

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
4 State Bar No. 110639
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2025
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 1016-A

13 **MICHAEL ALAN SANCHEZ**
14 **1522 Sweet Basil Circle**
Hemet, CA 92545

SECOND AMENDED ACCUSATION

15 **Land Surveyor License No. L 5508**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 16, 1984, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Land Surveyor License Number L 5508 to Michael Alan Sanchez
25 (Respondent). The Land Surveyor License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on September 30, 2016, unless renewed.

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1 **JURISDICTION**

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

6 4. Section 8780 of the Code states:

7 [T]he board may revoke, suspend for a period not to exceed two years, or
8 revoke the license or certificate of any licensed land surveyor or registered civil
9 engineer, respectively, licensed under this chapter or registered under the provisions
of Chapter 7 (commencing with Section 6700), whom it finds to be guilty of:

10 (a) Any fraud, deceit, or misrepresentation in his or her practice of land
surveying.

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

12

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

15

16 (f) Aiding or abetting any person in the violation of any provision of this
chapter.

17 (g) A breach or violation of a contract to provide land surveying services.

18 (h) A violation in the course of the practice of land surveying of a rule or
19 regulation of unprofessional conduct adopted by the board.

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

24 **STATUTORY PROVISIONS**

25 6. Section 8729 of the Code states, in pertinent part:

26 (a) This chapter does not prohibit one or more licensed land surveyors or
27 civil engineers licensed in this state prior to 1982 (hereinafter called civil
28 engineers) from practicing or offering to practice, within the scope of their
licensure, land surveying as a sole proprietorship, partnership, limited liability

1 partnership, firm, or corporation (hereinafter called business), if the following
2 conditions are satisfied:

3 (1) A land surveyor or civil engineer currently licensed in the state is an
4 owner, partner, or officer in charge of the land surveying practice of the business.

5 (2) All land surveying services are performed by or under the responsible
6 charge of a land surveyor or civil engineer.

7 (3) If the business name of a California land surveying business contains the
8 name of a person, then that person shall be licensed by the board as a land
9 surveyor or licensed by the board in any year as a civil engineer. Any offer,
10 promotion, or advertisement by the business that contains the name of any
11 individual in the business, other than by use of the name of the individual in the
12 business name, shall clearly and specifically designate the license discipline of
13 each individual named.

14

15 (c) The business name of a California land surveying business may be a
16 fictitious name. However, if the fictitious name includes the names of any person,
17 the requirements of paragraph (3) of subdivision (a) shall be met.

18

19 (i) A current organization record form shall be filed with the board for all
20 businesses engaged in rendering professional land surveying services.

21

22 7. Section 8759 of the Code states, in pertinent part:

23 (a) A licensed land surveyor or registered civil engineer authorized to practice
24 land surveying shall use a written contract when contracting to provide professional
25 services to a client pursuant to this chapter. The written contract shall be executed
26 by the licensed land surveyor or registered civil engineer and the client, or his or her
27 representative, prior to the licensed land surveyor or registered civil engineer
28 commencing work, unless the client knowingly states in writing that work may be
commenced before the contract is executed. The written contract shall include, but
not be limited to, all of the following:

(1) A description of the services to be provided to the client by the licensed
land surveyor or registered civil engineer.

(2) A description of any basis of compensation applicable to the contract,
and the method of payment agreed upon by the parties.

(3) The name, address, and license or certificate number of the licensed land
surveyor or registered civil engineer, and the name and address of the client.

(4) A description of the procedure that the licensed land surveyor or
registered civil engineer and the client will use to accommodate additional
services.

1 (5) A description of the procedure to be used by any party to terminate the
contract.

2

3 8. Section 8761 of the Code states:

4 (a) Any licensed land surveyor or civil engineer authorized to practice land
5 surveying may practice land surveying and prepare maps, plats, reports,
descriptions, or other documentary evidence in connection with that practice.

6 (b) All maps, plats, reports, descriptions, or other land surveying documents
7 shall be prepared by, or under the responsible charge of, a licensed land surveyor
or civil engineer authorized to practice land surveying and shall include his or her
8 name and license number.

9 (c) Interim maps, plats, reports, descriptions, or other land surveying
10 documents shall include a notation as to the intended purpose of the map, plat,
report, description, or other document, such as "preliminary" or "for examination
only."

11 (d) All final maps, plats, reports, descriptions, or other land surveying
12 documents issued by a licensed land surveyor or civil engineer authorized to
practice land surveying shall bear the signature and seal or stamp of the licensee
13 and the date of signing and sealing or stamping. If the land surveying document
has multiple pages or sheets, the signature, seal or stamp, and date of signing and
14 sealing or stamping shall appear, at a minimum, on the title sheet, cover sheet or
page, or signature sheet, unless otherwise required by law.

15 (e) It is unlawful for any person to sign, stamp, seal, or approve any map,
16 plat, report, description, or other land surveying document unless the person is
authorized to practice land surveying.

17 (f) It is unlawful for any person to stamp or seal any map, plat, report,
18 description, or other land surveying document with the seal or stamp after the
certificate of the licensee that is named on the seal or stamp has expired or has
19 been suspended or revoked, unless the certificate has been renewed or reissued.

20 9. Section 8765 of the Code states, in pertinent part:

21 "A record of survey is not required of any survey:

22 ". . . .

23 "(d) When the survey is a retracement of lines shown on a subdivision map, official map, or
24 a record of survey, where no material discrepancies with those records are found and sufficient
25 monumentation is found to establish the precise location of property corners thereon, provided
26 that a corner record is filed for any property corners which are set or reset or found to be of a
27 different character than indicated by prior records. For purposes of this subdivision, a "material
28

1 discrepancy” is limited to a material discrepancy in the position of points or lines, or in
2 dimensions.

3 “....”

4 10. Section 8767 of the Code states:

5 If the county surveyor finds that the record of survey complies with the
6 examination in Section 8766, the county surveyor shall endorse a statement on it
7 of his or her examination, and shall present it to the county recorder for filing.
8 Otherwise the county surveyor shall return it to the person who presented it,
9 together with a written statement of the changes necessary to make it conform to
10 the requirements of Section 8766. The licensed land surveyor or registered civil
11 engineer submitting the record of survey may then make the agreed changes and
12 note those matters which cannot be agreed upon in accordance with the provisions
13 of Section 8768 and shall resubmit the record of survey within 60 days, or within
14 the time as may be mutually agreed upon by the licensed surveyor or registered
15 engineer and the county surveyor, to the county surveyor for filing pursuant to
16 Section 8768.

12 11. Section 8771 of the Code states:

13 (a) Monuments set shall be sufficient in number and durability and efficiently
14 placed so as not to be readily disturbed, to assure, together with monuments
15 already existing, the perpetuation or facile reestablishment of any point or line of
16 the survey.

16 (b) When monuments exist that control the location of subdivisions, tracts,
17 boundaries, roads, streets, or highways, or provide horizontal or vertical survey
18 control, the monuments shall be located and referenced by or under the direction
19 of a licensed land surveyor or registered civil engineer prior to the time when any
20 streets, highways, other rights-of-way, or easements are improved, constructed,
21 reconstructed, maintained, resurfaced, or relocated, and a corner record or record
22 of survey of the references shall be filed with the county surveyor. They shall be
23 reset in the surface of the new construction, a suitable monument box placed
24 thereon, or permanent witness monuments set to perpetuate their location if any
25 monument could be destroyed, damaged, covered, or otherwise obliterated, and a
26 corner record or record of survey filed with the county surveyor prior to the
27 recording of a certificate of completion for the project. Sufficient controlling
28 monuments shall be retained or replaced in their original positions to enable
property, right-of-way and easement lines, property corners, and subdivision and
tract boundaries to be reestablished without devious surveys necessarily
originating on monuments differing from those that currently control the area. It
shall be the responsibility of the governmental agency or others performing
construction work to provide for the monumentation required by this section. It
shall be the duty of every land surveyor or civil engineer to cooperate with the
governmental agency in matters of maps, field notes, and other pertinent records.
Monuments set to mark the limiting lines of highways, roads, streets or right-of-
way or easement lines shall not be deemed adequate for this purpose unless
specifically noted on the corner record or record of survey of the improvement
works with direct ties in bearing or azimuth and distance between these and other
monuments of record.

1 (c) The decision to file either the required corner record or a record of survey
2 pursuant to subdivision (b) shall be at the election of the licensed land surveyor or
3 registered civil engineer submitting the document.

4 12. Section 8772 of the Code states:

5 Any monument set by a licensed land surveyor or registered civil engineer to
6 mark or reference a point on a property or land line shall be permanently and visibly
7 marked or tagged with the certificate number of the surveyor or civil engineer
8 setting it, each number to be preceded by the letters "L.S." or "R.C.E.,"
9 respectively, as the case may be or, if the monument is set by a public agency, it
10 shall be marked with the name of the agency and the political subdivision it serves.

11 Nothing in this section shall prevent the inclusion of other information on
12 the tag which will assist in the tracing or location of the survey records which
13 relate to the tagged monument.

14 **REGULATORY PROVISIONS**

15 13. California Code of Regulations, title 16, (CCR) section 404.2 states, in pertinent part:

16 (a) The term "responsible charge" directly relates to the extent of control a
17 licensed land surveyor or civil engineer legally authorized to practice land surveying
18 (hereinafter referred to as "legally authorized civil engineer") is required to maintain
19 while exercising independent control and direction of land surveying work or
20 services and the land surveying decisions which can be made only by a licensed
21 land surveyor or legally authorized civil engineer.

22 (1) Extent of Control. The extent of control necessary to be in responsible
23 charge shall be such that the land surveyor or legally authorized civil engineer:

24 (A) Makes or review and approves the land surveying decisions defined and
25 described in subdivision (a)(2) below.

26 (B) In making or reviewing and approving the land surveying decisions,
27 determines the applicability of survey criteria and technical recommendations
28 provided by others before incorporating such criteria or recommendations.

(2) Land Surveying Decisions. The term "responsible charge" relates to land
surveying decisions within the purview of the Professional Land Surveyors' Act.

Land surveying decisions which must be made by and are the responsibility
of the land surveyor or legally authorized civil engineer in responsible charge are
those decisions concerning permanent or temporary work which could create a
hazard to life, health, property, or public welfare, and may include, but are not
limited to:

(A) Selecting the methods, procedures, and tolerances of field work.

(B) Determining calculation and adjustment methods.

(C) Determining and specifying the information to be shown on maps or
documents furnished in connection with land surveying services, including the

1 format of the information and the format of the maps or documents.

2 (D) The decisions related to the preparation of maps, plats, land surveying
3 reports, descriptions, and other land surveying documents furnished in connection
4 with the land surveying services.

5 (E) Reviewing the sufficiency and accuracy of the work product.

6 (3) Reviewing and Approving Land Surveying Decisions. In making or
7 reviewing and approving land surveying decisions, the land surveyor or legally
8 authorized civil engineer shall be physically present or shall review and approve
9 through the use of communication devices the land surveying decisions prior to
10 their implementation.

11 (b) Responsible Charge Criteria. In order to evaluate whether a person
12 authorized to practice land surveying is in responsible charge, the following must
13 be considered: The land surveyor or legally authorized civil engineer who signs
14 surveying documents must be capable of answering questions asked by licensees
15 of the Board who are fully competent and proficient by education and experience
16 in the field or fields of professional land surveying relevant to the project. These
17 questions would be relevant to the decisions made during the individual's
18 participation in the project, and in sufficient detail to leave little question as to the
19 land surveyor's or legally authorized civil engineer's technical knowledge of the
20 work performed. It is not necessary to defend decisions as in an adversarial
21 situation, but only to demonstrate that the individual in responsible charge made,
22 or reviewed and approved, them and possessed sufficient knowledge of the project
23 to make, or review and approve, them.

24 Examples of questions to be answered by the land surveyor or legally
25 authorized civil engineer could relate to criteria for measurement, surveying
26 methods, analysis, and conclusions made including, but not limited to, the
27 retracement of government surveys, interpretation and construction of deed
28 descriptions, conflicts between construction drawings and actual conditions,
determination of the proper control datum and epoch, application of proportion
methods, and analysis of evidence related to written and unwritten property rights.
The individual shall be able to clearly express the extent of control and how it is
exercised and to demonstrate that the land surveyor or legally authorized civil
engineer is answerable within said extent of control.

...

14. CCR section 463 sub-division (b) states, in pertinent part:

“(b) A licensed land surveyor and/or civil engineer who practices or offers to
practice land surveying, according to the provisions of Section 8729 of the Code, as a
partner, member, or officer of a partnership, firm, or corporation shall advise the Board
within thirty (30) days of such association or termination of association on a form
approved by the Board.”

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1 15. CCR section 464 states, in pertinent part:

2 “

3 “(b) A corner record shall be filed for each public land survey corner which is found, reset,
4 or used as control in any survey by a land surveyor or a civil engineer. Exceptions to this rule are
5 identified in Section 8773.4 of the Code.

6 “(c) The corner record shall be filed within 90 days from the date a corner was found, set,
7 reset, or used as control in any survey. The provisions for extending the time limit shall be the
8 same as provided for a record of survey in Section 8762 of the Code.

9 “”

10 **COST RECOVERY**

11 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **OAKWOOD STREET, CITY OF PASADENA**

16 17. Respondent, a licensed land surveyor, acting in responsible charge for Nationwide
17 Surveying, Inc., was retained to survey and set property corners for the owner of a residential lot
18 located at 2219 Oakwood Street in Pasadena, California, so that the owner could construct a
19 fence. Respondent failed to perform the work as agreed and failed to maintain responsible charge
20 of the work.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misrepresentation in the Practice of Land Surveying)**

23 18. Respondent is subject to disciplinary action under Code section 8780 (a) in that
24 Respondent misrepresented the facts in his practice of land surveying regarding the Oakwood
25 Street project in Pasadena, as set forth in paragraph 15 above, which is incorporated by reference
26 herein.

27 19. In particular, Respondent misrepresented his role as the responsible party for his
28 survey.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Negligence in the Practice of Land Surveying)**

3 20. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
4 was negligent and incompetent in his practice of land surveying regarding the Oakwood Street
5 property, City of Pasadena, as set forth in paragraph 15, which is incorporated by reference
6 herein.

7 21. In particular, Respondent did not meet the standard of care for a licensed land
8 surveyor in his practice of land surveying in that he provided sub-standard work in his practice
9 and he failed to disclose to his client that a more complete boundary survey would be needed.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting an Unlicensed Person)**

12 22. Respondent is subject to disciplinary action under Code section 8780 (f) in that he
13 aided and abetted another, Nationwide Surveying, Inc., in the unlicensed practice of land
14 surveying regarding the Oakwood Street property, City of Pasadena, as set forth in paragraph 15,
15 which is incorporated by reference herein.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Breach of Contract)**

18 23. Respondent is subject to disciplinary action under Code section 8780 (g) in that he
19 was in breach of his contract with his client in that he provided an incomplete survey of the
20 Oakwood Street property, City of Pasadena, as set forth in paragraph 15, which is incorporated by
21 reference herein.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Violation of Required Terms of a Contract)**

24 24. Respondent is subject to disciplinary action under Code sections 8780 (d) for
25 violation of Code sections 8759 (a) (3), (4) and (5), in that Respondent did not provide a written
26 contract to his client. The invoice that was given to the client was insufficient as a contract in that
27 it was not signed by the client and did not provide the following required items:

- 28 (a) Respondent's name and land surveyor license number was not provided;

- 1 (b) No procedure was identified to accommodate additional services;
2 (c) No procedure was identified to terminate the contract.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Responsible Charge)**

5 25. Respondent is subject to disciplinary action under Code section 8780 (h) for violation
6 of CCR, section 404.2 in that he failed to demonstrate responsible charge in his practice of land
7 surveying regarding the Oakwood Street property, City of Pasadena, as set forth in paragraph 15,
8 which is incorporated by reference herein.

9 **POLSON CIRCLE, CITY OF MARTINEZ**

10 26. Respondent, acting in responsible charge for DM Consultants, was retained to survey
11 and set corners for the owner of a residential lot located at 1106 Polson Circle in Martinez,
12 California. Respondent failed to perform the work as agreed and failed to maintain responsible
13 charge of the work. The survey was conducted by Respondent's subordinate, Roger Licea, an
14 unlicensed surveyor performing under the responsible charge of Respondent.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 **(Misrepresentation in the Practice of Land Surveying)**

17 27. Respondent is subject to disciplinary action under Code section 8780 (a) in that
18 Respondent misrepresented the facts in his practice of land surveying regarding the Polson Circle
19 property in Martinez, as set forth in paragraph 24 above, which is incorporated by reference
20 herein.

21 28. In particular, Respondent misrepresented his role as the responsible party for his
22 survey.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Negligence in the Practice of Land Surveying)**

25 29. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
26 was negligent and incompetent in his practice of land surveying regarding the Polson Circle
27 property in Martinez, as set forth in paragraph 24 above, which is incorporated by reference
28 herein.

1 that he failed to file the corner record within 90 days of his survey of the Polson Circle property
2 in Martinez, as set forth in paragraph 24 above, which is incorporated by reference herein.

3 **THIRTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Set Sufficient Durable Monuments)**

5 35. Respondent is subject to disciplinary action under Code sections 8780 (d) for
6 violation of Code section 8771 in that Respondent failed to set sufficient durable monuments on
7 the Polson Circle property in Martinez, as set forth in paragraph 24 above, which is incorporated
8 by reference herein.

9 **FOURTEENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Tag Monuments)**

11 36. Respondent is subject to disciplinary action under Code sections 8780 (d) for
12 violation of Code section 8772 in that Respondent failed to properly tag monuments on the
13 Polson Circle property in Martinez, as set forth in paragraph 24 above, which is incorporated by
14 reference herein.

15 **FIFTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Responsible Charge)**

17 37. Respondent is subject to disciplinary action under Code section 8780 (h) for violation
18 of CCR, section 404.2 in that he failed to demonstrate responsible charge in his practice of land
19 surveying regarding the Polson Circle property in Martinez, as set forth in paragraph 24 above,
20 which is incorporated by reference herein.

21 **SANTA CLARA AVENUE, CITY OF SANTA ANA**

22 38. Respondent was retained to perform surveying services for the owner of a residential
23 lot located at 413 Santa Clara Avenue in Santa Ana, California. Respondent failed to perform the
24 work as agreed and performed in an unprofessional manner.

25 **SIXTEENTH CAUSE FOR DISCIPLINE**

26 **(Negligence in the Practice of Land Surveying)**

27 39. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
28 was negligent and incompetent in his practice of land surveying regarding the Santa Clara

1 Avenue property in Santa Ana, as set forth in paragraph 36 above, which is incorporated by
2 reference herein.

3 40. In particular, Respondent did not meet the standard of care for a licensed land
4 surveyor in his practice of land surveying in that he provided services in a manner that did not
5 comply with the provisions of the Professional Land Surveyors Act.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**

7 **(Violation of Required Terms of a Contract)**

8 41. Respondent is subject to disciplinary action under Code sections 8780 (d) for
9 violation of Code sections 8759 (a) (3), (4) and (5), in that Respondent did not provide a written
10 contract to his client. The “electronic contract” provided by Respondent was insufficient as a
11 contract in that it was not signed by the client and did not provide the following required items:

- 12 (a) Respondent’s name and land surveyor license number was not provided;
13 (b) No procedure was identified to accommodate additional services;
14 (c) No procedure was identified to terminate the contract.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Include Name, License Number, Seal and Stamp on a Survey Document)**

17 42. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
18 of Code section 8761 (d) in that in that Respondent prepared a plat map, regarding the Santa
19 Clara Avenue property in Santa Ana, as set forth in paragraph 36 above, which is incorporated by
20 reference herein.

21 43. In particular, the missing items included Respondent’s name, license number, stamp
22 and seal.

23 **NINETEENTH CAUSE FOR DISCIPLINE**

24 **(Failure to File a Timely Corner Record)**

25 44. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
26 of Code section 8765 (d) and under Code section 8780 (h) for violation of CCR section 464 (c) in
27 that he failed to file the corner record within 90 days of his survey of the Santa Clara Avenue
28

1 property in Santa Ana, as set forth in paragraph 36 above, which is incorporated by reference
2 herein.

3 **SCOTT STREET, CITY OF MORRO BAY**

4 45. Respondent, acting in responsible charge for DM Consultants, was retained to survey
5 the property and to locate the boundaries for the owner of a residential lot located at 1250 Scott
6 Street in Morro Bay, California. Respondent failed to perform the work as agreed and failed to
7 maintain responsible charge of the work. The survey was conducted by Respondent's
8 subordinate, Roger Licea, an unlicensed surveyor performing under the responsible charge of
9 Respondent.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

11 **(Misrepresentation in the Practice of Land Surveying)**

12 46. Respondent is subject to disciplinary action under Code section 8780 (a) in that
13 Respondent misrepresented the facts in his practice of land surveying regarding the Scott Street
14 property in Morro Bay, as set forth in paragraph 43 above, which is incorporated by reference
15 herein.

16 47. In particular, Respondent misrepresented his role as the responsible party for his
17 survey.

18 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

19 **(Negligence in the Practice of Land Surveying)**

20 48. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
21 was negligent and incompetent in his practice of land surveying regarding the Scott Street
22 property in Morro Bay, as set forth in paragraph 43 above, which is incorporated by reference
23 herein.

24 49. In particular, Respondent did not meet the standard of care for a licensed land
25 surveyor in his practice of land surveying in that the survey contained a number of errors and
26 deficiencies. These errors and deficiencies include but are not limited to the following:

- 27 a. Failed to include necessary measurements.
28 b. Failed to accurately locate the property line.

- c. Set sub-standard monuments.
- d. Failed to adequately supervise his subordinate.
- e. Failed to keep adequate notes and records of his survey.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

50. Respondent is subject to disciplinary action under Code section 8780 (f) in that he aided and abetted another, DM Consultants and Roger Licea, in the unlicensed practice of land surveying regarding the Scott Street property in Morro Bay, as set forth in paragraph 43 above, which is incorporated by reference herein.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violation of Required Terms of a Contract)

51. Respondent is subject to disciplinary action under Code sections 8780 (d) for violation of Code sections 8759 (a) (4) and (5), in that Respondent did not provide a written contract to his client. The invoice that was given to the client was insufficient as a contract in that it was not signed by the client and did not provide the following required items:

- (a) No procedure was identified to accommodate additional services;
- (b) No procedure was identified to terminate the contract.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Failure to Prepare a Survey Map)

52. Respondent is subject to disciplinary action under Code sections 8780 (d) for violation of Code section 8761 in that Respondent did not prepare a survey map, regarding the Scott Street property in Morro Bay, based upon a survey performed while he maintained appropriate responsible charge.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to File a Timely Corner Record)

53. Respondent is subject to disciplinary action under Code section 8780 (d) for violation of Code section 8765 (d) and under Code section 8780 (h) for violation of CCR section 464 (c) in

1 that he failed to file the corner record within 90 days of his survey of the Scott Street property in
2 Morro Bay, as set forth in paragraph 43 above, which is incorporated by reference herein.

3 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

4 **(Failure to Tag Monuments)**

5 54. Respondent is subject to disciplinary action under Code sections 8780 (d) for
6 violation of Code section 8772 in that Respondent failed to properly tag monuments on the Scott
7 Street property in Morro Bay, as set forth in paragraph 43 above, which is incorporated by
8 reference herein.

9 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Maintain Responsible Charge)**

11 55. Respondent is subject to disciplinary action under Code section 8780 (h) for violation
12 of CCR, section 404.2 in that he failed to demonstrate responsible charge in his practice of land
13 surveying regarding the Scott Street property in Morro Bay, as set forth in paragraph 43 above,
14 which is incorporated by reference herein.

15 **RECORD OF SURVEY 06-235**

16 56. On or about June 28, 2006, Respondent submitted Record of Survey 06-235 to the
17 San Bernardino County Surveyor's office. This Record of Survey was for the survey work
18 identified as a portion of the northeast 1/4 of Section 28, T9N, R2W, SBM in the Barstow area of
19 San Bernardino County, California. The County determined that the Record of Survey was
20 incomplete and needed corrections. On October 18, 2006, the County returned the Record of
21 Survey to Respondent and requested Respondent make corrections and re-submit the Record of
22 Survey. On or about June 20, 2011 Record of Survey 06-235 was re-submitted to the San
23 Bernardino County Surveyor's office. The County determined that the re-submitted Record of
24 Survey was still incomplete and needed corrections. On June 22, 2011, the County returned the
25 re-submitted Record of Survey to Respondent and again requested Respondent make corrections
26 and re-submit the Record of Survey. The corrected Record of Survey has never been re-
27 submitted to the San Bernardino County Surveyor's office.

28 ///

1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Re-submit a Timely Record of Survey)**

3 57. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
4 of Code section 8767 in that he failed to re-submit the Record of Survey within 60 days after the
5 San Bernardino County Surveyor's office returned them to him for corrections, as set forth in
6 paragraph 54, which is incorporated by reference herein.

7 **RECORD OF SURVEY 2009-1033**

8 58. On or about February 10, 2009, Respondent submitted Record of Survey 2009-1033
9 to the Orange County Surveyor's office. (First Submittal) This Record of Survey was for the
10 survey work identified as parcel 2 of PMB 42/26 in the unincorporated area of Orange County,
11 California. The County determined that the Record of Survey was incomplete and needed
12 corrections. On March 24, 2009, the County returned the Record of Survey to Respondent and
13 requested Respondent make corrections and re-submit the Record of Survey. On or about July 6,
14 2009 Record of Survey 2009-1033 was re-submitted to the Orange County Surveyor's office.
15 (Second Submittal) The County determined that the re-submitted Record of Survey was still
16 incomplete and needed corrections. On February 28, 2010, the County returned the re-submitted
17 Record of Survey to Respondent and again requested Respondent make corrections and re-submit
18 the Record of Survey. On or about November 20, 2012 Record of Survey 2009-1033 was re-
19 submitted to the Orange County Surveyor's office. (Third Submittal) The County determined
20 that the re-submitted Record of Survey was still incomplete and needed corrections. The County
21 returned the re-submitted Record of Survey to Respondent and again requested Respondent make
22 corrections and re-submit the Record of Survey. On or about July 31, 2013 Record of Survey
23 2009-1033 was re-submitted to the Orange County Surveyor's office. (Fourth Submittal) The
24 County determined that the re-submitted Record of Survey was still incomplete and needed
25 corrections. On September 20, 2013, the County returned the re-submitted Record of Survey to
26 Respondent and again requested Respondent make corrections and re-submit the Record of
27 Survey. The corrected Record of Survey has never been re-submitted to the Orange County
28 Surveyor's office.

1 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

2 **(Failure to Re-submit a Timely Record of Survey)**

3 59. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
4 of Code section 8767 in that he failed to re-submit the Record of Survey within 60 days after the
5 Orange County Surveyor's office returned it to him for corrections, as set forth in paragraph 58,
6 which is incorporated by reference herein.

7 **RECORD OF SURVEY 2011-1078**

8 60. On or about June 10, 2011, Respondent submitted Record of Survey 2011-1078 to the
9 Orange County Surveyor's office. This Record of Survey was for the survey work identified as a
10 portion of Lot 5, Tract 1005 in the City of Anaheim, California. The County determined that the
11 Record of Survey was incomplete and needed corrections. (First Submittal) On July 25, 2011, the
12 County returned the Record of Survey to Respondent and requested Respondent make corrections
13 and re-submit the Record of Survey. On or about June 28, 2012, Record of Survey 2011-1078
14 was re-submitted to the Orange County Surveyor's office. (Second Submittal) The County
15 determined that the re-submitted Record of Survey was still incomplete and needed corrections.
16 On August 14, 2012, the County returned the re-submitted Record of Survey to Respondent and
17 again requested Respondent make corrections and re-submit the Record of Survey. On or about
18 July 31, 2013, Record of Survey 2011-1078 was re-submitted to the Orange County Surveyor's
19 office. (Third Submittal) The County determined that the re-submitted Record of Survey was still
20 incomplete and needed corrections. On September 20, 2013, the County returned the re-
21 submitted Record of Survey to Respondent and again requested Respondent make corrections and
22 re-submit the Record of Survey. The corrected Record of Survey has never been re-submitted to
23 the Orange County Surveyor's office.

24 **THIRTIETH CAUSE FOR DISCIPLINE**

25 **(Failure to Re-submit a Timely Record of Survey)**

26 61. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
27 of Code section 8767 in that he failed to re-submit the Record of Survey within 60 days after the
28

1 Orange County Surveyor's office returned them to him for corrections, as set forth in paragraph
2 60, which is incorporated by reference herein.

3 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

4 **(Failure to Timely File an Organization Record Form)**

5 62. Respondent is subject to disciplinary action under Code section 8729 (i) for violation
6 of CCR, section 463 (b), in that he failed to file with the CSLB an Organization Record Form that
7 identified his business name as MLM Engineering in a timely manner.

8 **PREPARATION OF PARCEL MAP IN MURRIETA, CALIFORNIA**

9 63. Respondent, acting in responsible charge for AC Engineering Group, Inc., an
10 unlicensed entity, was retained to survey and prepare a parcel map for a property located in
11 Murrieta, California. Respondent was not an officer or an employee of AC Engineering and did
12 not have a contract with the property owner in Murrieta.

13 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

14 **(Aiding and Abetting an Unlicensed Person)**

15 64. Respondent is subject to disciplinary action under Code section 8780 (f) in that he
16 aided and abetted another, AC Engineering Group, Inc., in the unlicensed practice of land
17 surveying regarding the property in Murrieta, as set forth in paragraph 63 above, which is
18 incorporated by reference herein.

19 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

20 **(Violation of Required Terms of a Contract)**

21 65. Respondent is subject to disciplinary action under Code sections 8780 (d) for
22 violation of Code sections 8759, in that Respondent did not provide a written contract to his client
23 for the property in Murrieta, as set forth in paragraph 63 above, which is incorporated by
24 reference herein.

25 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

26 **(Failure to Maintain Responsible Charge)**

27 66. Respondent is subject to disciplinary action under Code section 8780 (h) for violation
28 of CCR, section 404.2 in that he failed to demonstrate responsible charge in his practice of land

1 surveying regarding the property in Murrieta, as set forth in paragraph 63 above, which is
2 incorporated by reference herein.

3 **PRAYER**

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

7 1. Revoking or suspending Land Surveyor License Number L 5508, issued to Michael
8 Alan Sanchez;

9 2. Ordering Michael Alan Sanchez to pay the Board for Professional Engineers, Land
10 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
11 pursuant to Business and Professions Code section 125.3;

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

13
14
15 DATED: 11/12/14

Original Signed

16 RICHARD B. MOORE, PLS
17 Executive Officer
18 Board for Professional Engineers, Land Surveyors, and
19 Geologists
20 Department of Consumer Affairs
21 State of California
22 *Complainant*

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