

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

In the Matter of the Accusation against:)	
)	
STEPHEN MICHAEL HEIN)	Case No. 981-A
15537 Excelsior Ditch Camp Road)	
Nevada City, CA 95959)	
)	
Land Surveyor License No. L 6792,)	
)	
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 April 13, 2012.

IT IS SO ORDERED March 8, 2012.

Original Signed

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

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 981-A

12 **STEPHEN MICHAEL HEIN**
13 **15537 Excelsior Ditch Camp Road**
Nevada City, CA 95959

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 **Land Surveyor License No. L 6792**

15 Respondent.
16

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

19 PARTIES

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

24 2. Respondent Stephen Michael Hein (Respondent) is represented in this proceeding by
25 attorney Frank Bloksberg, whose address is: 142 E. McKnight Way, Grass Valley, California,
26 95949.

27 3. On or about June 26, 1992, the Board for Professional Engineers, Land Surveyors,
28 and Geologists issued Land Surveyor License No. L 6792 to Stephen Michael Hein (Respondent).

1 The Land Surveyor License was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 981-A and will expire on September 30, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 981-A was filed before the Board for Professional Engineers, Land
5 Surveyors, and Geologists (Board) , Department of Consumer Affairs, and is currently pending
6 against Respondent. The Accusation and all other statutorily required documents were properly
7 served on Respondent on May 23, 2011. Respondent timely filed his Notice of Defense
8 contesting the Accusation.

9 A copy of Accusation No. 981-A is attached as exhibit A and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 981-A. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
20 the attendance of witnesses and the production of documents; the right to reconsideration and
21 court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 8. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 981-A, if proven at a hearing, constitute cause for imposing discipline upon his Land
28 Surveyor License.

1 investigation and prosecution shall constitute a violation of the probation order, unless the Board
2 agrees in writing to payment by an installment plan because of financial hardship.

3 7. **Examination.** Within 60 days of the effective date of the decision, the Respondent
4 shall successfully complete and pass the California Laws and Board Rules examination, as
5 administered by the Board.

6 8. **Ethics Course.** Within three and one-half (3 1/2) years of the effective date of the
7 decision, the Respondent must successfully complete and pass a course in professional ethics,
8 approved in advance by the Board or its designee. The Respondent shall provide the Board with
9 official proof of completion of the requisite professional ethics course.

10 9. **Take And Pass Examinations.** College-level Courses. Within three and one-half (3
11 1/2) years of the effective date of the decision, the Respondent shall successfully complete and
12 pass one (1) college-level land surveying course, which must be related to the areas of violation
13 alleged in the Accusation. Said course shall be approved in advance by the Board or its designee.
14 The Respondent shall provide the Board with official proof of completion of the requisite course.
15 For purposes of this condition, "college-level course" means a course offered by a community
16 college or a four-year university of three semester units or the equivalent; it does not include
17 seminars.

18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

Exhibit A

Accusation No. 981-A

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVER
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 981-A

12 **STEPHEN MICHAEL HEIN**
13 **15537 Excelsior Ditch Camp Road**
14 **Nevada City, CA 95959**

A C C U S A T I O N

15 **Land Surveyor License No. L 6792**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 26, 1992, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Land Surveyor License Number L 6792 to Stephen Michael Hein
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, 2012, unless renewed.

27 ///

28 ///

JURISDICTION

1
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, in pertinent part:

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

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

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

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

16

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

19

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

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

23 5. Section 8759 of the Code states, in pertinent part:

24 (a) A licensed land surveyor or registered civil engineer authorized to practice land
25 surveying shall use a written contract when contracting to provide professional
26 services to a client pursuant to this chapter. The written contract shall be executed by
27 the licensed land surveyor or registered civil engineer and the client, or his or her
28 representative, prior to the licensed land surveyor or registered civil engineer
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.

1 (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.

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

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

5

6 6. Section 8761 of the Code states:

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

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

12 (c) Interim maps, plats, reports, descriptions, or other land surveying documents
13 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."

14 (d) All final maps, plats, reports, descriptions, or other land surveying documents
15 issued by a licensed land surveyor or civil engineer authorized to practice land
16 surveying shall bear the signature and seal or stamp of the licensee and the date of
17 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 sealing or stamping shall
18 appear, at a minimum, on the title sheet, cover sheet or page, or signature sheet,
19 unless otherwise required by law.

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

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

27 7. Section 8764 of the Code states, in pertinent part:

28 The record of survey shall show the applicable provisions of the following consistent with
the purpose of the survey:

.....

(b) Bearing or witness monuments. basis of bearings. bearing and length of lines. scale of map,
and north arrow.

///

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

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

A record of survey is not required of any survey:

....

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

....

9. Section 404.2 of Title 16 of the California Code of Regulations states, in pertinent part:

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

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

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

(B) In making or reviewing and approving the land surveying decisions, determines the applicability of survey criteria and technical recommendations 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:

....

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

....

///

///

///

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. Section 464 of Title 16 of the California Code of Regulations 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 provisions for extending the time limit shall be the same as provided for a record of survey in Section 8762 of the Code.

.....

11. Section 476 of Title 16 of the California Code of Regulations states, in pertinent part:

To protect and safeguard the health, safety, welfare, and property of the public, every person who is licensed by the Board as a professional land surveyor or professional civil engineer legally authorized to practice land surveying, including licensees employed in any manner by a governmental entity or in private practice, shall comply with this Code of Professional Conduct. A violation of this Code of Professional Conduct in the practice of professional land surveying constitutes unprofessional conduct and is grounds for disciplinary action pursuant to Section 8780 of the Code. This Code of Professional Conduct shall be used for the sole purpose of investigating complaints and making findings thereon under Section 8780 of the Code.

.....

(c) Representations:

.....

(2) A licensee shall not misrepresent to a prospective or existing client the licensee's scope of responsibility in connection with projects or services for which the licensee is receiving or will receive compensation from that client.

(3) A licensee shall not misrepresent his or her scope of responsibility in connection with projects or services for which the licensee is claiming credit

.....

(7) A licensee shall only express professional opinions that have a basis in fact or experience or accepted land surveying principles.

.....

(11) A licensee shall not misrepresent data and/or its relative significance in any professional land surveying report.

.....

(e) Document Submittal:

(1) A licensee shall not misrepresent the completeness of the professional documents he or she submits to a governmental agency.

1 (2) A licensee shall not misrepresent the completeness of the professional documents
2 he or she prepared to his or her client or to other involved parties.

3

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

7 COST RECOVERY

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

12 AUBURN ROAD PROJECT

13 14. On or about April 8, 2008, the Board received a complaint against Respondent related
14 to a land surveying project located at 15842 Auburn Road, Grass Valley, California ("Auburn
15 Road Project"), which belonged to homeowners R.H. and E.H. ("complainants"). An
16 investigation into the complaint revealed that the complainants were involved in a dispute with
17 the owner of a property located to the south of their property ("neighbor"). The dispute was over
18 the location of the boundary markers along the north side of the neighbor's property, which
19 adjoined the south side of the complainants' property. The neighbor contended that his property
20 extended to a fence that ran between the two properties. The complainants contended that the
21 fence was on their property and that their property extended approximately two feet south of the
22 location of the fence.

23 15. On or about December 29, 2005, complainants entered into a contract with
24 Respondent, to reset the boundary markers in accordance with an existing parcel map. A review
25 of the work order for the Auburn Road Project reveals that Respondent signed the agreement. On
26 or about January 26, 2006, complainants received a map in the form of a Record of Survey from
27 Respondent. This map was never filed with the County, nor was it submitted for review.

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Misrepresentation of Data and its Significance in a Professional Land Surveying Report)**

3 26. Paragraphs 14 through 25 are herein incorporated by reference.

4 27. Respondent is subject to disciplinary action under 8780(h) for his violation of section
5 476(c)(11), of Title 16 or the California Code of Regulations, in that Respondent misrepresented
6 data and its significance in a professional land surveying report, as follows:

7 28. Respondent improperly applied the seal of the County Surveyor, Thomas Martin (LS
8 5618) to the unfiled Record of Survey for the Auburn Road Project. This is a misrepresentation
9 of data (Mr. Martin's official seal) and of its significance (the implication of review).

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Breach of Contract to Provide Professional Land Surveying Services)**

12 29. Paragraphs 14 through 28 are herein incorporated by reference.

13 30. Respondent is subject to disciplinary action under section 8780(g) in that Respondent
14 violated his contract to perform land surveying services on the Auburn Road Project. Respondent
15 failed to perform his work in a manner that approached the appropriate standard of care, failed to
16 adhere to legal requirements by filing the proper documentation, and failed to provide the
17 homeowners a copy of the Record of Survey reflective of his corrective survey.

18 **BIRDSEYE CANYON PROJECT**

19 31. On or about October 22, 2008, the Board received a complaint against Respondent
20 related to a land surveying project located in Grass Valley, California. The complaint concerned
21 the boundaries of a piece of property that is commonly referred to as Birdseye Canyon ("Birdseye
22 Canyon Project"). The complaint came from the owner of the property adjacent to Birdseye
23 Canyon and originated from a dispute over the boundary line between the two properties, as well
24 over the right to an access road in the same area.

25 32. An investigation into the complaint revealed that in approximately October of 2006,
26 Respondent was hired by the owner of Birdseye Canyon, the Brady Partnership, to determine the
27 line between the two properties. The original recorded survey of the property in question was
28 done in 1969 by Bertino and Sylvester ("Bertino Survey"). A dependant resurvey of the property

1 was done by the Bureau of Land Management ("BLM Survey") in 1987 and was not recorded.
2 Respondent submitted a record of survey of area which was recorded on or about August 21,
3 2007. In his survey of the property, Respondent found and rejected nearly all of the monuments
4 found or set in the Bertino Survey.

5 **SEVENTH CAUSE FOR DISCIPLINE**

6 **(Negligence and/or Incompetence)**

7 33. Paragraphs 31 through 32 are incorporated herein by reference.

8 34. Respondent is subject to disciplinary action under Code section 8780(b) in that
9 Respondent was negligent and/or incompetent in the practice of land surveying with respect to the
10 Birdseye Canyon Project, from approximately October of 2006 through August of 2007, as
11 follows:

12 a. Respondent failed to obtain and consider the original survey of the Birdseye Canyon
13 Project, the 1873 General Land Office Survey.

14 b. Respondent extrapolated rather than retraced certain lines of the 1987 BLM Survey,
15 upon which he based boundary locations.

16 c. Respondent's record of survey failed to identify and recognize the significance the
17 original Bertino survey, which was the first to establish certain interior lines of section 6.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(Violation of Record of Survey Content Requirements)**

20 35. Paragraphs 31 through 34 are incorporated herein by reference.

21 36. Respondent is subject to disciplinary action under Code section 8780(d) for violating
22 Code section 8764(b) in that the record of survey prepared by Respondent for the Birdseye
23 Canyon Project contained mathematical errors and did not correctly show the bearings and
24 distances of the lines of his survey.

25 ///

26 ///

27 ///

28 ///

1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Misrepresentation)**

3 37. Paragraphs 31 through 36 are incorporated herein by reference.

4 38. Respondent is subject to disciplinary action under Code section 8780(a) and section
5 476(c)(11) of Title 16 of the California Code of Regulations in that Respondent misrepresented
6 the relative significance and importance of the Bertino monumented locations in his record of
7 survey of the Birdseye Canyon Project.

8 **TENTH CAUSE FOR DISCIPLINE**

9 **(Expressing Professional Opinion not Based on Accepted Land Surveying Principles)**

10 39. Paragraphs 31 through 38 are herein incorporated by reference.

11 40. Respondent is subject to disciplinary action under section 8780(h) for his violation of
12 section 476(c)(7) of Title 16 of the California Code of Regulations, in that Respondent made
13 boundary opinions in the Birdseye Canyon Project that were not based upon accepted land
14 surveying principles.

15 **ELEVENTH CAUSE FOR DISCIPLINE**

16 **(Misrepresentation of Completeness of Professional Documents)**

17 41. Paragraphs 30 through 39 are herein incorporated by reference.

18 42. Respondent is subject to disciplinary action under section 8780(h) for his violation of
19 sections 476(e)(1) and (e)(2) of Title 16 of the California Code of Regulations, in that Respondent
20 represented the record of survey in the Birdseye Canyon Project as complete to the County of
21 Nevada and to his client and/or other parties, despite the fact that it had numerous mathematical
22 errors and had not undergone a thorough check for mathematical accuracy, rendering it
23 incomplete.

24 **95 BEAR COURT PROJECT**

25 43. On or about September 5, 2007, the Board received a complaint against Respondent
26 related to a land surveying project located at 95 Bear Court, Pike, California ("95 Bear Court
27 Project"), which was owned by S.B. An investigation into the complaint revealed that it arose out
28

1 of a disagreement over the location of a boundary line between S.B.'s property and an adjacent
2 property, 97 Bear Court, owned by B.R.

3 44. On or about February 3, 2006, homeowner B.R. hired land surveyor Dennis
4 McCreary to complete a record of survey for 97 Bear Court, as well as to locate boundaries and
5 set monuments, and to record the survey map. Mr. McCreary performed his survey ("McCreary
6 Survey"), which resulted in the movement of the existing property line into S.B.'s property by as
7 much as thirty (30) feet.

8 45. Complainant S.B. contended that Mr. McCreary had performed his survey
9 incorrectly and had improperly rejected established monuments previously set. In 1969, land
10 surveyor A.W. Beeson had done a survey of 95 Bear Court ("Beeson Survey") and set
11 monuments. Complainant S.B. contended that the McCreary Survey improperly rejected
12 established monuments set during the Beeson survey and that Mr. McCreary's boundary
13 determination was influenced by his client's need to have sufficient land area to accomplish a
14 parcel split.

15 46. On or about January 19, 2007, Complainant S.B. entered into a contract with
16 Respondent to check the results of the McCreary Survey. The work order stated that Respondent
17 would do a record of survey, locate boundaries and set monuments, and record the survey map.
18 Field work was performed, and Respondent informed S.B. that he had concluded that the
19 McCreary Survey was correct. In May of 2007, S.B. told Respondent to stop work on the project,
20 and no survey had been recorded.

21 47. S.B. filed her complaint with the Board in September of 2007, alleging that
22 Respondent acted improperly in regard to the survey of her property. S.B. alleged that
23 Respondent did not exercise the appropriate level of control in that he did not personally visit the
24 site to observe field evidence and conditions and that he instead relied on unlicensed employees
25 to perform all fieldwork and relay any pertinent information to him. S.B. further alleged that
26 Respondent did not survey the entire boundary as indicated in the work order and that
27 Respondent had incorrectly represented to his employees and other surveyors that S.B. had
28 moved the markers set in the Beeson Survey to her benefit.

1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Negligence and/or Incompetence)**

3 48. Paragraphs 43 through 47 are incorporated herein by reference.

4 49. Respondent is subject to disciplinary action under Code section 8780(b) in that
5 Respondent was negligent and/or incompetent in the practice of land surveying with respect the
6 95 Bear Court Project, from approximately January of 2007 through May of 2007, as follows:

7 a. Respondent demonstrated a fundamental misunderstanding of his obligation to check
8 the conclusions of the previous survey, independent of that survey.

9 b. Respondent misapplied the guidance of the Bureau of Land Management Manual.

10 c. Respondent was unaware of his obligation to consider all of the available evidence
11 and to consider the effect of the Beeson Survey.

12 d. Respondent was unaware of what constitutes valid and pertinent evidence.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Exercise Responsible Control)**

15 50. Paragraphs 43 through 49 are herein incorporated by reference.

16 51. Respondent is subject to disciplinary action under 8780(h) for his violation of section
17 404.2, subdivisions (a)(1)(A), (a)(1)(B), and (a)(2)(E) of Title 16 of the California Code of
18 Regulations, in that Respondent failed to exercise adequate responsible control of the work for the
19 95 Bear Court Project, as follows:

20 52. Respondent failed to directly supervise or give adequate direction to his crew on
21 gathering adequate measurement evidence with respect to either the scope of monumentation to
22 locate or to properly identify and locate evidence of occupation and use.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Misrepresentation)**

3 53. Paragraphs 43 through 52 are herein incorporated by reference.

4 54. Respondent is subject to disciplinary action under section 8780(h) for his violation of
5 section 476, subdivision (c)(2), of Title 16 of the California Code of Regulations, in that
6 Respondent misrepresented to his client his scope of work in the 95 Bear Court Project, as
7 follows:

8 55. Respondent's work order indicates that all of the property boundaries would be
9 surveyed, yet he only surveyed the south line of the property.

10 **FIFTEENTH CAUSE FOR DISCIPLINE**

11 **(Violation of Regulations)**

12 56. Paragraphs 43 through 55 are herein incorporated by reference.

13 57. Respondent is subject to disciplinary action under section 8780(h) for his violations in
14 the course of the practice of land surveying of rules or regulations of unprofessional conduct
15 adopted by the Board, in his work on the 95 Bear Court Project, as follows:

16 a. By not properly considering the full set of evidence available to him in arriving at his
17 conclusions, Respondent expressed opinions not based upon the full set of facts and not based
18 upon the proper accepted land surveying principles, in violation of section 476(c)(7) of Title 16 of
19 the California Code of Regulations.

20 b. Respondent shows the Beeson monuments on his map, but in inappropriately
21 dismissing them, misrepresented data and its significance to the land boundaries depicted, in
22 violation of section 476(c)(11) of Title 16 of the California Code of Regulations.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **PRAYER**

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

5 1. Revoking or suspending Land Surveyor License Number L 6792, issued to Stephen
6 Michael Hein

7 2. Ordering Stephen Michael Hein to pay the Board for Professional Engineers, Land
8 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
9 pursuant to Business and Professions Code section 125.3;

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

11 DATED: 5/16/11

Original Signed

12 JOANNÉ ARNOLD
13 Interim Executive Officer
14 Board for Professional Engineers and Land Surveyors
15 Department of Consumer Affairs
16 State of California
17 *Complainant*