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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. 920-A

11  
12 **JED BERKELEY BLAKE**  
**Blake Land Surveys**  
13 **P. O. Box 869**  
14 **250 Industrial Way, Suite C**  
**Buellton, CA 93427**

**A C C U S A T I O N**

15 **Land Surveyor License No. L 4786**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 19, 1980, the Board for Professional Engineers and Land  
24 Surveyors issued Land Surveyor License Number L 4786 to Jed Berkeley Blake (Respondent).  
25 The Land Surveyor License was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on September 30, 2010, unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

6 4. Section 8780 of the Code states, in pertinent part:

7 The Board may receive and investigate complaints against licensed  
8 land surveyors and registered civil engineers, and make findings thereon.

9 By a majority vote, the board may reprove, suspend for a period not  
10 to exceed two years, or revoke the license or certificate of any licensed land surveyor  
11 or registered civil engineer, respectively, licensed under this chapter or registered  
12 under the provisions of Chapter 7 (commencing with Section 6700), whom it finds to  
13 be guilty of:

14 \* \* \*

15 (b) Any negligence or incompetence in his or her practice of land  
16 surveying.

17 \* \* \*

18 (d) Any violation of any provision of this chapter or of any other law  
19 relating to or involving the practice of land surveying.

20 5. California Code of Regulations Title 16, Division 5, section 476 states:

21 To protect and safeguard the health, safety, welfare, and property of  
22 the public, every person who is licensed by the Board as a professional land surveyor  
23 . . . shall comply with this Code of Professional Conduct. A violation of this Code of  
24 Professional Conduct in the practice of professional land surveying constitutes  
25 unprofessional conduct and is grounds for disciplinary action pursuant to Section  
26 8780 of the Code. . .

27 **(a) Compliance with Laws Applicable to a Project:**

28 A licensee shall provide professional services for a project in a  
manner that is consistent with the laws, codes, ordinances, rules, and regulations  
applicable to that project. A licensee may obtain and rely upon the advice of other  
professionals (e.g., architects, attorneys, professional engineers, professional land  
surveyors, and other qualified persons) as to the intent and meaning of such laws,  
codes, and regulations.

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(c) Representations:

\* \* \*

(7) A licensee shall only express professional opinions that have a basis in fact or experience or accepted land surveying principles.

6. Code section 8762 states that:

(a) Except as provided in subdivision (b), after making a field survey in conformity with the practice of land surveying, the licensed surveyor or licensed civil engineer may file with the county surveyor in the county in which the field survey was made, a record of the survey.

(b) Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

(1) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record or survey previously recorded or properly filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

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

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

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

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

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

\* \* \*

1 (e) Any record of survey filed with the county surveyor shall, after  
2 being examined by him or her, be filed with the county recorder.

3 7. Code section 8764 specifies, in relevant part, that:

4 The record of survey shall show the applicable provisions of the  
5 following consistent with the purpose of the survey:

6 \* \* \*

7 (d) The relationship to those portions of adjacent tracts, streets, or senior  
8 conveyances which have common lines with the survey.

9 \* \* \*

10 (g) Any other data necessary for the intelligent interpretation of the  
11 various items and locations of the points, lines, and areas shown, or convenient for  
12 the identification of the survey or surveyor, as may be determined by the civil  
13 engineer or land surveyor preparing the record of survey.

14 8. Code section 8773, **“Corner records for corners establishing by public land  
15 survey; lost corners; filing”** states, in pertinent part:

16 (a) Except as provided in subdivision (b) of Section 8773.4, a person  
17 authorized to practice land surveying in this state shall complete, sign, stamp with his  
18 or her seal, and file with the county surveyor . . . where the corners are situated, a  
19 written record of corner establishment or restoration to be known as a “corner record”  
20 for every corner established by the Survey of the Public Lands of the United States,  
21 except “lost corners,” as defined by the Manual of Instructions for the Survey of the  
22 Public Lands of the United States, and every accessory to such corner which is found,  
23 set, reset, or used as control in any survey by such authorized person.

24 (b) After the establishment of a lost corner, as defined by the Manual of  
25 Instructions for the Survey of the Public Lands of the United States, a record of  
26 survey shall be filed as set forth in Section 8764.

27 9. The U.S. Department of the Interior, Bureau of Land Management, “The  
28 Manual of Instructions”, Chapter V, “Restoration of Lost or Obliterated Corners”, provides, in  
pertinent part, as follows:

*5-9. An obliterated corner is one at whose point there are no remaining  
traces of the monument or its accessories, but whose location has been perpetuated,  
or the point for which may be recovered beyond reasonable doubt by the acts and  
testimony of the interested landowners, competent surveyors, other qualified local  
authorities, or witnesses, or by some acceptable record evidence.*

*A position that depends upon the use of collateral evidence can be  
accepted only as duly supported, generally through proper relation to known corners,  
and agreement with the field notes regarding distances to natural objects, stream  
crossings, line trees, and off-line tree blazes, etc., or unquestionable testimony.*

\* \* \*

1           **5-16.** The proper use of topographic calls of the original field notes may  
2 assist in recovering the locus of the original survey. Such evidence may merely  
3 disprove other questionable features, or it may be a valuable guide to the immediate  
4 vicinity of a line or corner. At best, it may fix the position of a line or corner beyond  
5 reasonable doubt.

6           Allowance should be made for ordinary discrepancies in the calls relating  
7 to items of topography. Such evidence should be considered more particularly in the  
8 aggregate; when it is found to be corroborative, an average may be secured to control  
9 the final adjustment. This will be governed largely by the evidences nearest the  
10 particular corner in question, giving the greatest weight to those features that agree  
11 most closely with the record, and to such items as afford definite connection.

12           A careful analysis should be made by the surveyor before using  
13 topographic calls to fix an original corner point. Indiscriminate use will lead to  
14 problems and disputes where two or more interpretations are possible. Close attention  
15 should be given to the manner in which the original survey was made. Instructions for  
16 chaining in the earlier manuals indicate that memory was an important factor in  
17 recording distances to items of topography. Early field notes often appear to have  
18 shown distances only to the nearest chain or even a wider approximation.

19           In comparing distances returned in the original field notes with those  
20 returned in the resurveys, gross differences appear in a significant number of  
21 instances. In some cases the original surveyor apparently surveyed a line in one  
22 direction, but then reversed the direction in his record without making corresponding  
23 changes in distances to items of topography. These facts have sometimes caused  
24 distrust and virtual avoidance of the use of topography in corner restoration where  
25 proper application might be extremely helpful. Misapplication usually may be  
26 avoided by applying the following tests:

27           (1) The determination should result in a definite locus within a small area.

28           (2) The evidence should not be susceptible of more than one reasonable  
interpretation.

          (3) The corner locus should not be contradicted by evidence of a higher  
class or by other topographic notes.

          The determination of the original corner point from even fragmentary  
evidence of the original accessories, generally substantiated by the original  
topographic calls, is much stronger than determination from topographic calls alone.  
In questionable cases it is better practice, in the absence of other collateral evidence,  
to turn to the suitable means of proportionate measurement.

**5-20.** *A lost corner is a point of a survey whose position cannot be  
determined, beyond reasonable doubt, either from traces of the original marks or  
form acceptable evidence or testimony that bears upon the original position, and  
whose location can be restored only by reference to one or more independent  
corners.*

**5-21.** The rules for the restoration of lost corners should not be applied  
until all original and collateral evidence has been developed. When these means have  
been exhausted, the surveyor will turn to proportionate measurement, which  
harmonizes surveying practice with legal and equitable considerations. This plan of  
relocating a lost corner is always employed unless outweighed by conclusive  
evidence of the original survey.



1 all else fails, assist them in negotiating a mutually agreed upon boundary with the United States  
2 Forest Service (USFS). For the foregoing work and the work in the original proposal, the  
3 contract was not to exceed \$60,000.

4 14. On or about November 15, 2002, Respondent began work on the survey of the  
5 subject property.

6 15. On or about July 10, 2003, Respondent entered into an additional agreement to  
7 prepare a Record of Survey on the North line of Section 3, to set the witness corner on the South  
8 line of Section 3, per the topographic notes, and to file a Corner Record with the County  
9 Surveyor.

10 16. On or about May 8, 2003, a dispute arose between Respondent and the owners,  
11 concerning the correctness of Respondent's billing, whether the original contract would include  
12 all work necessary to complete the search for missing corners in Section 3, whether the bills were  
13 due and payable, if Respondent had completed all work on the survey, and Respondent's claim  
14 that he could prepare a legal description for a quitclaim deed from the USFS, if necessary.

15 17. On or about December 2, 2003, Michael B. Emmons, County Surveyor with the  
16 Santa Barbara County Surveyor's Office (County Surveyor), sent a letter to Respondent,  
17 requesting various corrections to the Record of Survey Respondent submitted for a portion of the  
18 Assessor's Parcel No. 145-070-006.

19 18. On or about December 17, 2003, Respondent sent Jeff Hastings an invoice for  
20 \$1,240.16, which included a late charge, and which stated that the map he prepared would not be  
21 recorded until payment of the invoice was received by Respondent.

22 19. On or about December 29, 2003, the Board received a complaint against  
23 Respondent from the owners, who alleged that they hired Respondent to perform a survey at their  
24 subject property, and that Respondent had failed to meet the terms of their written agreement,  
25 despite Mr. Hastings' payments to him of approximately \$15,577.50. In addition, they claimed  
26 that Respondent had informed them a survey had been filed with the County, but the County  
27 Surveyor indicated that no survey had been filed.

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1           20. On or about February 6, 2004, Respondent filed the Record of Survey with the  
2 County Surveyor.

3           21. On or about April 13, 2004, Respondent filed the Corner Record for the subject  
4 property with the County Surveyor. On the same date, the County Surveyor commented on the  
5 Corner Record, Document No. 2417, that he “. . . disagrees with the surveyor that there is  
6 sufficient evidence shown on this Corner Record to precisely locate the point being set. The  
7 County Surveyor is also of the opinion that a Record of Survey is required to be filed in  
8 accordance with Sections 8762(b)(4) and 8773(b) of the California Business and Professions  
9 Code. The surveyor disagrees with that opinion.”

10           22. On or about June 1, 2004, after numerous requests by Mr. Hastings that  
11 Respondent return Mr. Hastings’ records so that Mr. Hastings could pay Respondent’s bill,  
12 Respondent threw the records on the ground while Mr. Hastings was at the Buellton Sheriff’s  
13 office. Mr. Hastings remitted a final payment to Respondent by mail, which was received by  
14 Respondent on or about June 3, 2004.

15           23. On or about October 19, 2007, Board Enforcement Analyst Julie A. Baker  
16 transmitted this case to independent expert Russell A. Marks, Professional Land Surveyor, PLS  
17 No. 6377 for his expert opinion.

18           24. On or about February 6, 2008, Ms. Baker wrote Respondent regarding the  
19 review of the complaint filed with the Board about his survey of the subject property. The letter  
20 informed Respondent, among other things that the Board’s independent expert agreed with the  
21 County Surveyor that, based upon Code section 8773(b), a Record of Survey should be filed, as  
22 the Witness Corner is a lost corner. Moreover, the letter requested Respondent to complete the  
23 required Record of Survey and provide proof of completion to the Board, by no later than March  
24 6, 2008.

25           25. On or about February 19, 2008, the County Surveyor received Respondent’s  
26 first submittal for his project for review.

27           26. On or about February 28, 2006 (typographical error; year when letter was  
28 written was 2008, not 2006), Ms. Baker wrote Mr. Hastings, advising him that the Board had

1 requested that Respondent submit the Record of Survey with the County Surveyor, and that no  
2 disciplinary action would be taken against Respondent at that time.

3           27. On or about March 3, 2008, Ms. Baker wrote Respondent, informing him,  
4 among other things, that although the Board had decided not to pursue a disciplinary action  
5 against his license at that time, the case was being closed on the assumption that he would  
6 promptly respond to the County Surveyor's requests, and cautioning him that future violations of  
7 any provisions of the Professional Land Surveyor's Act could result in a disciplinary action.

8           28. On or about July 30, 2008, Respondent filed in Book 175 of Record of Surveys  
9 at page 72 at the County Surveyor a Record of Survey, which is intended to delineate the re-  
10 establishment of an original General Land Office (GLO) witness corner.

11           29. On or about October 20, 2008, at the Board's request, Mr. Marks reviewed the  
12 Record of Survey filed by Respondent in Book 175 of the Record of Surveys, page 72, with the  
13 County. Mr. Marks found the following:

- 14           • The title indicates the survey is within a portion of Section 3, T. 7 N, R. 29 W.,  
15           S.B.M.; however there is no indication where within Section 3 the survey lies. The  
16           vicinity map is not labeled sufficiently to indicate the location, and it is unknown  
17           from Respondent's map, which is based upon the Corner Record, whether the  
18           survey is on the north line or south line of the Section, which is important in the  
19           case of the Public Land Survey System. He determined that the line was along the  
20           south line of Section 3 by reviewing the Corner Record, filed as Document No.  
21           2417, but the map should have stood alone and clearly indicate the survey location.
- 22           • Respondent's map is based upon the Corner Record, which has insufficient evidence  
23           to ensure the precise location of the point set. Since the map has less information  
24           than the Corner Record, the map is also insufficient.
- 25           • The only reference indicated on Respondent's map is the previous Corner Record,  
26           which indicates two references: USGLO Township Plat and Field Notes; and  
27           Record of Survey Book 171, pages 24-25. The position established and  
28           monumented on the map has no indication as to what the position represents, and

1 failing to adequately label the map causes confusion by having to look at multiple  
2 records. Only by reviewing the Corner Record and GLO records can a reviewer  
3 determine the intent of the position is to represent an original GLO monument.

- 4 • Respondent failed and was negligent and/or incompetent in that the map he prepared  
5 does not meet the requirements of Code section 8764, subsections (d) or (g),  
6 because the only information shown is his measured data, which is based on a  
7 Corner Record that was filed in violation of Code section 8773, subdivision (b).  
8 The map should include references to the original record, GLO Township Plat and  
9 Field Notes, and Record of Survey Book 171, pages 24-25.
- 10 • The monumented position should be, but was not, treated as a Lost Corner, as defined  
11 by the Manual of Surveying instructions, and as is mandated in Code section 8764,  
12 subdivisions (d) and (g).
- 13 • The map has no information indicating the proper relationship to known corners, or  
14 any collateral evidence supporting the position of his monument, as required by  
15 sections 5-9 and 5-21 of the BLM Manual of Instructions.
- 16 • Both tests (1) and (2) in Section 5-16 of the BLM Manual of Instructions fail due to  
17 the lack of information on the map and controlling corners to the east and west of  
18 the monumented position. From the information presented, there is no evidence to  
19 prove the north-south position of this line. Due to the common errors in  
20 topographic calls, this line could be either north or south of the position indicated by  
21 the map.
- 22 • Respondent should have considered in the process of establishing the corners several  
23 topographic calls noted in the GLO Field Notes of G.S. Collins, under his Contract  
24 of April 1, 1882, when he set the following corners:
  - 25 ▪ 1/4 Corner of Sections 10/11, a post in a mound of stone.
  - 26 ▪ Witness Corner 20.00 chains south of the Section Corner of Sections 2/3/10/11,  
27 a post in the mound of stone.



1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 31. Respondent is subject to disciplinary action under Code section 8780,  
4 subdivision (d) in that Respondent violated other provisions of this charter and/or of any other  
5 law relating to or involving the practice of professional land surveying, more specifically  
6 Business and Professions Code section 8762, failure to file record of survey, and Title 16,  
7 California Code of Regulations Section 464(c). The circumstances are as follows:

8 32. As set forth in more detail in Paragraph 12-29 above, in performing the land  
9 survey on the subject property, Respondent engaged in unprofessional conduct by:

10 a. Failing to correctly and accurately assess the corner position of a lost corner  
11 by searching for monuments, as required by the BLM Manual of Instructions.

12 b. Failing to identify the found witness monument at the Northeast corner of  
13 Lot 416; and

14 c. Failing to properly reestablish the common lot line and monuments in  
15 accordance with standard practice in California Code of Regulations, Title 16, Division 5, Section  
16 464, subdivision (c)(7).

17 **PRAYER**

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

21 1. Revoking or suspending Land Surveyor License Number L 4786, issued to Jed  
22 Berkeley Blake.

23 2. Ordering Jed Berkeley Blake to pay the Board for Professional Engineers and Land  
24 Surveyors, Department of Consumer Affairs the reasonable costs of the investigation and  
25 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 4/22/00

*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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