

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

In the Matter of the Accusation against:)

ROBERT CHARLES HUTTON)
725 Cemetery Lane)
Aspen, CO 81611)

Case No. 938-A

Land Surveyor License No. L 5454,)
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

~~BY~~
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 NICHOLAS TSUKAMAKI
Deputy Attorney General
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **ROBERT CHARLES HUTTON**
13 **725 Cemetery Lane**
14 **Aspen, CO 81611**
15 **Land Surveyor License No. L 5454**

16 Respondent.

Case No. 938-A

OAH No. 2010080157

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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. Richard B. Moore, PLS (Complainant) is the Executive Officer of the Board for
21 Professional Engineers, Land Surveyors, and Geologists (Board). He brought this action solely in
22 his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
23 the State of California, and Nicholas Tsukamaki, Deputy Attorney General.

24 2. Respondent Robert Charles Hutton (Respondent) is represented in this proceeding by
25 attorney Patrick Kerwin, whose address is: Kerwin, Kerwin & Gammill, LLP, P.O. Box 610148,
26 968 Woodside Road, Redwood City, CA 94061.

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Land Surveyor License No. L 5454 issued to Respondent
3 Robert Charles Hutton (Respondent) shall, by way of a letter from the Board's Executive Officer
4 or designee, be publicly reprovved.

5 IT IS FURTHER ORDERED THAT Respondent shall comply with the Conditions outlined
6 below. If Respondent fails to satisfy these conditions, the First Amended Accusation shall be
7 reinstated and all allegations in the First Amended Accusation shall be deemed admitted by
8 Respondent. Under such circumstances, the Board shall be permitted, notwithstanding any statute
9 or law to the contrary, to proceed on the First Amended Accusation and impose discipline under
10 any or all of the causes for discipline in the First Amended Accusation without having to prove
11 any conduct other than Respondent's failure to comply with this Order.

12 **CONDITIONS**

13 1. Within ninety (90) days of the effective date of the decision, Respondent shall file
14 and record a Record of Survey and/or Corner Record, as appropriate under the laws, related to a
15 monument bearing his license tag referenced on Record of Survey No. 2008-900082, filed by
16 Michael Turnrose, licensed land surveyor, for property located on San Carlos Avenue in San
17 Mateo County, California. Respondent shall provide the Board with a copy of the recorded
18 document within thirty (30) days of its recordation by the County Recorder.

19 2. Within ninety (90) days of the effective date of the decision, Respondent shall
20 complete the filing and recordation process for the Record of Survey he submitted related to
21 property identified as the "Lands of Estrada" in San Mateo County in order to comply with the
22 Order of Abatement in Citation No. 98-0402-L. Respondent shall provide the Board with a copy
23 of the recorded document within thirty (30) days of its recordation by the County Recorder.

24 3. Within two (2) years of the effective date of the decision, Respondent shall reimburse
25 the Board for its investigative and enforcement costs in this matter in the amount of \$2,267.50.
26 Said reimbursement may be paid in installments.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Patrick Kerwin. I understand the stipulation and the effect it will have on my Land Surveyor 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: 8/17/11 Original Signed
ROBERT CHARLES HUTTON
Respondent

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

DATED: 8/17/11 Original Signed
Patrick Kerwin
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: 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

Exhibit A

First Amended Accusation No. 938-A

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
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8 **BEFORE THE**
9 **BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND**
10 **GEOLOGISTS**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 938-A

13 **ROBERT CHARLES HUTTON**
14 **725 Cemetery Lane**
Aspen, CO 81611

FIRST AMENDED ACCUSATION

15 **Land Surveyor License No. L 5454**

16 Respondent.

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18
19 Complainant alleges:

20 **PARTIES**

21 1. Richard B. Moore, PLS (Complainant) brings this Accusation solely in his official
22 capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and
23 Geologists (Board), Department of Consumer Affairs.

24 2. On or about March 16, 1984, the Board issued Land Surveyor License Number L
25 5454 to Robert Charles Hutton (Respondent). The Land Surveyor License was in full force and
26 effect at all times relevant to the charges brought herein and will expire on September 30, 2012,
27 unless renewed.

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2 **JURISDICTION**

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

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

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

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

12 ...

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

15 ..."

16 5. Section 8762 of the Code provides, in relevant part:

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

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

24 ...

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

28 ..."

1 San Mateo County. Although Respondent initially filed a record of survey for this survey, it was
2 returned because it showed discrepancies with existing records. The county asked Respondent to
3 submit a corrected record of survey, which he failed to do.

4 b. On or about April 30, 1998, the Board issued a citation to Respondent for failing to file a
5 record of survey for this survey. The citation provides, in relevant part: "The Board hereby
6 orders you to cease and desist from violating Business and Professions Code section(s) 8762. To
7 accomplish this you must file Records of Survey for the two surveys you performed that are
8 identified below in the Cause for Citation. The Records of Survey must be filed with the County
9 of San Mateo, Department of Public Works *within 30 days.*" (emphasis in original). Respondent
10 failed to file a record of survey for the "Lands of Estrada" survey.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board for Professional Engineers, Land Surveyors, and
14 Geologists issue a decision:

- 15 1. Revoking or suspending Land Surveyor License Number L 5454 issued to Robert
16 Charles Hutton;
 - 17 2. Ordering Robert Charles Hutton to pay the Board the reasonable costs of the
18 investigation and enforcement of this case pursuant to Business and Professions Code section
19 125.3;
 - 20 3. Taking such other and further action as deemed necessary and proper.
- 21

22 DATED: _____

8/02/11

original signed

23 _____
24 RICHARD B. MOORE, PLS
25 Executive Officer
26 Board for Professional Engineers, Land Surveyors,
27 and Geologists
28 Department of Consumer Affairs
State of California
Complainant

SF2010200767