

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

In the Matter of the Accusation against:)
)
RICHARD ALLEN SEALE) Case No. 962-A
P. O. Box 1402)
Fort Bragg, CA 95437)
)
Land Surveyor License No. L 4455,)
)
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 September 2, 2011.

IT IS SO ORDERED July 28, 2011.

Original Signed

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

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
GEOLOGISTS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against:

Case No. 962-A

12 *Allen*
RICHARD ~~ALLAN~~ SEALE
P.O. Box 1402
13 Fort Bragg, CA 95437
Land Surveyor License No. L 4455

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Respondent.
15

16
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. Joanne Arnold (Complainant) is the Interim Executive Officer of the Board for
21 Professional Engineers, Land Surveyors, and Geologists. She brought this action solely in her
22 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
23 State of California, by Justin R. Surber, Deputy Attorney General.

24 2. Respondent Richard Allan Seale (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 9, 1977, the Board for Professional Engineers, Land Surveyors,
27 and Geologists issued Land Surveyor License No. L 4455 to Richard ~~Allan~~ Seale (Respondent).

Allen

1 The Land Surveyor License was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 962-A and will expire on September 30, 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. 962-A was filed before the Board for Professional Engineers, Land
5 Surveyors, and Geologists (Board) , Department of Consumer Affairs, and is currently pending
6 against Respondent. The Accusation and all other statutorily required documents were properly
7 served on Respondent on December 1, 2010. Respondent timely filed his Notice of Defense
8 contesting the Accusation. A copy of Accusation No. 962-A is attached as exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 962-A. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 962-A.

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

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

24
25 IT IS HEREBY ORDERED that Land Surveyor License No. L 4455 issued to Respondent
26 Richard Allan Seale (Respondent) is revoked. However, the revocation is stayed and Respondent
27 is placed on probation for three (3) years on the following terms and conditions.
28

1 1. Within two and one-half (2 ½) years of the effective date of the decision, Seale shall
2 successfully complete and pass one (1) college-level land surveying course specifically related to
3 the areas of violation alleged in the Accusation. Said course shall be approved in advance by the
4 Board or its designee. Seale shall provide the Board with official proof of completion of the
5 requisite course. For purposes of this condition, "college-level course" means a course offered by
6 a community college or a four-year university of three semester units or the equivalent; it does
7 not include seminars.

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

11 3. Within two and one-half (2 ½) years of the effective date of the decision, Seale shall
12 reimburse the Board for its investigative and enforcement costs in this matter in the amount of
13 \$4,675.00. Said reimbursement may be paid in installments.

14 5. Within sixty (60) days of the effective date of the decision, Seale shall successfully
15 complete and pass the California Laws and Board Rules examination, as administered by the
16 Board.

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

21 6. Within thirty (30) days of the effective date of the decision, Seale shall provide the
22 Board with evidence that he has provided all persons or entities with whom he has a contractual
23 or employment relationship relating to professional land surveying services with a copy of the
24 decision and order of the Board and shall provide the Board with the name and business address
25 of each person or entity required to be so notified. During the period of probation, Seale may be
26 required to provide the same notification to each new person or entity with whom he has a
27 contractual or employment relationship relating to professional land surveying services and shall
28 report to the Board the name and address of each person or entity so notified.

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:

7/1/11

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

SF2010202210
Stipulation.rtf

Exhibit A

Accusation No. 962-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
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8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 962-A

11 **RICHARD ALLAN SEALE**
12 P.O. Box 1402
Fort Bragg, CA 95437
13 **Land Surveyor License No. L 4455**

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about March 9, 1977, the Board for Professional Engineers and Land Surveyors
22 issued Land Surveyor License Number L 4455 to Richard Allan Seale (Respondent). The Land
23 Surveyor License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on September 30, 2011, unless renewed.

25 **JURISDICTION**

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

1 office of the county recorder or county surveying department, or map or survey record maintained
2 by the Bureau of Land Management of the United States.

3 “(2) A material discrepancy with the information contained in any subdivision map, official
4 map, or record of survey previously recorded or filed in the office of the county recorder or the
5 county surveying department, or any map or survey record maintained by the Bureau of Land
6 Management of the United States. For purposes of this subdivision, a “material discrepancy” is
7 limited to a material discrepancy in the position of points or lines, or in dimensions.

8 “(3) Evidence that, by reasonable analysis, might result in materially alternate positions of
9 lines or points, shown on any subdivision map, official map, or record of survey previously
10 recorded or filed in the office of the county recorder or the county surveying department, or any
11 map or survey record maintained by the Bureau of Land Management of the United States.

12 “(4) The establishment of one or more points or lines not shown on any subdivision map,
13 official map, or record of survey, the positions of which are not ascertainable from an inspection
14 of the subdivision map, official map, or record of survey.

15 “(5) The points or lines set during the performance of a field survey of any parcel described
16 in any deed or other instrument of title recorded in the county recorder's office are not shown on
17 any subdivision map, official map, or record of survey.

18 “(c) The record of survey required to be filed pursuant to this section shall be filed within
19 90 days after the setting of boundary monuments during the performance of a field survey or
20 within 90 days after completion of a field survey, whichever occurs first.

21 “(d)(1) If the 90-day time limit contained in subdivision (c) cannot be complied with for
22 reasons beyond the control of the licensed land surveyor or licensed civil engineer, the 90-day
23 time period shall be extended until the time at which the reasons for delay are eliminated. If the
24 licensed land surveyor or licensed civil engineer cannot comply with the 90-day time limit, he or
25 she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a letter
26 stating that he or she is unable to comply. The letter shall provide an estimate of the date for
27 completion of the record of survey, the reasons for the delay, and a general statement as to the
28 location of the survey, including the assessor's parcel number or numbers.

1 SECOND CAUSE FOR DISCIPLINE

2 (Negligence)

3 15. Respondent is subject to disciplinary action under section 8780(b) of the Code in that
4 Respondent was negligent in the practice of land surveying. Respondent took approximately two
5 years to file the Record of Survey for the Robin Parcel when the survey was due within 90 days.
6 Respondent failed to include his name and license number on the plat he prepared for the Robin
7 Parcel.

8 **North Highway 1 Survey**

9 16. In or about April 1998, Respondent performed a boundary survey ("1998 Survey") of
10 a parcel of land known as APN 69-101-14 or 27760 North Highway 1, Fort Bragg, CA (Highway
11 1 Parcel). In performing the 1998 Survey Respondent relied on a 1998 legal description of the
12 property. This 1998 legal description was discrepant from the previously filed legal descriptions
13 of the Highway 1 Parcel and adjoining properties. There was a nine degree difference in the
14 bearings between the 1998 legal description and all of the previous legal descriptions of the
15 Highway 1 parcel and adjoining parcels. The 1998 legal description contained a typographical
16 error.

17 17. During the survey, Respondent failed to adequately research previous legal
18 descriptions of the Highway 1 Parcel and adjoining properties. Respondent failed to identify the
19 typographical error in the 1998 legal description. Respondent found three of the four monuments
20 that were called out in the 1998 legal description. If the 1998 legal description was correct
21 (which it was not), then the southwest monument that Respondent found was 9.1' out of position
22 relative to the other monuments. This was a substantial difference between the found monuments
23 and the 1998 legal description. Despite this, Respondent resolved the western boundary of the
24 Highway 1 Parcel using the southwest monument and the incorrect bearing contained in the 1998
25 legal description. Accordingly, Respondent's western boundary was in the wrong location.
26 Respondent set lathe along this incorrect western boundary and marked the northerly corner
27 (occupied by a eucalyptus tree) with flagging tape.

28 18. In or about September 2004, Respondent resurveyed ("2004 Survey") the Highway 1

1 Parcel following a boundary dispute between the owners of the Highway 1 Parcel and the owners
2 of an adjoining parcel of land. Again, Respondent relied on the erroneous 1998 legal description
3 of the property to retrace his earlier survey. Respondent set a nail and tag in the eucalyptus tree
4 to mark the northerly corner of the Highway 1 Parcel. This nail was approximately 50 feet west
5 from the correct northerly corner. Respondent then submitted a corner record to the county
6 surveyor. Respondent then billed the owners of the Highway 1 Parcel for his work.

7 THIRD CAUSE FOR DISCIPLINE

8 (Violations of the Land Surveyors Act)

9 19. Respondent is subject to disciplinary action under section 8780(d) of the Code in that
10 Respondent violated the Land Surveys Act as follows:

11 20. Respondent was required but failed to file a Record of Survey within 90 days of
12 completing the 1998 Survey in violation of section 8762 of the Code.

13 21. Respondent violated section 8771 of the Code by failing to set durable monuments
14 during the 1998 survey.

15 22. Respondent failed to enter a written contract with the owners of the Highway 1 Parcel
16 before performing the 2004 Survey in violation of section 8759 of the Code.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Negligence)

19 23. Respondent is subject to disciplinary action under section 8780(b) of the Code in that
20 Respondent was negligent in the practice of land surveying as follows:

21 24. Respondent failed to adequately research the recorded maps and deeds for the
22 Highway 1 Parcel during the 1998 and 2004 Surveys.

23 25. Respondent failed to adequately review and analyze the field data that was discrepant
24 from the 1998 legal description during the 1998 and 2004 Surveys.

25 26. Respondent incorrectly resolved the western boundary of the Highway 1 Parcel based
26 on all of the information available, including the existing monuments on the land and the
27 historical maps and deeds.

28

