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

In the Matter of the Accusation against:	)	
	)	
SCOTT STANMORE BENNETT 8720 Wight Way Kelseyville, CA 95451,	)	Case No. 862-A
	)	
Civil Engineer License No. C 50733 Mechanical Engineer License No. M 21162,	)	
	)	
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, with the following clarification to Condition 8 of the Disciplinary Order.

8. **Take and Pass College Level Courses.** Within four and one-half (4 ½) years from the effective date of this decision, the Respondent shall successfully complete and pass, with a grade of "C" or better, three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this condition, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars.

This Decision shall become effective on June 10, 2010.

IT IS SO ORDERED May 5, 2010.

Original Signed

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

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **SCOTT STANMORE BENNETT** 8720 Wight Way Kelseyville, CA 95451 **Civil Engineer License No. C 50733** **Mechanical Engineer License No. M 21162** Respondent.	Case No. 862-A **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

2. Respondent Scott Stanmore Bennett (Respondent) is represented in this proceeding by attorney Mike Ewing, whose address is
Mike Ewing
Ewing & Associates
Post Ofice Box 400
995 South Main Street
Lakeport CA 95453-0400

3. On or about July 16, 1993, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 50733 to Scott Stanmore Bennett (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 862-A and will expire on September 30, 2011, unless renewed.

4. On or about February 17, 1982, the Board for Professional Engineers and Land Surveyors issued Mechanical Engineer License No. M 21162 to Scott Stanmore Bennett (Respondent). The Mechanical Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 862-A and will expire on June 30, 2011, unless renewed.

JURISDICTION

5. Accusation No. 862-A was filed before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 2, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 862-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 862-A. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits he was negligent in the practice of professional engineering and that his license is subject to discipline pursuant to Business and Professions Code section 6775(c). Respondent admits the truth of the factual allegations contained in paragraph 8 of Accusation No. 862-A.

10. Respondent agrees that his Civil Engineer License is subject to discipline and he agrees to be bound by the Board for Professional Engineers and Land Surveyors (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 50733 issued to Respondent Scott Stanmore Bennett (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions. Mechanical Engineer License No. M 21162 issued to Respondent is not subject to discipline and shall remain in full force and effect.

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

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

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

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

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

unconditionally restored.

6. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the amount of $4510.00 within four and one half (4 1/2) years from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

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

8. **Take And Pass College Level Courses.** The Respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or á four-year university of three semester units or the equivalent; "college-level course" does not include seminars. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Mike Ewing. I understand the stipulation and the effect it will have on my Civil Engineer License, and Mechanical 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 and Land Surveyors.

DATED: 2-15-10

Original Signed.

SCOTT STANMORE BENNETT
Respondent

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

DATED: Feb 16, 2010 Original signed

Mike Ewing
Attorney for Respondent

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: 2/19/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 862-A

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

In the Matter of the Accusation Against: **SCOTT STANMORE BENNETT** 8720 Wight Way Kelseyville, CA 95451 Civil Engineer License No. C 50733 **Civil Engineer License Number C 50733** **Mechanical Engineer License No. M 21162** Respondent.	Case No. 862-A **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about July 16, 1993, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 50733 to Scott Stanmore Bennett (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2009, unless renewed.

/ / /

/ / /

3. On or about February 17, 1982, the Board for Professional Engineers and Land Surveyors issued Mechanical Engineer License Number M 21162 to Scott Stanmore Bennett (Respondent). The Mechanical Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

JURISDICTION

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

5. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

. . .

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

COSTS

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

7. Section 419 of the Title 16, California Code of Regulations states in pertinent part:

"In addition to the disciplinary orders described in this section, all decisions shall address recovery of the Board's investigation and enforcement costs, as described in and authorized by Business and Professions Code section 125.3."

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CAUSE FOR DISCIPLINE

(Negligence and/or Incompetence in the Practice of Professional Engineering)

8. Respondent is subject to disciplinary action under section 6775(c) of the Code in that Respondent was negligent and /or incompetent in the practice of professional engineering. The circumstances are as follows:

a. In or about January 21, 1999, Respondent completed structural plans and calculations for the construction of a deck and retaining wall to an existing home located at 13208 Keys Blvd., Clearlake Oaks, California. Respondent also provided construction management services to oversee construction of the project. Respondent applied for and obtained permits for the construction of the deck and retaining wall, which were built to Respondent's plans under Respondent's supervision.

b. Respondent failed to obtain a soils investigation for the design of the deck and retaining wall. Respondent assumed the allowable soil bearing value and other soil conditions.

c. Respondent failed to indicate the soil classification and design bearing capacity on the plans as required by California Building Code § 1805.

d. Respondent failed to design adequate erosion and scour protections for the retaining wall and deck.

e. The deck and retaining wall collapsed within six years of being built.

PRAYER

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

1. Revoking or suspending Civil Engineer License Number C 50733, issued to Scott Stanmore Bennett.

2. Revoking or suspending Mechanical Engineer License Number M 21162, issued to Scott Stanmore Bennett.

3. Ordering Scott Stanmore Bennett 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;

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

DATED: 9/25/09

Original Signed

DAVID BROWN
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

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