

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

In the Matter of the Accusation against:)

IAN ROBERTSON WADDELL)
519 10th Street)
Huntington Beach, CA 92648)

Case No. 995-A

Civil Engineer License No. C 41219,)

Respondent.)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on January 11, 2013.

IT IS SO ORDERED December 7, 2012.

Original Signed

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

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 995-A

13 **IAN ROBERTSON WADDELL**
14 **519 10th Street**
Huntington Beach, CA 92648

OAH No. 2012 07 0357

15 **Civil Engineer License No. C 41219**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board for Professional Engineers, Land Surveyors, and
20 Geologists of the Department of Consumer Affairs, the parties hereby agree to the following
21 Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval
22 and adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Richard B. Moore, PLS (Complainant) is the Executive Officer of the Board for
25 Professional Engineers, Land Surveyors, and Geologists. He brought this action solely in his
26 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
27 State of California, by Lauro A. Paredes, Deputy Attorney General.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 995-A., if proven at a hearing, constitute cause for imposing discipline upon his
4 License.

5 10. 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 11. 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 CONTINGENCY

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

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

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Civil Engineer License No. C 41219 issued to Respondent
9 Ian Robertson Waddell (Respondent) is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

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

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

19 4. **Violation of Probation.** If the Respondent violates the probationary conditions in
20 any respect, the Board, after giving the Respondent notice and the opportunity to be heard, may
21 vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of
22 probation, an accusation or petition to vacate stay is filed against the Respondent, or if the matter
23 has been submitted to the Office of the Attorney General for the filing of such, the Board shall
24 have continuing jurisdiction until all matters are final, and the period of probation shall be
25 extended until all matters are final.

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

1 6. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the
2 amount of \$5,072.50 within 30 months from the effective date of this decision for its investigative
3 and prosecution costs. Failure to reimburse the Board's costs of its investigation and prosecution
4 shall constitute a violation of the probation order, unless the Board agrees in writing to payment
5 by an installment plan because of financial hardship.

6 7. **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 8. **Ethics Course.** Within 30 months of the effective date of the Board's decision,
10 Respondent shall successfully complete and pass a course in professional ethics, approved in
11 advance by the Board or its designee.

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

22 10. **Violation of Probation.** If Respondent violates the terms of this probation in any
23 respect, the Board, after giving Respondent notice and the opportunity to be heard, may set aside
24 the stay order and impose the revocation or suspension of the Respondent's license. If a Petition
25 to Revoke probation or Accusation is ever filed, all charges and allegations in Accusation Case
26 No. No. 995-A are deemed to be true and admitted by Respondent. If, during the period of
27 probation, an accusation and/or a petition to revoke probation or both has been filed against
28 Respondent's license or the Attorney General's Office has been requested to prepare an

1 accusation and/or a petition to revoke probation or both against Respondent's license, the
2 probationary period shall automatically be extended and shall not expire until the accusation
3 and/or the petition to revoke probation has been acted upon by the Board. Upon successful
4 completion of probation, Respondent's license will be fully restored.

5 11. Upon successful completion of all of the probationary conditions and the expiration
6 of the period of probation, the Respondent's Civil Engineer License, No. C 41219, shall be
7 unconditionally restored.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Hal G. Block. I understand the stipulation and the effect it will
11 have on my Civil Engineer License. I enter into this Stipulated Settlement and Disciplinary Order
12 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
13 Board for Professional Engineers, Land Surveyors, and Geologists.

14
15 DATED: 10/22/12 *Original Signed*
16 IAN ROBERTSON WADDELL
Respondent

17 I have read and fully discussed with Respondent Ian Robertson Waddell the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20 DATED: 10/22/12 *Original Signed*
21 HAL G. BLOCK
Attorney for Respondent

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ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Original Signed

LAURO A. PAREDES
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 995-A

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
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14
15 **Civil Engineer License No. C 41219**

16 Respondent.

Case No. 995-A

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about August 1, 1986, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Civil Engineer License Number C 41219 to Ian Robertson Waddell
25 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on March 31, 2013, unless renewed.

1 **JURISDICTION**

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 Code states, in pertinent part,

7 [T]he board may revoke, suspend for a period not to exceed two
8 years, or revoke the certificate of any professional engineer registered under
9 this chapter:

10 ...

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

13 ...

14 (g) Who in the course of the practice of professional engineering has
15 been found guilty by the board of having violated a rule or regulation of
16 unprofessional conduct adopted by the board.

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

18 ...

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

22 **REGULATORY PROVISIONS**

23 6. California Code of Regulations, title 16, section 475 states, in pertinent part,

24

25 (e) Document Submittal:

26 (1) A licensee shall not misrepresent the
27 completeness of the professional documents he or
28 she submits to a governmental agency.

(2) A licensee shall not misrepresent the
completeness of the professional documents he or she
prepared to his or her client or to other involved parties.

1 **COSTS**

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

6 **PROJECT OVERVIEW**

7 8. Respondent reviewed and approved, stamped and signed slab-on-grade engineering
8 calculations and plans for a home located at 89 Via Regalo in San Clemente, California. Soon
9 after moving into the home, the owner complained that there was exposed rebar on the outside of
10 the home’s foundation. The homeowner contacted the builder to request a site review and
11 comment on the safety to the residence caused by the exposed rebar. Based on the site
12 investigation done by others, Respondent generated and sent a letter to the builder, who then
13 provided this letter to the homeowner. The letter indicated that there was no structural safety
14 concerns caused by the exposed rebar; the letter also provided basic repair recommendations.
15 The homeowner contacted the Respondent to inquire about the letter provided but did not receive,
16 in her opinion, a satisfactory response. The homeowner believed that the exposed rebar was a
17 threat to the stability of her home and contacted the Board for Professional Engineers, Land
18 Surveyors, and Geologists who opened an investigation.

19 9. The Board’s investigation revealed that the exposed rebar was not a threat to the
20 stability of the home. However, Respondent made several errors and omissions in the plans and
21 calculations which are detailed below.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Negligence in the Practice of Engineering)**

24 10. Respondent is subject to disciplinary action under Code section 6775 (c) in that
25 Respondent was negligent in his practice of engineering regarding the project on 89 Via Regalo in
26 San Clemente, California, as follows.

