

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

In the Matter of the Accusation against:)
)
EARL NATHAN STROM) Case No. 946-A
15502 Racetrack Road)
Odessa, FL 33556)
)
Land Surveyor License No. L 6087,)
)
Respondent.)
_____)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on September 2, 2011.

IT IS SO ORDERED July 28, 2011.

Original Signed

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

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Attorney General of California
2 FRANK H. PACOE
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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 **EARL NATHAN STROM**
13 **15502 Racetrack Road**
14 **Odessa, Florida 33556**
Land Surveyor License No. L 6087
15 Respondent.

Case No. 946-A
OAH No. 2010120536
**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. Joanne Arnold (Complainant) is the Acting Executive Officer of the Board for
21 Professional Engineers, Land Surveyors, and Geologists (Board). She brought this action solely
22 in her 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 Earl Nathan Strom (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

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1 those charges.

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

5 CONTINGENCY

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

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

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

24 14. In consideration of the foregoing admissions and stipulations, the parties agree that
25 the Board may, without further notice or formal proceeding, issue and enter the following
26 Disciplinary Order:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Land Surveyor License No. L 6087 issued to Respondent
3 Earl Nathan Strom (Respondent) is revoked. However, the revocation is stayed and Respondent
4 is placed on probation for five (5) years on the following terms and conditions.

5 1. **Obey All Laws.** Respondent shall obey all laws and regulations related to the
6 practices of professional engineering and professional land surveying.

7 2. **Submit Reports.** Respondent shall submit such special reports as the Board may
8 require.

9 3. **Violation of Probation.** If Respondent violates the probationary conditions in any
10 respect, the Board, after giving Respondent notice and the opportunity to be heard, may vacate
11 the stay and reinstate the disciplinary order which was stayed. If, during the period of probation,
12 an accusation or petition to vacate stay is filed against Respondent, or if the matter has been
13 submitted to the Office of the Attorney General for the filing of such, the Board shall have
14 continuing jurisdiction until all matters are final, and the period of probation shall be extended
15 until all matters are final.

16 4. **Completion of Probation.** Upon successful completion of all of the probationary
17 conditions and the expiration of the period of probation, Respondent's license shall be
18 unconditionally restored.

19 5. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the
20 amount of \$6,417.50 within four (4) years of the effective date of this decision for its
21 investigative and prosecution costs. Failure to reimburse the Board's costs of its investigation
22 and prosecution shall constitute a violation of the probation order, unless the Board agrees in
23 writing to payment by an installment plan because of financial hardship.

24 6. **Examination.** Within 60 days of the effective date of the decision, Respondent shall
25 successfully complete and pass the California Laws and Board Rules examination, as
26 administered by the Board.

27 7. **Ethics Course.** Within four (4) years of the effective date of the decision,
28 Respondent shall successfully complete and pass a course in professional ethics, approved in

1 advance by the Board or its designee.

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

11 9. **Take And Pass Examinations.** Within four (4) years of the effective date of the
12 decision, Respondent shall successfully complete and pass two (2) college-level courses related to
13 the areas of violation alleged in the Accusation. Said courses shall be approved in advance by the
14 Board or its designee. Respondent shall provide the Board with official proof of completion of
15 the requisite courses. For purposes of this condition, "college-level course" means a course
16 offered by a community college or a four-year university of three semester units or the equivalent;
17 it does not include seminars.

18 ACCEPTANCE

19 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
20 stipulation and the effect it will have on my Land Surveyor License. I enter into this Stipulated
21 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
22 bound by the Decision and Order of the Board for Professional Engineers, Land Surveyors, and
23 Geologists.

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25 DATED: _____

Strom

Original Signed

EARL NATHAN STROM
Respondent

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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: *May 20, 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

SF2010201735

Exhibit A

Accusation No. 946-A

1 EDMUND G. BROWN JR.
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2 FRANK H. PACOE
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3 NICHOLAS TSUKAMAKI
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 946-A

12 **EARL NATHAN STROM**
13 **15502 Racetrack Road**
Odessa, Florida 33556
14 **Land Surveyor License No. L 6087**

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 ("Board"),
21 Department of Consumer Affairs.

22 2. On or about May 5, 1989, the Board issued Land Surveyor License Number L 6087
23 to Earl Nathan Strom ("Respondent"). The Land Surveyor License was in full force and effect at
24 all times relevant to the charges brought herein and will expire on December 31, 2011, unless
25 renewed.

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1 **JURISDICTION**

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

5 **STATUTORY AND REGULATORY PROVISIONS**

6 4. Section 8780 of the Code states:

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
12 (commencing with Section 6700), whom it finds to be guilty of:

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

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

15 . . .

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

17 5. California Code of Regulations, title 16, section 404, subdivision (n), provides: “For
18 the sole purpose of investigating complaints and making findings thereon under Sections 6775
19 and 8780 of the Code, ‘incompetence’ as used in Sections 6775 and 8780 of the Code is defined
20 as the lack of knowledge or ability in discharging professional obligations as a professional
21 engineer or land surveyor.”

22 6. California Code of Regulations, title 16, section 404, subdivision (w), states: “For the
23 sole purpose of investigating complaints and making findings thereon under Sections 6775 and
24 8780 of the Code, ‘negligence’ as used in Sections 6775 and 8780 of the Code is defined as the
25 failure of a licensee, in the practice of professional engineering or land surveying, to use the care
26 ordinarily exercised in like cases by duly licensed professional engineers and land surveyors in
27 good standing.”

28 7. California Code of Regulations, title 16, section 476 provides, in pertinent part:

1 **COSTS**

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

6 **FACTUAL BACKGROUND**

7 11. In or around 2005, Respondent prepared an ALTA/ACSM Land Title Survey of a
8 parcel of land at the corner of Camino Alto and East Blithedale Avenue in Mill Valley, California
9 (“parcel”). The survey contains and/or omits the following:

10 a. The survey shows a “field date” of May 20, 2005, but does not contain a date of
11 drawing preparation or a date of issue. Also, although the surveyor’s certification is signed and
12 sealed, it is not dated and does not list the names of the parties certified to.

13 b. The survey map does not identify any evidence Respondent may have used to
14 establish the boundaries of the parcel. While the survey states that it was prepared “from a
15 balanced and adjusted traverse” and that the “[b]earings are based on the Easterly right of way
16 line of Camino Alto,” the survey does not contain any controlling monumentation to support this
17 statement.

18 c. “Curve 3” of the survey shows a Delta angle measurement of 18°57’41”.

19 d. The survey states that Respondent did not find any “possible encroachments” on the
20 parcel. The survey map, however, shows encroachments of public works (a sidewalk and curb)
21 on the parcel.

22 e. Under “surveyor certification,” Respondent states: “This is to certify that this map or
23 plot and the survey on which it is based were made in accordance with ‘Minimum Standard
24 Detail Requirements for ALTA/ACSM Land Title Surveys,’”

25 12. In or around March 2007, another land surveyor prepared a topographic map of the
26 parcel. This topographic map differs from Respondent’s survey in the following ways:

27 a. The topographic map depicts a building on the parcel that is approximately five feet
28 from the location where it appears on Respondent’s survey.

1 the survey map depicts encroachments of public works (a sidewalk and curb) on the parcel. The
2 circumstances of this misrepresentation are set forth above in paragraph 11.d.

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 and Land Surveyors issue a
6 decision:

- 7 1. Revoking or suspending Land Surveyor License Number L 6087 issued to Earl
8 Nathan Strom;
- 9 2. Ordering Earl Nathan Strom to pay the Board the reasonable costs of the investigation
10 and enforcement of this case pursuant to Business and Professions Code section 125.3;
- 11 3. Taking such other and further action as deemed necessary and proper.

12
13 DATED: 10/6/10

Original Signed

14 _____
15 DAVID E. BROWN
16 Executive Officer
17 Board for Professional Engineers and Land
18 Surveyors
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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