismic Design Category "D" and Soils Class "D"; and

11 (b) Respondent recommended that for conventional light construction, brace wall panels
12 can be placed at thirty-five (35) feet on center when, for Seismic Design Category "D," the
13 California Building Code provides that spacing between . . . braced wall lines cannot exceed
14 twenty-five (25) feet.

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

16 **(Use of PLS Designation Without Authorization)**

17 33. Respondent incorporates Paragraphs 30 and 31 above. Respondent is subject to
18 disciplinary action under Code section 6775, subdivision (h), because he violated Code section
19 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
20 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
21 not.

22 **SEVENTEENTH CAUSE FOR DISCIPLINE**

23 **(Misrepresentation in Practice of Professional Engineering)**

24 34. Respondent incorporates Paragraphs 30 and 31 above. Respondent is subject to
25 disciplinary action under Code section 6775, subdivision (b), for misrepresentation in the practice
26 of professional engineering in that in "Recommendations Per 2007 California Building Code,
27 Chapters 16 Structural Design Chapter 18 Soils and Foundation Chapter 23 Wood," Respondent
28

1 refers to himself as "Floyd E. Davis, Jr., MS Math, MSCE, MBA, PE, PLS, AICP" when, in fact,
2 Respondent was not a licensed professional land surveyor (PLS).

3 **PROJECT AT 8093 HUNTERS VALLEY ROAD, MARIPOSA, CALIFORNIA**

4 35. Some time before in or about July 2008, Respondent made an agreement with
5 Christel Belrichard to provide structural engineering services, including but not limited to
6 foundation engineering, for a slab on grade for placement of a modular residence on a site
7 identified as 8093 Hunters Valley Road, Mariposa, California.

8 36. Some time in or about June 2008, Respondent prepared "Recommendations Per 2007
9 California Building Code, Chapters 16 Structural Design Chapter 18 Soils and Foundation
10 Chapter 23 Wood." This engineering document, among other things, characterized the Seismic
11 Design Category (SDC) for the project as "Class B," characterized the Soils Classification as
12 "Class B," and recommended placement of brace wall panels at thirty-five (35) feet on center.

13 **EIGHTEENTH CAUSE FOR DISCIPLINE**

14 **(Incompetence or Negligence)**

15 37. Complainant incorporates Paragraphs 35 and 36 above. Respondent is subject to
16 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
17 rendering structural engineering services for the project in that:

18 (a) Respondent characterized the project site to be a Sesismic Design Category (SDC)
19 "Class B" and a Soils Classification "Class B" without an on-site geotechnical investigation of
20 the site, including site-specific sub-surface exploration, laboratory testing and geologic studies.
21 In the absence of such studies and date, the 2007 California Building Code characterizes the
22 project as Seismic Design Category "D" and Soils Class "D"; and

23 (b) Respondent recommended that brace wall panels can be placed at thirty-five (35) feet
24 on center when, for Seismic Design Category "D," the California Building Code provides that
25 spacing between . . . braced wall lines cannot exceed twenty-five (25) feet.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

2 **(Use of PLS Designation Without Authorization)**

3 38. Respondent incorporates Paragraphs 35 and 36 above. Respondent is subject to
4 disciplinary action under Code section 6775, subdivision (h), because he violated Code section
5 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
6 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
7 not.

8 **TWENTIETH CAUSE FOR DISCIPLINE**

9 **(Misrepresentation in Practice of Professional Engineering)**

10 39. Respondent incorporates Paragraphs 35 and 36 above. Respondent is subject to
11 disciplinary action under Code section 6775, subdivision (b), for misrepresentation in the practice
12 of professional engineering in that in "Recommendations Per 2007 California Building Code,
13 Chapters 16 Structural Design Chapter 18 Soils and Foundation Chapter 23 Wood," Respondent
14 refers to himself as "Floyd E. Davis, Jr., MS Math, MSCE, MBA, PE, PLS, AICP" when, in fact,
15 Respondent was not a licensed professional land surveyor (PLS).

16 **PROJECT AT 3225 TRIANGLE ROAD, MARIPOSA, CALIFORNIA**

17 40. Some time before in or about June 2008, Respondent entered into a letter-agreement
18 with John Ruccione and Katherine Ruccione to provide structural engineering services, including
19 but not limited to soils documentation and wood design requirements, for a slab on grade and
20 placement of a structure on a site identified as 3225 Triangle Road, Mariposa, California.

21 41. Some time thereafter in or about 2008, Respondent prepared "Recommendations Per
22 2007 California Building Code, Chapters 16 Structural Design Chapter 18 Soils and Foundation
23 Chapter 23 Wood." This engineering document, among other things, characterized the Seismic
24 Design Category (SDC) for the project as "Class C," the Soils Classification as "Class B," and
25 recommended placement of brace wall panels at thirty-five (35) feet on center.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Incompetence or Negligence)**

3 42. Complainant incorporates Paragraphs 40 and 41 above. Respondent is subject to
4 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
5 rendering structural engineering services for the project in that:

6 (a) Respondent characterized the project site to be a Sesimic Design Category (SDC)
7 "Class B" and a Soils Classification "Class B" without an on-site geotechnical investigation of
8 the site, including site-specific sub-surface exploration, laboratory testing and geologic studies.
9 In the absence of such studies, the 2007 California Building Code characterizes the project as
10 Seismic Design Category "D" and Soils Class "D"; and

11 (b) Respondent recommended that brace wall panels can be placed at thirty-five (35) feet
12 on center when, for Seismic Design Category "D," the California Building Code provides that
13 spacing between . . . braced wall lines cannot exceed twenty-five (25) feet.

14 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

15 **(Use of PLS Designation Without Authorization)**

16 43. Respondent incorporates Paragraphs 40 and 41 above. Respondent is subject to
17 disciplinary action under Code section 6775, subdivision (h), because he violated Code section
18 8792, subdivision (h). Respondent used a "PLS" designation in his practice of professional
19 engineering, indicating that he was a licensed professional land surveyor when, in fact, he was
20 not.

21 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

22 **(Misrepresentation in Practice of Professional Engineering)**

23 44. Respondent incorporates Paragraphs 40 and 41 above. Respondent is subject to
24 disciplinary action under Code section 6775, subdivision (b), for misrepresentation in the practice
25 of professional engineering in that in the aforesaid letter-agreement, Respondent refers to himself
26 as having the designations "MS Math, MSCE, MBA, PE, PLS, AICP" when, in fact, Respondent
27 is not a licensed professional land surveyor (PLS).

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1 **PROJECT INSPECTION AT 4462 ASHWORTH ROAD, MARIPOSA, CALIFORNIA**

2 45. In or about 1998, owner Eric Cranston retained Roger Stevens Engineering to prepare
3 a structural design for a residence to be constructed at 4462 Ashworth Road, Mariposa,
4 California, at a location of severe wind exposure. Construction of the residence commenced in
5 1999.

6 46. In January 2000, the Mariposa County Building Department found deviations from
7 the approved drawings in the framing of the residence and issued Correction Notices. Thereafter,
8 Thor Matteson of Roger Stevens Engineering inspected the framing as engineer of record;
9 determining parts of the lateral force resisting system of the residence were missing or installed
10 improperly, and issued Field Observation Reports describing the deficiencies.

11 47. Thereafter, Respondent replaced Thor Matteson as engineer of record for the project,
12 and to address alleged errors and deviations from the structural plans for the project.

13 48. By letter dated February 4, 2000, Respondent informed the Mariposa County
14 Building Department, in pertinent part, that he had inspected the residence as it was being
15 constructed and found that as built, it would adequately resist wind loads anticipated for the area.

16 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

17 **(Negligence)**

18 49. Complainant incorporates Paragraphs 45-48 above. Respondent is subject to
19 disciplinary action under Code section 6775, subdivision (c), because he negligently performed
20 the acts or omissions in response to alleged structural deficiencies in the framing of the residence,
21 in that:

22 (a) Respondent's letter of February 4, 2000, states that as-built, the configuration of the
23 shear walls is acceptable, and without addressing resolution of specific deficiencies described in
24 the aforesaid Correction Notices or the Field Observation Report or whether or not the work
25 Respondent inspected complied with approved plans and applicable codes;

26 (b) Respondent's letter of February 4, 2000, states that the "residence has been
27 constructed adequately to resist wind loads anticipated for the area" without explaining how the
28

1 deficiencies in the lateral force resisting system described in the Correction Notices and the Field
2 Observation Report were resolved, and without providing any alternative engineering design.

3 **PROJECT AT 2576 CHILNUALNA ROAD, FISH CAMP, CALIFORNIA**

4 50. Some time in or about July 2008, Respondent prepared a "Foundation & Lateral
5 Analysis" for the construction of a wood frame structure on the property located at 2576
6 Chilnualua Road, Fish Camp, California (project).

7 51. On or about July 24, 2008, the Mariposa County Building Department issued a
8 Correction Notice requesting that the engineer of record approve non-typical foundation designed
9 for the project.

10 52. On or about August 4, 2008, Respondent made notes on a "Foundation Plan and Floor
11 Framing Plan" drawing for the project, a drawing previously stamped and signed by Mahmood
12 Nasirharangi, the project's engineer of record.

13 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

14 **(Negligence)**

15 53. Complainant incorporates Paragraphs 50-52 above. Respondent is subject to
16 disciplinary action under Code section 6775, subdivision (c), for negligence in that Respondent in
17 that:

18 (a) He made notes on the Correction notice stating, in pertinent part, that "informed
19 client today & contractor to pour [place concrete] tomorrow." thereby usurping the Mariposa
20 County Building Department's authority; and

21 (a) He made notes on the aforesaid Correction Notice stating that Respondent "informed
22 client today & contractor to pour [place concrete] tomorrow." By Respondent's act, he usurped
23 the authority of the project engineer of record.

24 **SAVORY'S RESTAURANT PROJECT**

25 54. On or about July 31, 2008, Respondent prepared "Structural Cales" for construction
26 of tenant improvements at Savory's Restaurant, 5034 Highway 140, Mariposa, California,
27 including specifications for construction of new openings in an existing concrete masonry wall,
28

1 based upon drawings prepared by Yosemite Drafting & Design Company that themselves
2 provided no structural information regarding the concrete masonry wall.

3 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

4 **(Negligence)**

5 55. Complainant incorporates Paragraph 54. Respondent is subject to disciplinary action
6 under Code section 6775, subdivision (c), by negligently designing the new openings for the
7 existing concrete masonry wall. Respondent's "Structural Calcs" do not take into account the
8 lateral strength of the existing masonry wall, which may create a structural code and strength
9 deficiency at the existing concrete masonry wall for the perpendicular-to-plane loads.

10 **PROJECT AT 6587 GREELEY HILL ROAD, COULTERVILLE, CALIFORNIA**

11 56. Some time before in or about August 2008, Respondent agreed to perform an on-site
12 inspection of a mobile home for erection by owner Donald Ragsdale on property located at 6587
13 Greeley Hill Road, Coulterville, California. By letter dated August 19, 2008, Respondent
14 informed John Davis, then Building Director for the Mariposa County Building Department, that
15 Respondent had inspected the subject mobile home and of the opinion that although the subject
16 mobile home's specified snow load of thirty (30) pounds per square foot is less than Mariposa
17 County's designated snow load of forty (40) pounds per square foot, the mobile home exceeds the
18 State of California designation and has adequate structure integrity for erection at the site.

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

20 **(Negligence)**

21 57. Complainant incorporates Paragraph 56. Respondent is subject to disciplinary action
22 under Code section 6775, subdivision (c), for negligence in that Respondent's letter of August 19,
23 2008, to the Mariposa County Building Department Director, is devoid of any engineering
24 analysis or discussion, and provides no indication that Respondent reviewed the structural
25 drawings for the subject mobile home.

26 ///

27 ///

28 ///

1 **PROJECT AT 5882 WEST WHITLOCK ROAD, MARIPOSA, CALIFORNIA**

2 58. Some time before in or about October 2008, Respondent agreed with owners Rocco
3 Millard and Staci Millard to perform a site inspection regarding the soil compaction on their
4 property located at 5882 West Whitlock Road, Mariposa, California.

5 59. By letter dated October 21, 2008, Respondent reported to the Mariposa County
6 Building Department that he had made an on-site inspection of the soil compaction performed on
7 the property. Respondent's inspection report states that in his professional opinion, "the
8 compaction efforts and methods used resulted in a soils condition that is equal to or greater than
9 the pre-existing condition prior to the foundation removal after the Telegraph Fire. Therefore, I
10 am comfortable with the replacement of the retaining wall for the garage and other related
11 foundation work as outlined on the plans"

12 60. On or about October 22, 2008, Technicon Engineering Services, Inc. issued a soils
13 compaction report for the property stating, among other things, that the relative compaction of the
14 soils on the property fell below the minimum relative compaction percentage of 90 percent
15 required.

16 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

17 **(Incompetence or Negligence)**

18 61. Complainant incorporates Paragraphs 58-60 above. Respondent is subject to
19 disciplinary action under Code section 6775, subdivision (c), for incompetence or negligence in
20 rendering structural engineering services. Respondent provided an inspection report stating that
21 compaction of the soils on the property met minimum requirements without first performing or
22 reviewing field and laboratory testing to determine soils density and/or strength. In fact, soils
23 density studies released the day after Respondent provided his inspection report showed that
24 Respondent's opinion was incorrect.

25 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

26 **(Failure to Comply re Sealing, Stamping and/or Dating of Engineering Documents)**

27 62. Respondent incorporates Paragraphs 58-60 above. Respondent is subject to
28 disciplinary action under Code section 6775, subdivision (h), because he violated Code section

1 6735 by failing to sign and seal or stamp and date Respondent's letter of October 21, 2008, to the
2 Mariposa County Building Department regarding the soils compaction on the property.

3 **LUSHMEADOW FIRE STATION PROJECT, MARIPOSA, CALIFORNIA**

4 63. In or about 1984, Respondent prepared drawings for the construction of a fire station
5 for the Lushmeadows Volunteer Fire Fighters for the County of Mariposa (the project).

6 **THIRTIETH CAUSE FOR DISCIPLINE**

7 **(Incompetence)**

8 64. Complainant incorporates Paragraph 63 above. Respondent is subject to disciplinary
9 action under Code section 6775, subdivision (c), for incompetence in rendering structural
10 engineering services in that:

11 (a) Respondent's drawings for the project provide for construction of king-studs at the
12 garage doors that are significantly overstressed and exceed California Building Code wind load
13 requirements; and

14 (b) Respondent's drawings for the project provide for construction of 2x12 floor joists
15 spanning twenty-four (24) feet, which violates the California Building Code by exceeding the
16 allowed span of twenty-two feet, five inches (22' 5").

17 **MORMON BAR FIRE STATION PROJECT, MARIPOSA COUNTY, CALIFORNIA**

18 65. In or about 1982, Respondent prepared a drawing for the construction of a fire station
19 for the Mormon Bar Fire Station in the County of Mariposa (the project).

20 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

21 **(Incompetence)**

22 66. Complainant incorporates Paragraph 65 above. Respondent is subject to disciplinary
23 action under Code section 6775, subdivision (c), for incompetence in rendering structural
24 engineering services in that:

25 (a) Respondent's drawings for the project provide for construction of notched king-studs
26 at the garage doors that are significantly overstressed and exceed California Building Code wind
27 load requirements; and

28

1 (b) Respondent's specification that mudsill anchor bolts be installed twenty-four (24)
2 inches from splices and openings violates California Building Code requirements that anchor
3 bolts be placed within twelve (12) inches of each end of each piece.

4 **PROJECT AT 5647 BLACKBERRY CREEK DRIVE, MARIPOSA, CALIFORNIA**

5 67. On or about July 29, 2009, Respondent and Bill Lowe entered into a written
6 letter-agreement whereby Respondent agreed to provide structural engineering services, including
7 foundation design, for the construction of a two story addition to Mr. Lowe's residence at 5647
8 Blackberry Creek Drive, Mariposa, California (the project).

9 68. Pursuant to the letter-agreement, Respondent prepared and submitted documentation
10 to the Mariposa County Building Department, including "Structural Calculations" and a set of
11 drawings (Sheets A-01 through A-08) prepared by Yosemite Drafting & Design Company that
12 are signed and stamped by Respondent.

13 69. On or about September 14, 2009, acting at the request of the Mariposa County
14 Building Department, J.A. Crandall of Crandall Engineering performed a plan check for the
15 project for the Mariposa County Building Department for conformance to the structural
16 provisions of the 2007 California Building Code. Mr. Crandall concluded that the calculations
17 and plans submitted for the project omit significant structural detail so that conformance with the
18 2007 California Building Code cannot be verified.

19 70. Thereafter, Respondent submitted a set of "Revision 2" drawings (Sheets A-01-A-10 &
20 S-1) prepared by Yosemite Drafting & Design Company signed and stamped by Respondent and
21 an "Addendum 1 to Structural Calculations for William Lowe, 5647 Blackberry Creek Road,
22 Mariposa, California 95338."

23 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

24 **(Negligence)**

25 71. Complainant incorporates Paragraphs 67-70 above. Respondent is subject to
26 disciplinary action under Code section 6775, subdivision (c), for negligence in rendering
27 structural engineering services for the project in that Respondent omitted an interior bearing wall
28

1 footing from his calculations and drawings for the project, and failed to make any correction in
2 response to plan check comments identifying the deficiency.

3 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

4 **(Incompetence)**

5 72. Complainant incorporates Paragraph 67-70 above. Respondent is subject to
6 disciplinary action under Code section 6775, subdivision (c), for incompetence in rendering
7 structural engineering services for the project in that:

8 (a) Respondent omitted proper specifications for fasteners and connectors in contact with
9 pressure-treated wood, and failed to make any correction in response to plan check comments
10 identifying the deficiency; and

11 (b) Respondent failed to consider the seismic connection or separation of the proposed
12 additional structures and existing structures of the project, and failed to make any correction in
13 response to plan check comments identifying the deficiency.

14 **DISCIPLINE CONSIDERATIONS**

15 73. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges:

17 (a) On or about February 5, 1993, by Stipulation, Decision and Order adopted by the
18 Board in a prior disciplinary action entitled *In the Matter of the Accusation Against Floyd Edward*
19 *Davis before the Board for Professional Engineers, Land Surveyors, and Geologists, Case No.*
20 *562-A*, alleging Respondent's unprofessional conduct in the practice of civil engineering,
21 Respondent's civil engineering registration was suspended for ninety (90) days with the
22 suspension stayed and two years probation. As part of his probation, Respondent's civil
23 engineering registration was actually suspended for sixty (60) days. The decision is final and is
24 incorporated by reference as if fully set forth.

25 (b) On or about August 19, 1994, by Stipulation and Order adopted by the Board in a
26 prior disciplinary action entitled *In the Matter of the Accusation Against Floyd Edward Davis*
27 *before the Board for Professional Engineers, Land Surveyors, and Geologists, Case No. 509-A*,
28 alleging negligence against Respondent in the practice of civil engineering, Respondent's license

1 was revoked with revocation stayed and three years probation. In addition Respondent's
2 Registration to practice as a civil engineer was actually suspended for sixty (60) days and a letter
3 of public reproof was issued against Respondent. The decision is final and is incorporated by
4 reference as if fully set forth.

5 **PRAYER**

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

- 9 1. Revoking or suspending Civil Engineer Registration No. C 32951, issued to Floyd
10 Edward Davis doing business as Davis Engineering;
- 11 2. Ordering Floyd Edward Davis doing business as Davis Engineering to pay the Board
12 for Professional Engineers, Land Surveyors, and Geologists the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.
- 16

17
18 DATED: 8/06/12

Original Signed

19 RICHARD B. MOORE, PLS
20 Executive Officer
21 Board for Professional Engineers, Land Surveyors, and
22 Geologists
23 Department of Consumer Affairs
24 State of California
25 Complainant