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

In the Matter of the Accusation against: DOUGLAS GERALD STRAW 4975 Saratoga Drive Redding, CA 96002 Civil Engineer License No. C 57656, Respondent.	)	Case No. 908-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
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
PATRICK M. KENADY
Deputy Attorney General
State Bar No. 050882
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5377
Facsimile: (916) 327-8643
Attorneys for Complainant

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

In the Matter of the Accusation Against: **DOUGLAS GERALD STRAW** **4975 Saratoga Drive** **Redding, California 96002** **Civil Engineer License No. C 57656** Respondent.	Case No. 908-A OAH No. 2010081023 **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 Brown (Complainant) is the former Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists. He brought this action solely in his official capacity. Joanne Arnold is now the Acting Executive Officer and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Patrick M. Kenady, Deputy Attorney General.

2. Respondent Douglas Gerald Straw (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about July 18, 1997, the Board for Professional Engineers, Land Surveyors, and Geologists issued Civil Engineer License No. C 57656 to Douglas Gerald Straw

(Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 908-A and will expire on December 31, 2011, unless renewed.

JURISDICTION

4. Accusation No. 908-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 May 10, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 908-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 908-A. Respondent has also carefully read, 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. 908-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 agrees that, at a hearing, Complainant could establish a factual

basis for the charges in the Accusation, and that 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 probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board for Professional Engineers, Land Surveyors, and Geologists or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. 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. 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.

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

14. 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.

15. 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 57656 issued to Respondent Douglas Gerald Straw (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. **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. **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.

4. **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.

5. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the amount of $5,545.00 within two and one-half (2 ½) years of the effective date of the 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.

6. **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.

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

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

9. **Take And Pass Examinations.** Within two and one-half (2 ½) years from the effective date of the decision, the Respondent shall successfully complete and pass, with a grade of "C" or better, one college-level course, approved in advance by the Board or its designee. Such courses shall be specifically related to grading and civil engineering work. 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. Respondent shall provide the Board with official proof of completion of the course.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 2/14/11 Original Signed

DOUGLAS GERALD STRAW
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: February 9, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

Original Signed

PATRICK M. KENADY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 908-A

EDMUND G. BROWN JR.
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
PATRICK M. KENADY
Deputy Attorney General
State Bar No. 050882
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5377
Facsimile: (916) 327-8643
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: **DOUGLAS GERALD STRAW** **4975 Saratoga Drive** **Redding,California 96002** **Civil Engineer License No. C 57656** Respondent.	Case No. 908-A **ACCUSATION**

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 18, 1997, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 57656 to Douglas Gerald Straw (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:

"(a) Who has been convicted of a crime substantially related to the qualifications, functions and duties of a registered professional engineer, in which case the certified record of conviction shall be conclusive evidence thereof.

"(b) Who has been found guilty by the board of any deceit, misrepresentation, or fraud in his or her practice.

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

"(d) Who has been found guilty by the board of any breach or violation of a contract to provide professional engineering services.

"(e) Who has been found guilty of any fraud or deceit in obtaining his or her certificate.

"(f) Who aids or abets any person in the violation of any provision of this chapter.

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

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

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

BOERO PROJECT

7. In or about early summer of 2003, Respondent entered into an oral contract with Steve and Angelina Boero (Boeros) to prepare a grading plan and obtain the necessary permit for

property located at 19658 San Vicente, Redding, CA., to create a level area on the sloped backyard to build a pool/pool house. In or about August 2004, respondent met with the Boreos to review the completed plans. Boero discovered that the plans were not in accordance with his wife's original request in that the dirt pad on the left side of the house needed to be longer to make room for the pool house. Respondent agreed to make the changes and file the plan with the City of Redding within thirty days. Respondent presented a bill for $2,535.75 which was paid by Boero on August 13, 2004.

On or about October 6, 2004, the modified grading plan was submitted to the City of Redding. The Boeros were billed $845.25 by Respondent for the work required to make the revisions. The plan was not approved by the City of Redding as revisions were requested on or about October 14, 2004 to show the 100-year flood plain and a 15 foot set back. Respondent advised the City that the modifications would be made and the plans would be resubmitted.

In or about December 2004, Boreo contacted respondent after repeated attempts to determine the status of the plans as respondent had not notified the Boeros the plan had not been approved. Boreo agreed to pay the $845.25 invoice plus an additional $1250.00, which included $500 for a hydrologist when the plan was approved.

On or about October 17, 2005, Steve Boero gave written notice that the plan needed to be finished within 20 days. Despite repeated requests to have the plan completed and resubmitted to the City of Redding, as of December 12, 2005, no revised plan had been submitted to the City of Redding. Steve Boero wrote to Respondent on the same date and terminated the contract.

FIRST CAUSE FOR DISCIPLINE

(NEGLIGENCE AND INCOMPETENCE)

8. Respondent is subject to disciplinary action under section 6775 (c). The circumstances are as follows:

a. Respondent was negligent in that he failed to use and have executed a written contract as required by Section 6749 for professional engineering services which he agreed to provide to the Boeros.

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b. Respondent was incompetent in that he lacked the knowledge to prepare the Boero grading plan and submit for approval to the City of Redding, including revisions requested by the City to show the 100-year flood plain for the 15 foot set back and design any retaining walls to meet this criteria.

c. Respondent was incompetent and/ or negligent in that he lacked the knowledge and understanding of the magnitude of the Boero project and was unable to estimate the scope of the work, cost and completion schedule and failed to communicate with the Boeros as to the status of the plans, including the progress or lack thereof.

SECOND CAUSE FOR DISCIPLINE

(BREACH OR VIOLATION OF CONTRACT)

9. Respondent is subject to disciplinary action under section 6775 (d). The circumstances are as follows:

Respondent breached his contract to provide professional engineering services by failing to complete a grading plan and secure a permit for Boero project more than two years after he contracted to perform the engineering services.

THIRD CAUSE FOR DISCIPLINE

(VIOLATION OF CHAPTER)

10. Respondent is subject to disciplinary action under section 6775 (h) in that respondent failed to use and have executed as required by Section 6749 a written contract for professional engineering services which he agreed to provide to the Boeros

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 57656, issued to DOUGLAS EDWARD STRAW.

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2. Ordering DOUGLAS EDWARD STRAW 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: 4/13/10

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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