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

In the Matter of the Accusation against:	)	
	)	
MUTHANNA SABEEH OMRAN 38662 Dow Court Fremont, CA 94536	)	Case No. 952A
	)	
Civil Engineer License No. C 61637,	)	
	)	
Respondent.	)	
	)	

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 October 14, 2011.

IT IS SO ORDERED September 8, 2011.

Original Signed

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

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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: **MUTHANNA SABEEH OMRAN** **38662 Dow Court** **Fremont, CA 94536** **Civil Engineer License No. C 61637** Respondent.	Case No. 952-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. Richard B. Moore, PLS ("Complainant") is the Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists ("Board"), Department of Consumer Affairs. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, and by Nicholas Tsukamaki, Deputy Attorney General.

2. Respondent Muthanna Sabeeh Omran ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about January 26, 2001, the Board issued Civil Engineer License No. C 61637 to Respondent. The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 952-A and will expire on June 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 952-A was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 20, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 952-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. 952-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 admits the truth of each and every charge and allegation in Accusation No. 952-A.

9. Respondent agrees that his Civil Engineer License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board 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.

11. 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.

12. 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.

13. 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 61637 issued to Respondent Muthanna Sabeeh Omran ("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.** Respondent shall obey all federal, state, and local laws and regulations related to the practices of professional engineering and land surveying.

2. **Submit Reports.** Respondent shall submit such special reports related to his professional practice as the Board may require.

3. **Tolling of Probation.** 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.

4. **Violation of Probation.** If Respondent violates the probationary conditions in any respect, the Board, after giving 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 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, Respondent's Civil Engineer License No. C 61637 shall be unconditionally restored.

6. **Cost Recovery.** Within two and one half (2 1/2) 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 $1,500.00. Said reimbursement may be paid in installments.

7. **Examination.** 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.

8. **Civil Engineering Course.** Within two and one half (2 1/2) years of the effective date of the decision, Respondent shall successfully complete and pass, with a grade of "C" or better, one (1) college-level civil engineering course, approved in advance by the Board or its designee. Such course 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.

9. **Ethics Course.** Within two and one half (2 1/2) 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.

10. **Notification.** Within thirty (30) days of the effective date of the decision, Respondent shall provide the Board with evidence that he has provided all persons or entities with whom he has a contractual or employment relationship relating to the area of professional civil engineering services at issue in the Accusation 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, Respondent shall be required to provide the same notification to each new person or entity with whom he has a contractual or employment relationship relating to professional civil engineering services and shall report to the Board the name and address of each person or entity so notified.

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: 8/18/2011 Original Signed

MUTHANNA SABEEH OMRAN
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, Land Surveyors, and Geologists of the Department of Consumer Affairs.

Dated: August 18, 2011

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

NICHOLAS TSUKAMAKI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 952-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: **MUTHANNA SABEEH OMRAN** **38662 Dow Court** **Fremont, CA 94536** **Civil Engineer License No. C 61637** Respondent.	Case No. 952-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 ("Board"), Department of Consumer Affairs.

2. On or about January 26, 2001, the Board issued Civil Engineer License Number C 61637 to Muthanna Sabeeh Omran ("Respondent"). The Civil 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.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

4. Section 6775 of the Code states, in pertinent part:

"[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.

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

5. California Code of Regulations, title 16, section 404, subdivision (n), provides: "For the sole purpose of investigating complaints and making findings thereon under Sections 6775 and 8780 of the Code, 'incompetence' as used in Sections 6775 and 8780 of the Code is defined as the lack of knowledge or ability in discharging professional obligations as a professional engineer or land surveyor."

6. California Code of Regulations, title 16, section 404, subdivision (w), states: "For the sole purpose of investigating complaints and making findings thereon under Sections 6775 and 8780 of the Code, 'negligence' as used in Sections 6775 and 8780 of the Code is defined as the failure of a licensee, in the practice of professional engineering or land surveying, to use the care ordinarily exercised in like cases by duly licensed professional engineers and land surveyors in good standing."

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

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COSTS

8. 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.

FACTUAL BACKGROUND

9. On or about June 10, 2005, Respondent, on behalf of his employer Universal Consulting Engineers ("UCE"), entered into a contract with an architect to perform structural design/detailing and Title 24 calculations for a proposed addition to and remodel of a house in Fremont, California. Under "Deliverables," the contract provides: "1) A preliminary structural set for the architect's review and comments. This set will include the 85% completed structural plan set. 2) 100% completed set of structural plans as necessary for the city submittal along with two sets of structural calculation books."

10. On or about June 11, 2005, Respondent, on behalf of UCE, signed an addendum to the June 10 contract which provides that "[t]he 100% set of structural and T.24 calculations and plans with sufficient copies and signatures ready for submittal to the City of Fremont will be submitted to the Architect or owner no later than the end of business day June 16, 2005. Acceptance of this Addendum amends the contract to include this provision."

11. On or about June 11, 2005, Respondent met with the owners of the home and estimated that his structural engineering services would cost $2,800.00. The owners paid Respondent half the total amount, or $1,400.00, that day.

12. On or about June 16, 2005, Respondent submitted plans to the architect ("first set of plans). The architect then submitted those plans to the City of Fremont ("city"). On or about June 30, 2005, Edmund Kwong ("Kwong"), the Plan Check Engineer for the city, submitted 23 "building review comments" to Respondent based on Kwong's review of the first set of plans. Those comments consisted of revisions and additions that Respondent needed to make to the first set of plans. The instructions on the first page of the comments provide, inter alia, that

Respondent should "[r]evise plans, specifications, and calculations to clearly respond to the attached comments, and resubmit completed (not partial) plans."

13. In or around August or September 2005, Respondent submitted a second set of plans to the city for review ("second set of plans"). On or about September 12, 2005, Kwong submitted a second set of building review comments to Respondent based on Kwong's review of the second set of plans. In those comments, Kwong indicated that 8 of the 23 comments he submitted to Respondent on June 30 remained incomplete or unresolved. Kwong also listed six new comments consisting of revisions and additions that Respondent needed to make to the second set of plans.

14. On or about September 13, 2005, the owners of the home sent UCE and Respondent an email indicating that they were in breach of the contract and that their structural engineering services were no longer needed. The owners also demanded a refund of the $1,400.00 they had paid Respondent. On or about September 15, 2005, one of the owners called Respondent and told him not to do any further structural engineering work on the home.

15. On or about September 27, 2005, Respondent submitted a third set of revised plans to the city for review ("third set of plans"). On the same day, Kwong sent Respondent a third set of building review comments. Those comments indicated that three of the revisions and additions set forth in Kwong's first set of comments remained unresolved or incomplete. The comments also stated that three of the revisions and additions set forth in Kwong's second set of comments remained incomplete. Finally, Kwong's September 27 comments contained two new revisions and additions that Respondent needed to make to the third set of plans.

FIRST CAUSE FOR DISCIPLINE

(Negligence)

16. Respondent is subject to disciplinary action under section 6775, subdivision (c), of the Code, and California Code of Regulations, title 16, section 404, subdivision (w), for negligence in that Respondent (1) did not properly coordinate the drawings and details of the structural plans with the architect; and (2) did not properly check the drawings and plans prior to

submitting them to the city for review. The circumstances of Respondent's negligent conduct are set forth above in paragraphs 9 through 15.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

17. Respondent is subject to disciplinary action under section 6775, subdivision (c), of the Code, and California Code of Regulations, title 16, section 404, subdivision (n), for incompetence in that Respondent (1) repeatedly submitted plans and drawings to the city for review that were incomplete; and (2) failed to make necessary revisions to the plans and drawings pursuant to the building review comments submitted by Kwong. The circumstances of Respondent's incompetence are set forth above in paragraphs 12 through 15.

THIRD CAUSE FOR DISCIPLINE

(Breach of Contract)

18. Respondent is subject to disciplinary action under section 6775, subdivision (d), of the Code for breach of a contract to provide professional engineering services in that Respondent failed to submit a 100% set of structural and T.24 calculations and plans to the architect by June 16, 2005. The circumstances of this breach of contract are set forth above in paragraphs 9, 10, and 12.

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 61637 issued to Muthanna Sabeeh Omran;

2. Ordering Muthanna Sabeeh Omran 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;

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

DATED: 10/13/10

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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