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

In the Matter of the Accusation against: PETER SCHURCH 7528 Leland Street Sebastopol, CA 95472 Civil Engineer License No. C 54588, Respondent.	)	Case No. 906-A

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 April 29, 2011.

IT IS SO ORDERED March 24, 2011.

Original Signed

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

KAMALA D. HARRIS
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FRANK H. PACOE
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BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **PETER SCHURCH** 7528 Leland Street Sebastopol, CA 95472 **Civil Engineer License No. C 54588** Respondent.	Case No. 906-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. Joanne Arnold (Complainant) is the Acting Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Justin R. Surber, Deputy Attorney General.

2. Respondent Peter Schurch (Respondent) is represented in this proceeding by attorney Kathleen Morgan, whose address is: Kathleen Morgan
788a Ulloa Street
San Francisco, Ca 94127

3. On or about July 14, 1995, the Board for Professional Engineers, Land Surveyors, and Geologists issued Civil Engineer License No. C 54588 to Peter Schurch (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 906-A and will expire on December 31, 2011, unless renewed.

JURISDICTION

4. Accusation No. 906-A was filed before the Board for Professional Engineers, Land Surveyors, and Geologists (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 July 6, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 906-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 906-A. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. 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.

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 906-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil

Engineer License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Board for Professional Engineers, Land Surveyors, and Geologists. Respondent understands and agrees that counsel for Complainant and the staff of the Board for Professional Engineers, Land Surveyors, and Geologists 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 and/or electronically transmitted copies of this Stipulated Settlement and Disciplinary Order, including facsimile and/or electronically transmitted 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 54588 issued to Respondent Peter Schurch (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. Within two and one-half (2 ½) years of the effective date of the decision, Respondent shall successfully complete and pass, with a grade of "C" or better, two (2) college-level civil engineering 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 a four year university of three semester units or the equivalent; "college-level course" does not include seminars.

2. Within two and one-half (2 ½) years of the effective date of the decision, Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee.

3. Within two and one-half (2 ½) years of the effective date of the decision, Respondent shall reimburse the Board for its investigative and enforcement costs in this matter in the amount of $4,672.50. Said reimbursement may be paid in installments.

4. Within sixty (60) days of the effective date of the decision, Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

[NOTE: This is a 25-question multiple choice examination based on the Professional Engineers Act and the Board Rules that will be mailed to the respondent on the effective date of the decision. The respondent then completes the examination and mails it back to the Board for scoring.]

5. Respondent shall obey all federal, state, and local laws and regulations related to the practices of professional engineering and land surveying.

6. Respondent shall submit such special reports as the Board may require.

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

8. If Respondent violates the probationary conditions in any respect, the Board, after giving him 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 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.

9. Upon successful completion of all of the probationary conditions and the expiration of the period of probation, Respondent's Civil Engineer License, No. C 54588, shall be unconditionally restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kathleen Morgan. 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: 1/12/11 Original Signed

PETER SCHURCH
Respondent

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

DATED: 1/22/2011 Original Signed

Kathleen Morgan
Attorney for Respondent

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: 2/1/11

Respectfully submitted,

KAMALA D. HARRIS
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. 906-A

COPY

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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: **PETER SCHURCH** 7528 Leland Street Sebastopol, CA 95472 **Civil Engineer License No. C 54588** Respondent.	Case No. 906-A **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. David E. 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 14, 1995, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 54588 to Peter Schurch (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

JURISDICTION

3. 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.

4. 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

5. 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.

6. 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."

FIRST CAUSE FOR DISCIPLINE

(Professional Negligence and Incompetence)

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

a. On or about June 24, 2004, Respondent stamped and signed plans and specifications for a remodel of the "Sweet Spot Pub and Lounge" located at 619 Fourth St., Santa Rosa Ca ("The Project"). Respondent's stamp had the wrong expiration date on his license. The Stamp stated Respondent's license expired on December 31, 2006 when in fact Respondent's license expired in December 31, 2005.

b. The drawings for The Project that Respondent stamped and signed did not include sufficient information to describe the anchorage of studs walls to the existing floor, nor ceiling joists to the new stud walls. The drawings signed and stamped by Respondent were not drawn to

sufficient clarity to indicate compliance with section 1605.2 of the California Building Code ("CBC"), a violation of section 106.3.3 of the California Code.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

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

9. On or about June 24, 2004, Respondent stamped and signed plans and specifications for The Project. Respondent did not create these plans and specifications but only reviewed and signed/stamped them after determining the proposed changes (as outlined in the plans a specifications) had no structural impact on the building. Respondent incompetently limited his review of the plans and specifications to their structural impact on the building.

10. The project changed the building's occupancy group from "retail" to "pub/restaurant." Because there was a change in occupancy group, Respondent was required to confirm whether building, as changed, would comply with the requirements of building code. Respondent failed confirm whether building, as changed, would comply with the requirements of building code is the following respects:

(a) Respondent failed to confirm that the building and its new occupancy group would meet the location requirements identified in Section 503 of the CBC.

(b) Respondent failed to confirm that the building and its new occupancy group would have the required allowable floor area as specified in Section 504 of the CBC.

(c) Respondent failed to confirm that that the building and its new occupancy group would meet the general requirements for construction type as specified in Section 601.1 of the CBC

(d) Respondent failed to confirm that that the building and its new occupancy group would meet fire resistant construction details as specified in Section 703.1 of the CBC;

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(e) Respondent failed to confirm that that the building and its new occupancy group would have the necessary fire sprinklers or other extinguishing systems as required by Section 904 of the CBC;

(f) Respondent failed to confirm that that the building and its new occupancy group would have the necessary means of egress as required by Chapter 10 of the CBC;

(g) Respondent failed to confirm that that the building and its new occupancy group would meet the handicap accessibility standards of Chapter 11 of the CBC;

(h) Respondent failed to confirm that that the building and its new occupancy group would meet the light and ventilation requirements of Section 1202 of the CBC;

(i) Respondent failed to confirm that that the building and its new occupancy group had safety glass/glazing in hazardous locations as required by Section 2406.4 of the CBC;

(j) Respondent failed to confirm that that the building and its new occupancy group had the required plumbing systems and number of fixtures as required by Section 2902.3 of the CBC.

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 54588, issued to Peter Schurch.

2. Ordering Peter Schurch 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;

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

DATED: 6/25/10

Original Signed

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