

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

In the Matter of the Accusation against:)
)
NASRALLAH NICHOLAS ABOU-FADEL) Case No. 880-A
2900 Park Newport #423)
Newport Beach, CA 92660)
)
Civil Engineer License No. C 50588,)
)
Respondent.)
_____)

DECISION

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

This Decision shall become effective on December 24, 2010.

IT IS SO ORDERED November 17, 2010.

Original Signed

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

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
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3 RITA M. LANE
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9 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 880-A

12 **NASRALLAH NICHOLAS ABOU-FADEL**
13 **2900 Park Newport No. 423**
14 **Newport Beach, CA 92660**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Civil Engineer License No. C 50588**

16 Respondent.

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

24 2. Respondent Nasrallah Nicholas Abou-Fadel is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 12, 1993, the Board for Professional Engineers and Land
27 Surveyors (Board) issued Civil Engineer License No. C 50588 to Nasrallah Nicholas Abou-Fadel
28 (Respondent). The Civil Engineer License will expire on September 30, 2011, unless renewed.

1 staff of the Board for Professional Engineers and Land Surveyors may communicate directly with
2 the Board regarding this stipulation and settlement, without notice to or participation by
3 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
4 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
5 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
6 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
7 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
8 be disqualified from further action by having considered this matter.

9 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
10 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
11 effect as the originals.

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

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following
20 Disciplinary Order:

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Civil Engineer License No. C 50588 issued to Respondent
23 Nasrallah Nicholas Abou-Fadel is revoked. However, the revocation is stayed and Respondent is
24 placed on probation for three (3) years on the following terms and conditions.

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

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

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

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

11 5. **Cost Recovery.** Within two and one-half (2 1/2) years from the effective date of the
12 decision, the Respondent is hereby ordered to reimburse the Board the amount of \$2,000 for its
13 investigative and prosecution costs. Said reimbursement may be paid in installments. Failure to
14 reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the
15 probation order, unless the Board agrees in writing to payment by an alternative installment plan
16 because of financial hardship.

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

20 7. **Ethics Course.** Within two and one-half (2 1/2) years of the effective date of the
21 decision, the Respondent shall successfully complete and pass a course in professionalism and
22 ethics for engineers, approved in advance by the Board or its designee. The Respondent shall
23 provide the Board with official proof of completion of the requisite course.

24 8. **Notification.** Within 30 days of the effective date of the decision, the Respondent shall
25 provide the Board with evidence that he has provided all persons or entities with whom he has a
26 contractual or employment relationship such that the relationship is in the area of practice of
27 professional engineering and/or professional land surveying in which the violation occurred with
28 a copy of the decision and order of the Board and shall provide the Board with the name and

1 business address of each person or entity required to be so notified. During the period of
2 probation, the Respondent may be required to provide the same notification of each new person
3 or entity with whom he has a contractual or employment relationship such that the relationship is
4 in the area of practice of professional engineering and/or land surveying in which the violation
5 occurred and shall report to the Board the name and address of each person or entity so notified.

6 **9. Take And Pass Examinations.** Within two and one-half (2 1/2) years of the effective
7 date of the decision, the Respondent shall successfully complete and pass, with a grade of "C" or
8 better, one college-level course, approved in advance by the Board or its designee. Such course
9 shall be specifically related to the area of violation. The Respondent shall provide the Board with
10 official proof of completion of the requisite course. For purposes of this subdivision,
11 "college-level course" shall mean a course offered by a community college or a four-year
12 university of three semester units or the equivalent; "college-level course" does not include
13 seminars.

14 ACCEPTANCE

15 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
16 stipulation and the effect it will have on my Civil Engineer License. I enter into this Stipulated
17 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
18 bound by the Decision and Order of the Board for Professional Engineers and Land Surveyors.

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20 DATED: 9-17-10

Original Signed

NASRALLAH NICHOLAS ABOU-FADEL
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 and Land Surveyors of the Department of Consumer Affairs.

Dated: 10-8-10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Original Signed
RITA M. LANE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 880-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE
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11 In the Matter of the Accusation Against:

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12 **NASRALLAH NICHOLAS ABOU-FADEL**
13 **2900 Park Newport No. 423**
14 **Newport Beach, CA 92660**

A C C U S A T I O N

15 **Civil Engineer License No. C 50588**

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 March 12, 1993, the Board for Professional Engineers and Land
24 Surveyors issued Civil Engineer License Number C 50588 to Nasrallah Nicholas Abou-Fadel
25 (Respondent). The Civil Engineer License will expire on September 30, 2011, 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 (Code) unless otherwise
5 indicated.

6 4. Code section 118, subdivision (b), provides that the suspension, expiration, surrender
7 or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
8 disciplinary action during the period within which the license may be renewed, restored, reissued
9 or reinstated.

10 5. Code section 6775 states, in pertinent part, that

11 The board may reprove, suspend for a period not to exceed two years, or
12 revoke the certificate of any professional engineer registered under this
chapter:

13

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

16 COSTS

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

21 CAUSE FOR DISCIPLINE

22 (Negligence)

23 7. Respondent is subject to disciplinary action under Code section 6775(c) in that
24 Respondent was negligent in the engineering work he performed on the Hideaway Development
25 in La Quinta, California. The circumstances are as follows:

26 8. The Hideaway Development is a residential project consisting of four plan types of
27 wood frame construction with tile roofs and a stucco finish exterior. The lateral systems consist
28 of primarily plywood shear walls or plywood pre-fab shear panels. Two of the residential plan

1 types in the Hideaway Development were designed with cantilever columns along a single grid
2 line, to laterally support the roof over the rear deck areas. The design of the cantilevered columns
3 were deficient and constitute negligence in the following areas:

4 a. In the calculations for plan 1, the yielding stress of the pipe column was listed as 50
5 ksi, whereas from page 1-92 of the Ninth Edition of the Manual of Steel Construction Allowable
6 Stress Design, the minimum yield stress is listed as 35 ksi.

7 b. An incorrect unbraced height was listed as 0.000 feet, when the unbraced height of
8 the column is 11 feet.

9 c. Sidesway is listed as restrained, where the sidesway should be unrestrained for all
10 cantilever columns.

11 d. There is no analysis for a footing to support the cantilevered columns in the
12 residential plan type 1.

13 e. In the residential plan types 1 and 4, the incorrect R value is used for the lateral
14 system per Table 16-N of the 1997 Uniform Building Code. A maximum value of 2.2 should be
15 used for cantilever columns, but Respondent indicated a value of 4.5.

16 f. In the residential plan types 1 and 4, the specified column does not meet the story
17 drift limitations as prescribed in 1997 Uniform Building Code section 1630.10.

18 9. On sheet F1 of the calculations, a bearing calculation was done to check the size of
19 the continuous footings, however, the continuous footings were not checked for the moment
20 capacity required to resist the overturning moments at the shear walls. A maximum allowable
21 point load is calculated by bearing only, which is less than the uplift forces of the shear walls on
22 line 6 and line 9 on sheets L15 and L17. This method does not account for the moments induced
23 in the footings due to the combination of tension and compression forces at opposite ends of the
24 shear walls and constitutes negligence.

25 PRAYER

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

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1. Revoking or suspending Civil Engineer License Number C 50588, issued to Nasrallah Nicholas Abou-Fadel;
2. Ordering Nasrallah Nicholas Abou-Fadel 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
3. 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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