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

11 In the Matter of the Accusation Against:

Case No. 948-A

12 **WALTER FRED LUNDIN**  
13 **P.O. Box 153190**  
**Santa Rita, CA 96915**

**A C C U S A T I O N**

14 **Civil Engineer License No. C 44453**  
15 **Land Surveyor License No. L 7707**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 8, 2000, the Board for Professional Engineers and Land  
24 Surveyors issued Land Surveyor License Number L 7707 to Walter Fred Lundin (Respondent).  
25 The Land Surveyor License was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on December 31, 2010, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board for Professional Engineers and Land  
3 Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws.

4 All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 8780 of the Code states, in pertinent part:

6 [T]he board may reprove, suspend for a period not to exceed two years, or  
7 revoke the license or certificate of any licensed land surveyor or registered civil  
8 engineer, respectively, licensed under this chapter or registered under the  
9 provisions of Chapter 7 (commencing with Section 6700), whom it finds to be  
10 guilty of:

11 . . . .

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

13 . . . .

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

16 . . . .

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

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

23 **STATUTORY PROVISIONS**

24 6. Section 8762 of the Code states:

25 (a) Except as provided in subdivision (b), after making a field survey in  
26 conformity with the practice of land surveying, the licensed surveyor or licensed  
27 civil engineer may file with the county surveyor in the county in which the field  
28 survey was made, a record of the survey.

(b) Notwithstanding subdivision (a), 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:

(1) Material evidence or physical change, which in whole or in part does not  
appear on any subdivision map, official map, or record of survey previously  
recorded or properly filed in the office of the county recorder or county surveying  
department, or map or survey record maintained by the Bureau of Land  
Management of the United States.

1 (2) A material discrepancy with the information contained in any subdivision  
2 map, official map, or record of survey previously recorded or filed in the office of  
3 the county recorder or the county surveying department, or any map or survey  
4 record maintained by the Bureau of Land Management of the United States. For  
5 purposes of this subdivision, a "material discrepancy" is limited to a material  
6 discrepancy in the position of points or lines, or in dimensions.

7 (3) Evidence that, by reasonable analysis, might result in materially alternate  
8 positions of lines or points, shown on any subdivision map, official map, or record  
9 of survey previously recorded or filed in the office of the county recorder or the  
10 county surveying department, or any map or survey record maintained by the  
11 Bureau of Land Management of the United States.

12 (4) The establishment of one or more points or lines not shown on any  
13 subdivision map, official map, or record of survey, the positions of which are not  
14 ascertainable from an inspection of the subdivision map, official map, or record of  
15 survey.

16 (5) The points or lines set during the performance of a field survey of any  
17 parcel described in any deed or other instrument of title recorded in the county  
18 recorder's office are not shown on any subdivision map, official map, or record of  
19 survey.

20 (c) The record of survey required to be filed pursuant to this section shall be  
21 filed within 90 days after the setting of boundary monuments during the  
22 performance of a field survey or within 90 days after completion of a field survey,  
23 whichever occurs first.

24 (d)(1) If the 90-day time limit contained in subdivision (c) cannot be  
25 complied with for reasons beyond the control of the licensed land surveyor or  
26 licensed civil engineer, the 90-day time period shall be extended until the time at  
27 which the reasons for delay are eliminated. If the licensed land surveyor or  
28 licensed civil engineer cannot comply with the 90-day time limit, he or she shall,  
prior to the expiration of the 90-day time limit, provide the county surveyor with a  
letter stating that he or she is unable to comply. The letter shall provide an estimate  
of the date for completion of the record of survey, the reasons for the delay, and a  
general statement as to the location of the survey, including the assessor's parcel  
number or numbers.

(2) The licensed land surveyor or licensed civil engineer shall not initially be  
required to provide specific details of the survey. However, if other surveys at the  
same location are performed by others which may affect or be affected by the  
survey, the licensed land surveyor or licensed civil engineer shall then provide  
information requested by the county surveyor without unreasonable delay.

(e) Any record of survey filed with the county surveyor shall, after being  
examined by him or her, be filed with the county recorder.

(f) If the preparer of the record of survey provides a postage-paid, self-  
addressed envelope or postcard with the filing of the record of survey, the county  
recorder shall return the postage-paid, self-addressed envelope or postcard to the  
preparer of the record of survey with the filing data within 10 days of final filing.  
For the purposes of this subdivision, "filing data" includes the date, the book or  
volume, and the page at which the record of survey is filed with the county  
recorder.

1 7. Section 8773 of the Code states:

2 (a) Except as provided in subdivision (b) of Section 8773.4, a person  
3 authorized to practice land surveying in this state shall complete, sign, stamp with  
4 his or her seal, and file with the county surveyor or engineer of the county where  
5 the corners are situated, a written record of corner establishment or restoration to  
6 be known as a "corner record" for every corner established by the Survey of the  
7 Public Lands of the United States, except "lost corners," as defined by the Manual  
8 of Instructions for the Survey of the Public Lands of the United States, and every  
9 accessory to such corner which is found, set, reset, or used as control in any survey  
10 by such authorized person.

11 (b) After the establishment of a lost corner, as defined by the Manual of  
12 Instructions for the Survey of the Public Lands of the United States, a record of  
13 survey shall be filed as set forth in Section 8764.

14 (c) Any person authorized to practice land surveying in this state may file  
15 such corner record for any property corners, property controlling corners,  
16 reference monuments, or accessories to a property corner.

17 8. Section 8773.2 of the Code states:

18 (a) A "corner record" submitted to the county surveyor or engineer shall be  
19 examined by him or her for compliance with subdivision (d) of Section 8765 and  
20 Sections 8773, 8773.1, and 8773.4, endorsed with a statement of his or her  
21 examination, and filed with the county surveyor or returned to the submitting party  
22 within 20 working days after receipt.

23 (b) In the event the submitted "corner record" fails to comply with the  
24 examination criteria of subdivision (a), the county surveyor or engineer shall  
25 return it to the person who submitted it together with a written statement of the  
26 changes necessary to make it conform to the requirements of subdivision (a). The  
27 licensed land surveyor or licensed civil engineer submitting the corner record may  
28 then make the agreed changes in compliance with subdivision (a) and note those  
matters that cannot be agreed upon in accordance with the provisions of  
subdivision (c), and shall resubmit the corner record within 60 days, or within the  
time as may be mutually agreed upon by the licensed land surveyor or licensed  
civil engineer and the county surveyor, to the county surveyor for filing pursuant  
to subdivision (c). The county surveyor or engineer shall file the corner record  
within 10 working days after receipt of the resubmission.

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### REGULATORY PROVISIONS

9. California Code of Regulations, title 16, (CCR) section 464 states, in pertinent part:

“.....

“(b) A corner record shall be filed for each public land survey corner which is found, reset,  
or used as control in any survey by a land surveyor or a civil engineer. Exceptions to this rule are  
identified in Section 8773.4 of the Code.



1 again, only after the Board sent a letter to Respondent did he re-submit the Corner Records to the  
2 Orange County Surveyor's office on June 29, 2007, over 14 months after Respondent was  
3 requested to make the corrections and re-submit.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Negligence in the Practice of Land Surveying)**

6 14. Respondent is subject to disciplinary action under Code section 8780 (b) in that he  
7 was negligent in his practice of land surveying regarding the Costa Mesa Surveys, as set forth in  
8 paragraphs 11, 12 and 13 above, which are incorporated by reference herein.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Failure to File a Timely Corner Record)**

11 15. Respondent is subject to disciplinary action under Code section 8780 (d) and (h) in  
12 conjunction with Code section 8762 and for violation of CCR, section 464 (c) in that he failed to  
13 file the Corner Records of the Costa Mesa Surveys with the Orange County Surveyor's office,  
14 within 90 days, as set forth in paragraphs 11, 12 and 13 above, which are incorporated by  
15 reference herein.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Failure to Re-Submit a Timely Corner Record)**

18 16. Respondent is subject to disciplinary action under Code section 8780 (d) in  
19 conjunction with Code section 8773.2 in that he failed to re-submit the Corner Records of the  
20 Costa Mesa Surveys to the Orange County Surveyor's office, within 60 days after the Corner  
21 Records were returned to him, as set forth in paragraphs 11, 12 and 13 above, which are  
22 incorporated by reference herein.

23 **SEAL BEACH SURVEY**

24 17. On or about October 17, 2006, Respondent, conducted a survey and set street center  
25 line intersection monuments in Seal Beach, California (Seal Beach Survey). Respondent did not  
26 submit the Corner Records to the Orange County Surveyor's office until on or about October 1,  
27 2007, 12 months after the survey was conducted.

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1 **ORANGE SURVEY**

2 22. On or about September 25, 2007, Respondent, conducted a survey and set street  
3 center line intersection monuments in Orange, California (Orange Survey). On or about  
4 November 8, 2007 the Orange County Surveyor's office determined that the Corner Records  
5 submitted by Respondent were incomplete and contained errors, and requested Respondent to re-  
6 submit the Corner Records. When Respondent failed to re-submit the Corner Records, the  
7 County Surveyor's office and the Joint Professional Practices Committee sent multiple letters to  
8 Respondent requesting that he re-submit the Corner Record for this survey. On July 16, 2008 the  
9 Board sent a letter to Respondent requesting an explanation for his failure to re-submit the Corner  
10 Records. The Corner Records were re-submitted to the Orange County Surveyor's office on  
11 December 28, 2008, over 13 months after Respondent was requested to make the corrections and  
12 re-submit.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **(Negligence in the Practice of Land Surveying)**

15 23. Respondent is subject to disciplinary action under Code section 8780 (b) in that he  
16 was negligent in his practice of land surveying regarding the Orange Survey, as set forth in  
17 paragraph 22 above, which is incorporated by reference herein.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(Failure to Re-Submit a Timely Corner Record)**

20 24. Respondent is subject to disciplinary action under Code section 8780 (d) in  
21 conjunction with Code section 8773.2 in that he failed to re-submit the Corner Record of the  
22 Orange Survey to the Orange County Surveyor's office, within 60 days after the Corner Records  
23 were returned to him, as set forth in paragraph 22 above, which is incorporated by reference  
24 herein.

25 **STANTON SURVEY**

26 25. On or about June 9, 2004, Respondent, conducted a survey and set a street center line  
27 intersection monument at the intersection of Chapman and Briarwood Street between the cities of  
28 Stanton and Garden Grove, California (Stanton Survey). Respondent did not submit the Corner

1 Record to the Orange County Surveyor's office in a timely fashion. A monument placed by  
2 Respondent at the time of the survey was discovered in March of 2008. The monument had never  
3 been recorded. The Orange County Surveyor's Office and the Joint Professional Practices  
4 Committee sent multiple letters to Respondent requesting that he submit the Corner Record for  
5 this survey. On October 23, 2008 the Board sent a letter to Respondent requesting an explanation  
6 for his failure to file the Corner Record. The Corner Record was then submitted to the Orange  
7 County Surveyor's Office on December 31, 2008, over 54 months after the survey was  
8 conducted.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Negligence in the Practice of Land Surveying)**

11 26. Respondent is subject to disciplinary action under Code section 8780 (b) in that he  
12 was negligent in his practice of land surveying regarding the Stanton Survey, as set forth in  
13 paragraph 25 above, which is incorporated by reference herein.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Failure to File a Timely Corner Record)**

16 27. Respondent is subject to disciplinary action under Code section 8780 (d) and (h) in  
17 conjunction with Code section 8762 and for violation of CCR, section 464 (c) in that he failed to  
18 file the Corner Record of the Stanton Survey with the Orange County Surveyor's Office, within  
19 90 days, as set forth in paragraph 25 above, which is incorporated by reference herein.

20 **PRAYER**

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

- 24 1. Revoking or suspending Land Surveyor License Number L 7707, issued to Walter  
25 Fred Lundin.
- 26 2. Ordering Walter Fred Lundin to pay the Board for Professional Engineers and Land  
27 Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to  
28 Business and Professions Code section 125.3;

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

DATED: 6/3/10

*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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