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

11 In the Matter of the First Amended Accusation
12 Against:
13 **GLEN R. DIXON**
14 **1700 Hamner Lane, Suite 112**
Norco, CA 92860
15 **Land Surveyor License No. L 6251**
16 Respondent.

Case No. 902-A

FIRST AMENDED ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Arnold (Complainant) brings this First Amended Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board for Professional Engineers, Land
22 Surveyors, and Geologists (Board), Department of Consumer Affairs.

23 2. On or about June 6, 2010, Accusation No. 902-A was filed against Respondent Glen
24 R. Dixon. This First Amended Accusation supersedes and replaces the former Accusation that
25 was filed on June 6, 2010 in this case.

26 3. On or about December 1, 1989, the Board issued Land Surveyor License No. L 6251
27 to Glen R. Dixon (Respondent). The Land Surveyor License was in full force and effect at all
28 times relevant to the charges brought herein and expired on June 30, 2010.

PRIOR DISCIPLINE

4. On August 21, 2007, in a prior disciplinary matter before the Board, Respondent was issued Citation Order 5216-L, wherein Respondent was ordered to cease and desist violating Business and Professions Code section 8771 and California Code of Regulations, title 16, section 464(c). An investigation determined that Respondent failed to reset monuments that were destroyed during construction located at the centerline of Temescal Canyon Road from Cajalco Road North to La Gloria Street in Section 16, T.4S., R.6W, S.B.B. & M and that he failed to file a Corner Record. Respondent was also ordered to pay an administrative fine of \$1,000. To date, Respondent has failed to comply with Citation Order 5216-L and has failed to pay the fine.

JURISDICTION

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

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

7. Code section 8780 states, in pertinent part, that

The Board may receive and investigate complaints against licensed land surveyors and registered civil engineers, and make findings thereon. By majority vote, the Board may reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor licensed under this chapter whom it finds to be guilty of:

...

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

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

...

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

1 STATUTORY PROVISIONS

2 8. Code section 8759 states, in pertinent part, that

3 (a) A licensed land surveyor or registered civil engineer authorized to practice land
4 surveying shall use a written contract when contracting to provide professional services
5 to a client pursuant to this chapter. The written contract shall be executed by the
6 licensed land surveyor or registered civil engineer and the client, or his or her
representative, prior to commencing work, unless otherwise stated by the client in
writing. The written contract shall include, but not be limited to, all of the following:

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

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

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

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

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

15 9. Code section 8762 states, in pertinent part, that

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

19 10. Code section 8767 states:

20 If the county surveyor finds that the record of survey complies with the
21 examination in Section 8766, the county surveyor shall endorse a statement on it
22 of his or her examination, and shall present it to the county recorder for filing.
23 Otherwise the county surveyor shall return it to the person who presented it,
24 together with a written statement of the changes necessary to make it conform to
25 the requirements of Section 8766. The licensed land surveyor or registered civil
26 engineer submitting the record of survey may then make the agreed changes and
note those matters which cannot be agreed upon in accordance with the provisions
of Section 8768 and shall resubmit the record of survey within 60 days, or within
the time as may be mutually agreed upon by the licensed surveyor or registered
engineer and the county surveyor, to the county surveyor for filing pursuant to
Section 8768.

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REGULATIONS

11. California Code of Regulations, title 16, Code section 464 states in pertinent part:

...

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

12. California Code of Regulations, title 16, Code section 473.3 provides in pertinent part:

...

(b) Failure of the cited person to abate the violation or to pay the fine within the time allowed is grounds for suspension or revocation of the cited person's license.

COST RECOVERY

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

MYLES C. PROJECT

14. In September 2004, Myles C. entered into a contract with Respondent for land surveying services. Respondent was to submit a lot line adjustment to Riverside County. Respondent's contract did not contain language regarding how the contract could be terminated or additional services added. On or about January 14, 2005, Respondent advised Myles C. that the work had been completed and the lot line adjustment had been submitted to the County. Myles C. paid Respondent \$4,500 for this alleged work. Myles C. later learned that Respondent had failed to file the adjustment with the County, leading to project delays for Myles C.

15. On or about April 24, 2007, Respondent admitted to an investigator for the Department of Consumer Affairs, Division of Investigation, that he failed to complete the work on the Myles C. project and that his contract did not contain the language required by law

1 regarding how the contract could be terminated. Respondent also told the investigator that he
2 would be willing to refund to Myles C. the \$4,500 he accepted for the job, but to date,
3 Respondent has failed to do so.

4 FIRST CAUSE FOR DISCIPLINE

5 (Breach of Contract to Provide Land Surveying Services)

6 16. Respondent is subject to disciplinary action under Code section 8780(g) in that he
7 breached his contract to provide land surveying services on the Myles C. project when
8 Respondent failed to submit a lot line adjustment to Riverside County on the Myles C. project as
9 set forth in paragraphs 13 and 14 above and incorporated herein by reference.

10 SECOND CAUSE FOR DISCIPLINE

11 (Statutory Violations-Contract Requirements)

12 17. Respondent is subject to disciplinary action under Code section 8780(d) in that
13 Respondent violated provisions of this chapter in that Respondent did not meet the requirements
14 for contract preparation on the Myles C. project as follows:

15 (a) Pursuant to Code section 8759(a)(4), Respondent failed to include in the written
16 contract for the Myles C. project, a description of the procedure to be used to
17 accommodate additional services.

18 (b) Pursuant to Code section 8759(a)(5), Respondent failed to include in the written
19 contract for the Myles C. project, a description of the procedure to be used to terminate
20 the contract.

21 CITY OF CHINO HILLS PROJECT

22 18. From November 2002 through March 2005, the City of Chino Hills contracted with
23 Respondent to complete 13 land surveys and prepare Records of Survey for the properties. Of the
24 13 land surveys, one was completed, one needed minor corrections to the legal description, and
25 ten needed to be recorded with the San Bernardino County Recorder in order to be complete. On
26 one survey, the City was waiting for a duplicate of the original survey that was lost by a title
27 company when it was submitted to them for recording of a sale of property. Per the contract,
28 Respondent was paid in full for all surveys except one, which was inadvertently not paid. The

1 City had to pay an additional \$1,500 to another surveyor to make corrections to the legal
2 description of one of Respondent's surveys due to Respondent's failure to resubmit the survey to
3 the County within a 60 day time limit. Respondent's contracts on the City of Chino Hills project
4 did not contain language regarding how the contracts could be terminated or how additional
5 services could be added. The contracts also lacked Respondent's license number.

6 19. On or about April 24, 2007, Respondent admitted to an investigator for the
7 Department of Consumer Affairs, Division of Investigation, that he had failed to complete the
8 City of Chino Hills projects by failing to file the records of survey with the County in the
9 specified timeframes.

10 THIRD CAUSE FOR DISCIPLINE

11 (Breach of Contract to Provide Land Surveying Services)

12 20. Respondent is subject to disciplinary action under Code section 8780(g) in that he
13 breached his contract to provide land surveying services to the City of Chino Hills when
14 Respondent failed to file the records of survey with the County in the specified timeframes on 10
15 land surveys in the City of Chino Hills project as set forth in paragraphs 17 and 18 above and
16 incorporated herein by reference.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Statutory Violations-Contract Requirements)

19 21. Respondent is subject to disciplinary action under Code section 8780(d) in that
20 Respondent violated provisions of this chapter in that Respondent did not meet the requirements
21 for contract preparation on the City of Chino Hills project as follows:

22 (a) Pursuant to Code section 8759(a)(3), Respondent failed to include his license number in
23 the 13 written contracts for the City of Chino Hills project.

24 (b) Pursuant to Code section 8759(a)(4), Respondent failed to include a description of the
25 procedure to be used to accommodate additional services in the 13 written contracts for
26 the City of Chino Hills project.

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1 (c) Pursuant to Code section 8759(a)(5), Respondent failed to include a description of the
2 procedure to be used to terminate the contract in the 13 written contracts for the City of
3 Chino Hills project.

4 (d) Pursuant to Code section 8767, Respondent failed to submit Records of Survey within
5 sixty days for 10 of the written contracts for the City of Chino Hills project.

6 PRESTIGE DEVELOPERS, INC. CONTRACTS

7 22. On February 15, 2006, Respondent contracted with Prestige Developers, Inc. to
8 perform land surveying services and file a Record of Survey for the property located at 2782
9 Richard Avenue in Cayucos, California (Richard Avenue project). On or about April 24, 2007,
10 Respondent admitted to an investigator for the Department of Consumer Affairs, Division of
11 Investigation, that he did not execute a written contract for the Richard Avenue project.

12 23. On February 23, 2006, Respondent contracted with Prestige Developers, Inc. to
13 perform land surveying services and provide corrections to the County of Riverside on a Lot Line
14 Adjustment for the Petri tow yard project. On or about April 24, 2007, Respondent admitted to
15 an investigator for the Department of Consumer Affairs, Division of Investigation, that he did not
16 execute a written contract for the Petri tow yard project.

17 24. On March 13, 2006, Respondent contracted with Prestige Developers, Inc. to perform
18 land surveying services and file a Record of Survey for the property located at 22530 Aloha Road
19 in Perris, California (Aloha Road project). On or about April 24, 2007, Respondent admitted to
20 an investigator for the Department of Consumer Affairs, Division of Investigation, that he did not
21 execute a written contract for the Aloha Road project.

22 25. On March 29, 2006, Respondent contracted with Prestige Developers, Inc. to perform
23 land surveying services and file a Record of Survey for the property located at 67399 Palm
24 Canyon Drive in Cathedral City, California (Palm Canyon project). The Record of Survey that
25 Respondent filed with the County of Riverside was returned to Respondent by the County for
26 numerous corrections. Respondent never completed the corrections or resubmitted the Record of
27 Survey. Respondent was paid in full (\$4,500) for his services.

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1 with copies of an unrecorded letter-sized plat and an unrecorded Record of Survey that
2 Respondent had prepared regarding the property at Pedley Road.

3 30. A field review of the site, located untagged rebar in the vicinity of four of the corners
4 of the Pedley Road property. The County Surveyor could not locate a Record of Survey or
5 Corner Record in its files from Respondent, either recorded or in the checking process, for the
6 Pedley Road property.

7 SEVENTH CAUSE FOR DISCIPLINE

8 (Statutory Violations-Violation of Law)

9 31. Respondent is subject to disciplinary action under Code section 8780(d) in that
10 Respondent violated provisions of this chapter in that Respondent did not comply with the law
11 involving the practice of land surveying on the Pedley Road property as follows:

12 (a) Pursuant to Code sections 8762 and 8767, Respondent failed to submit a Record of
13 Survey for the Pedley Road Project to the County Surveyor, within sixty days, and to
14 date, has not submitted a Record of Survey for the property.

15 (b) Pursuant to California Code of Regulations, title 16, section 464, Respondent failed to
16 file a corner record for the Pedley Road project within 90 days of the date the corner
17 was found, set, reset or used as control in the survey. To date, Respondent has not
18 submitted a Record of Survey for the Pedley Road property to the County Surveyor.

19 EIGHTH CAUSE FOR DISCIPLINE

20 (Statutory Violations-Failure to Comply with Board Citation)

21 32. Respondent is subject to disciplinary action under Code section 8780(d) in that
22 Respondent violated provisions of this chapter in conjunction with California Code of
23 Regulations, title 16, Code section 473.3 in that he failed to comply with Citation Order 5216-L
24 issued to Respondent on August 21, 2007 by the Board. Respondent also failed to pay the
25 administrative fine of \$1,000. The circumstances are more specifically set forth in paragraph 4
26 above and incorporated herein by reference.

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1 DISCIPLINE CONSIDERATIONS

2 33. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges that on August 21, 2007, in a prior disciplinary matter, the Board issued
4 Citation Order 5216-L to Respondent, wherein Respondent was ordered to cease and desist
5 violating Code section 8771 and California Code of Regulation, title 16, Code section 464(c).
6 Respondent failed to comply with Citation Order 5216-L and failed to pay an administrative fine
7 of \$1,000. To date, Respondent has not complied with Citation Order 5216-L.

8 PRAYER

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

- 12 1. Revoking or suspending Land Surveyor License No. L 6251, issued to Glen R.
13 Dixon;
- 14 2. Ordering Glen R. Dixon to pay the Board for Professional Engineers, Land
15 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 4/8/11

Original Signed

JOANNE ARNOLD
Interim Executive Officer
Board for Professional Engineers, Land Surveyors,
and Geologists
Department of Consumer Affairs
State of California
Complainant

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