

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GEOFFREY WARD
Deputy Attorney General
4 State Bar No. 246437
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2660
6 Facsimile: (213) 897-2804
E-mail: Geoffrey.Ward@doj.ca.gov
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**

13 In the Matter of the Accusation Against:

Case No. 877-A

14 **FLORENTINO BASIT FERRER**

OAH No. 2010120112

15 **2268 Ceciana Drive**
Hacienda Heights, CA 91745

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 **Land Surveyor License No. L 5775**

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

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

25 2. Respondent Florentino Basit Ferrer (Respondent) is represented in this proceeding by
26 attorneys Mark B. Chassman and Jason J. Rudolph, whose address is: Chassman & Seelig, LLP,
27 120 Broadway, Suite 300, Santa Monica, CA 90401.

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 877-A, if proven at a hearing, constitute cause for imposing discipline upon his Land
4 Surveyor License.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

11 CIRCUMSTANCES IN MITIGATION

12 11. Except as alleged in Accusation No. 877-A, Respondent Florentino Basit Ferrer has
13 not been the subject of any disciplinary action since acquiring his license. He has presented
14 evidence from one of his main clients attesting to his competence in the practice of land
15 surveying on a number of projects.

16 CONTINGENCY

17 12. This stipulation shall be subject to approval by the Board for Professional Engineers,
18 Land Surveyors, and Geologists. Respondent understands and agrees that counsel for
19 Complainant and the staff of the Board for Professional Engineers, Land Surveyors, and
20 Geologists may communicate directly with the Board regarding this stipulation and settlement,
21 without notice to or participation by Respondent or his counsel. By signing the stipulation,
22 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
23 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
24 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
25 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
26 the parties, and the Board shall not be disqualified from further action by having considered this
27 matter.

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

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

10 15. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Land Surveyor License, No. L 5775, issued to Florentino
15 Basit Ferrer, is revoked; however, the revocation shall be stayed, and he shall be placed on
16 probation for a period of four (4) years upon the following terms and conditions:

17 1. Within three and one-half (3 ½) years of the effective date from the decision, the
18 Respondent shall successfully complete and pass two (2) college-level land surveying courses,
19 which must be related to the areas of violation alleged in the Accusation. Said courses shall be
20 approved in advance by the Board or its designee. The Respondent shall provide the Board with
21 official proof of completion of the requisite courses. For purposes of this condition, "college-
22 level course" means a course offered by a community college or a four-year university of three
23 semester units or the equivalent; it does not include seminars.

24 2. Within three and one-half (3 ½) years of the effective date from the decision, the
25 Respondent shall successfully complete and pass a course in professional ethics, approved in
26 advance by the Board or its designee.

1 3. Within three and one-half (3 ½) years of the effective date from the decision, the
2 Respondent shall reimburse the Board for its investigative and enforcement costs in this matter in
3 the amount of \$6,500. Said reimbursement may be paid in installments.

4 4. Within sixty (60) days of the effective date from the decision, the Respondent shall
5 successfully complete and pass the California Laws and Board Rules examination, a twenty-five
6 question multiple-choice examination, as administered by the Board.

7 5. Within thirty (30) days of the effective date from the decision, the Respondent shall
8 provide the Board with evidence that he has provided all persons or entities with whom he has a
9 contractual or employment relationship relating to professional land surveying services with a
10 copy of the decision and order of the Board and shall provide the Board with the name and
11 business address of each person or entity required to be so notified. During the period of
12 probation, the Respondent may be required to provide the same notification to each new person or
13 entity with whom he has a contractual or employment relationship relating to professional land
14 surveying services and shall report to the Board the name and address of each person or entity so
15 notified.

16 6. The Respondent shall obey all federal, state, and local laws and regulations related to
17 the practices of professional engineering and land surveying.

18 7. The Respondent shall submit such special reports as the Board may require.

19 8. The period of probation shall be tolled during the time the Respondent is practicing
20 exclusively outside the state of California. If, during the period of probation, the Respondent
21 practices exclusively outside the state of California, the Respondent shall immediately notify the
22 Board in writing.

23 9. If the Respondent violates the probationary conditions in any respect, the Board, after
24 giving him notice and the opportunity to be heard, may vacate the stay and reinstate the
25 disciplinary order which was stayed. If during the period of probation, an accusation or petition
26 to vacate stay is filed against the Respondent, or if the matter has been submitted to the Office of
27 the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all
28 matters are final, and the period of probation shall be extended until all matters are final.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10. Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the Respondent's Land Surveyor License, No. T. 5775, shall be unconditionally restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Mark B. Chasman. 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: Jan. 20, 2012 original signed
FLORENTINO BASIT FERRER
Respondent

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

DATED: 1-20-12. original signed
Mark B. Chasman
Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: 1/20/12

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

Original Signed
GEOFFREY WARD
Deputy Attorney General
Attorneys for Complainant

LA2009603823
51064381_3.doc

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

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

Case No. 877-A
ACCUSATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

PARTIES

Exhibit A

Accusation No. 877-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 CHRISTINA V. TUSAN
Deputy Attorney General
4 State Bar No. 192203
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2643
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. **877-A**

13 **FLORENTINO BASIT FERRER**
2268 Ceciana Drive
14 **Hacienda Heights, CA 91745**
Land Surveyor License No. L 5775

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about December 30, 1987, the Board for Professional Engineers and Land
23 Surveyors issued Land Surveyor License Number L 5775 to Florentino Basit Ferrer
24 (Respondent). The Land Surveyor License was in full force and effect at all times relevant to the
25 charges brought herein and will expire on June 30, 2012, unless renewed.

26 ///

27 ///

28 ///

1 **JURISDICTION**

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

6 **STATUTORY PROVISIONS**

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

10 5. Section 8765 of the Code states, in pertinent part:

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

12 (d) When the survey is a retracement of lines shown on a subdivision map, official map, or
13 a record of survey, where no material discrepancies with those records are found and sufficient
14 monumentation is found to establish the precise location of property corners thereon, provided
15 that a corner record is filed for any property corners which are set or reset or found to be of a
16 different character than indicated by prior records. For purposes of this subdivision, a "material
17 discrepancy" is limited to a material discrepancy in the position of points or lines, or in
18 dimensions."

19 6. Section 8773, subdivision (a) of the Code, states:

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

28 7. Section 8780 of the Code states:

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

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

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

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

9 "(c) Any fraud or deceit in obtaining his or her license.

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

12 "(e) Any conviction of a crime substantially related to the qualifications, functions, and
13 duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.

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

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

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

18 **REGULATIONS**

19 8. California Code of Regulations, Title 16, section 404 states, in pertinent part:

20 "(n) For the sole purpose of investigating complaints and making findings thereon under
21 Sections 6775 and 8780 of the Code, 'incompetence' as used in Sections 6775 and 8780 of the
22 Code is defined as the lack of knowledge or ability in discharging professional obligations as a
23 professional engineer or land surveyor."

24 "(w) For the sole purpose of investigating complaints and making findings thereon under
25 Sections 6775 and 8780 of the Code, 'negligence' as used in Sections 6775 and 8780 of the Code
26 is defined as the failure of a licensee, in the practice of professional engineering or land
27 surveying, to use the care ordinarily exercised in like cases by duly licensed professional
28 engineers and land surveyors in good standing."

1 9. California Code of Regulations, Title 16, section 404.2 states, in pertinent part:

2 “(a) The term ‘responsible charge’ directly relates to the extent of control a licensed land
3 surveyor or civil engineer legally authorized to practice land surveying (hereinafter referred to as
4 ‘legally authorized civil engineer’) is required to maintain while exercising independent control
5 and direction of land surveying work or services, and the land surveying decisions which can be
6 made only by a licensed land surveyor or legally authorized civil engineer.

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

9 “(A) Makes or reviews and approves the land surveying decisions defined and described in
10 subdivision (a)(2) below.

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

14 “(2) Land Surveying Decisions. The term ‘responsible charge’ relates to land surveying
15 decisions within the purview of the Professional Land Surveyors’ Act.

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

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

21 “(B) Determining calculation and adjustment methods.

22 “(C) Determining and specifying the information to be shown on maps or documents
23 furnished in connection with land surveying services, including the format of the information and
24 the format of the maps or documents.

25 “(D) The decisions related to the preparation of maps, plats, land surveying reports,
26 descriptions, and other land surveying documents furnished in connection with the land surveying
27 services.

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

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

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

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

24 10. California Code of Regulations, Title 16, section 464, states, in pertinent part:

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

28 ///

- 1 E. Respondent's first recorded Record of Survey (First Record) 190/53 is in error by
2 3.0 to 4.5 feet;
- 3 F. Following notification by the Board about errors in his survey, Respondent
4 prepared a Second Record of Survey (Second Record). The Second Record failed
5 to show the work done in connection with his First Record, concealed his failure
6 to set two of the survey monuments on the first recorded Record of Survey, and
7 failed to document the basis for the difference between the two recorded surveys;
- 8 G. The Second Record failed to include sufficient substantiation or proving out that
9 the property lines were in the correct location. It included only measured
10 distances versus recorded distances at four places on the map. Recorded distances
11 should have been shown in comparison with measured distances for every course
12 on the map. Respondent also improperly relied upon the Compass Rule in his
13 Second Record;
- 14 H. Respondent's Second Record failed to substantial or include lines of occupation
15 in connection with material property line changes;
- 16 I. Respondent's Second Record states "Search Found Nothing" in an area where his
17 prior map established corner points and where monuments were established in his
18 previous map; and
- 19 J. After Respondent was notified by the Board that his Second Record was
20 insufficient, Respondent prepared a second version of the second report. This
21 version was also insufficient.

22 **SAN PABLO PROPERTY**

23 17. The circumstances establishing that Respondent committed negligence and/or
24 incompetence in violation of Code Section 8780, subdivision (b), in connection with the San
25 Pablo property in Glendale, California are as follows:

- 26 A. Respondent had no written contract to conduct work on the San Pablo Property;
- 27 D. Respondent was unable to answer questions concerning his survey technique
28 and did not perform his boundary survey using ordinary care;

1 E. Respondent's responses to the Board's inquiry suggests that he may never have
2 seen calculations in connection with the driveway staking, that he failed to retain filed
3 notes, coordinates, closure calculations, and failed to retain evidence the survey is
4 correct and defensible;

5 F. Respondent failed to show both record and measured distances in a sketch
6 provided to the Board. Respondent also failed to show how his client's property fits
7 with adjoining properties;

8 G. Respondent's topographic map, which is unsigned and unsealed, does not
9 contain sufficient information regarding existing wall locations;

10 H. Respondent failed to timely submit a legal description in connection with the
11 Board's inquiry concerning the San Pablo Property; and

12 I. Respondent failed to properly communicate his survey procedure to Board and
13 lacked the ability to answer simple and direct questions related to his work on the San
14 Pablo Property.

15 **CASCADIA PROPERTY**

16 18. The circumstances establishing that Respondent committed negligence and/or
17 incompetence in violation of Code Section 8780, subdivision (b), in connection with the
18 Cascadia Property are as follows:

19 A. Respondent failed to tag his monuments in accordance with Code section 8772
20 and failed to prepare and submit a corner record within 90 days as required by
21 Code section 8773.1 and California Code of Regulations, Title 16, section 464,
22 subdivision (c);

23 B. Respondent's late submitted corner record was missing descriptions of four found
24 monuments. After the Board advised the surveyor's office of these problems, the
25 county surveyor had Respondent come in to add these descriptions on or about
26 November 7, 2007. Even after that meeting, Respondent's corner record was still
27 deficient as it did not show any record bearings or distances along with found
28

1 bearings or distances, making it difficult to determine if there were material
2 discrepancies; and

3 C. Respondent improperly inserted words into the monument description in the
4 corner record by the use of arrows rather than redrafting the descriptions as is the
5 standard of care.

6 19. Complainant refers to and incorporates all of the allegations in paragraphs 12 through
7 14 as though set forth fully.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Failure to File Timely Corner Record)**

10 20. Respondent is subject to disciplinary action under Code sections 8780, subdivision
11 (d), 8765, subdivision (d), and California Code of Regulations, Title 16, section 464, subdivision
12 (c), in that he failed to file a corner record within 90 days after having conducted a survey on the
13 Cascadia Property on May 20, 2001. Respondent did not file the corner record until May 10,
14 2003, almost three years after the survey on the Cascadia Property was conducted.

15 21. Complainant refers to and incorporates all of the allegations in paragraph 12 through
16 18 as though set forth fully.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Execute a Written Contract)**

19 22. Respondent is subject to disciplinary action under Code section 8759, subdivision (a),
20 in that he failed to execute a written contract with his client before commencing any work, as set
21 forth in the preceding paragraph 17 subdivision (A) in that Respondent had no written contract to
22 perform work on the San Pablo Property.

23 23. Complainant refers to and incorporates all of the allegations in paragraphs 12 through
24 18 and paragraph 20 as though set forth fully.

25 **PRAYER**

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

- 1 1. Revoking or suspending Land Surveyor License Number L 5775, issued to Florentino
2 Basit Ferrer;
3 2. Ordering Florentino Basit Ferrer to pay the Board for Professional Engineers and
4 Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to
5 Business and Professions Code section 125.3; and
6 3. Taking such other and further action as deemed necessary and proper.

7 DATED: 10/6/10

Original Signed

DAVID E. BROWN
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

12 LA2009603823
13 50706536.doc

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28