## 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	)
15537 Excelsior Ditch Camp Road	)
Nevada City, CA 95959	)
	)
Land Surveyor License No. L 6792,	)
	)
Respondent.	)
1	ý

Case No. 981-A

#### **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 aboveentitled matter.

This Decision shall become effective on <u>Apríl 13, 2012</u>

IT IS SO ORDERED March 8, 2012

Oríginal Signed

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

1	Kamala D. Harris	
2	Attorney General of California ARTHUR D. TAGGART	
3	Supervising Deputy Attorney General KAREN R. DENVIR	
4	Deputy Attorney General State Bar No. 197268	
5	1300   Street, Suite 125 P.O. Box 944255	
6	Sacramento, CA 94244-2550 Telephone: (916) 324-5333	
7	Facsimile: (916) 327-8643 Attorneys for Complainant	
8	• •	RETHE
	BOARD FOR PROFESSIONAL ENG	SINEERS, LAND SURVEYORS, AND
9	DEPARTMENT OF C	CONSUMER AFFAIRS
10		
11	In the Matter of the Accusation Against:	Case No. 981-A
12	STEPHEN MICHAEL HEIN	STIPULATED SETTLEMENT AND
13	15537 Excelsior Ditch Camp Road Nevada City, CA 95959	DISCIPLINARY ORDER
14	Land Surveyor License No. L 6792	
15	Respondent.	
16		
17		REED by and between the parties to the above-
18	entitled proceedings that the following matters a	
19	-ite and a second se	RTIES
20		nt) is the Executive Officer of the Board for
21	Professional Engineers, Land Surveyors, and Ge	
22	official capacity and is represented in this matter	
23	State of California, by Karen R. Denvir, Deputy	
24		Respondent) is represented in this proceeding by
25	attorney Frank Bloksberg, whose address is: 142	2 E. McKnight Way, Grass Valley, California,
26	95949.	
27	3. On or about June 26, 1992, the Boar	rd for Professional Engineers, Land Surveyors,
28	and Geologists issued Land Surveyor License N	o. L 6792 to Stephen Michael Hein (Respondent).
		STIPULATED SETTLEMENT (981-A)

11	
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.
	2
	STIPULATED SETTLEMENT (981-A

For the purpose of resolving the Accusation without the expense and uncertainty of 9. 1 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual 2 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest 3 those charges. 4

Respondent agrees that his Land Surveyor License is subject to discipline and he 10. 5 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below. 6 7

#### CONTINGENCY

11. This stipulation shall be subject to approval by the Board for Professional Engineers, 8 Land Surveyors, and Geologists. Respondent understands and agrees that counsel for 9 Complainant and the staff of the Board for Professional Engineers, Land Surveyors, and 10 Geologists may communicate directly with the Board regarding this stipulation and settlement, 11 without notice to or participation by Respondent or his counsel. By signing the stipulation, 12 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the 13 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this 14 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of 15 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between 16 the parties, and the Board shall not be disqualified from further action by having considered this 17 matter. 18

The parties understand and agree that facsimile copies of this Stipulated Settlement 19 12. and Disciplinary Order, including facsimile signatures thereto, shall have the same force and 20 effect as the originals. 21

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an 22 integrated writing representing the complete, final, and exclusive embodiment of their agreement. 23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary 25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a 26 writing executed by an authorized representative of each of the parties. 27

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1	14. In consideration of the foregoing admissions and stipulations, the parties agree that
2	the Board may, without further notice or formal proceeding, issue and enter the following
3	Disciplinary Order:
4	DISCIPLINARY ORDER
5	IT IS HEREBY ORDERED that Land Surveyor License No. L 6792 issued to Respondent
6	Stephen Michael Hein (Respondent) is revoked. However, the revocation is stayed and
7	Respondent is placed on probation for four (4) years on the following terms and conditions.
8	1. Obey All Laws. The Respondent shall obey all laws and regulations related to the
9	practices of professional engineering and professional land surveying.
10	2. Submit Reports. The Respondent shall submit such special reports as the Board may
11	require.
12	3. <b>Tolling of Probation.</b> The period of probation shall be tolled during the time the
13	Respondent is practicing exclusively outside the state of California. If, during the period of
14	probation, the Respondent practices exclusively outside the state of California, the Respondent
15	shall immediately notify the Board in writing.
16	4. <b>Violation of Probation.</b> If the Respondent violates the probationary conditions in
17	any respect, the Board, after giving the Respondent notice and the opportunity to be heard, may
18	vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of
19	probation, an accusation or petition to vacate stay is filed against the Respondent, or if the matter
20	has been submitted to the Office of the Attorney General for the filing of such, the Board shall
21	have continuing jurisdiction until all matters are final, and the period of probation shall be
22	extended until all matters are final.
23	5. <b>Completion of Probation.</b> Upon successful completion of all of the probationary
24	conditions and the expiration of the period of probation, the Respondent's license shall be
25	unconditionally restored.
26	6. <b>Cost Recovery.</b> The Respondent is hereby ordered to reimburse the Board the
27	amount of \$10,000.00 within three and one half (3 <sup>1</sup> / <sub>2</sub> ) years days from the effective date of this
28	decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its
	4 STIPULATED SETTLEMENT (981-A)
	SHPULATED SETTLEMENT (981-A)

investigation and prosecution shall constitute a violation of the probation order, unless the Board
 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.

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

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

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STIPULATED SETTLEMENT (981-A)

1	ACCEPTANCE
2	I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3	discussed it with my attorney, Frank Bloksberg. I understand the stipulation and the effect it will
4	have on my Land Surveyor License. I enter into this Stipulated Settlement and Disciplinary
5	Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
6	of the Board for Professional Engineers, Land Surveyors, and Geologists.
7	
8	DATED: 12/29/2011 Original Signed
. 9	STEPHEN MICHAEL HEIN Respondent
10	
11	I have read and fully discussed with Respondent Stephen Michael Hein the terms and
12	conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13	I approve its form and content.
14	I approve its form and content. DATED: 1/3/20,2 Frank Bloksberg
15	Attorney for Respondent
16	
17	ENDORSEMENT
18	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19	submitted for consideration by the Board for Professional Engineers, Land Surveyors, and
20	Geologists of the Department of Consumer Affairs. Dated: $1/5/12$ Respectfully submitted,
21	KAMALA D. HARRIS
22	Attorney General of California ARTHUR D. TAGGART
23	Supervising Deputy Attorney General
24	Original Signed
25 26	KAREN R. DENVIR Deputy Attorney General
20 27	Attorneys for Complainant
27	
20	6
	STIPULATED SETTLEMENT (981-A)

## Exhibit A

## Accusation No. 981-A

1	KAMALA D. HARRIS Attorney General of California	
2	ARTHUR D. TAGGART Supervising Deputy Attorney General KAREN R. DENVIR	
4	Deputy Attorney General State Bar No. 197268	
5	1300 I Street, Suite 125 P.O. Box 944255	
6	Sacramento, CA 94244-2550 Telephone: (916) 324-5333	
7	Facsimile: (916) 327-8643 Attorneys for Complainant	
8		RE THE
9	GEOL	GINEERS, LAND SURVEYORS, AND OGISTS CONSUMER AFFAIRS
10		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	ACCUSATION
14	Land Surveyor License No. L 6792	
15	Respondent.	
16 17		
17	Complainant alleges:	
19		RTIES
20	1. Joanne Arnold (Complainant) bring	s this Accusation solely in her official capacity as
21	the Interim Executive Officer of the Board for P	rofessional Engineers, Land Surveyors, and
22	Geologists. Department of Consumer Affairs.	
23	2. On or about June 26, 1992, the Boa	rd for Professional Engineers, Land Surveyors,
24	and Geologists issued Land Surveyor License N	lumber 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 Septe	mber 30. 2012, unless renewed.
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27 28		
		1 Accusation

1	JURISDICTION
2	3. This Accusation is brought before the Board for Professional Engineers, Land
3	Surveyors, and Geologists (Board), Department of Consumer Affairs, under the authority of the
4	following laws. All section references are to the Business and Professions Code unless otherwise
5	indicated.
6	4. Section 8780 of the Code states, in pertinent part:
7	The board may receive and investigate complaints against licensed land surveyors and registered civil engineers, and make findings thereon.
9 10	By a 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 or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700), whom it finds to be guilty of:
11 12	(a) Any fraud, deceit, or misrepresentation in his or her practice of land surveying.
12	(b) Any negligence or incompetence in his or her practice of land surveying.
13	••••
15	(d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.
16	
17	(g) A breach or violation of a contract to provide land surveying services.
18 19	(h) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board."
20	5. Section 8759 of the Code states, in pertinent part:
21	(a) A licensed land surveyor or registered civil engineer authorized to practice land
22	surveying shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by
23	the licensed land surveyor or registered civil engineer and the client, or his or her representative, prior to the licensed land surveyor or registered civil engineer
24	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
25	not be limited to, all of the following:
26	(1) A description of the services to be provided to the client by the licensed land surveyor or registered civil engineer.
27	(2) A description of any basis of compensation applicable to the contract, and the method of norman by the particle.
28	method of payment agreed upon by the parties.
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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 engineer and the client will use to accommodate additional services.
3	(5) A description of the procedure to be used by any party to terminate the contract.
4	· · · · ·
5	
6	6. Section 8761 of the Code states:
7 8	(a) Any licensed land surveyor or civil engineer authorized to practice land surveying may practice land surveying and prepare maps, plats, reports, descriptions, or other documentary evidence in connection with that practice.
9 10	(b) All maps, plats, reports, descriptions, or other land surveying documents shall be prepared by, or under the responsible charge of, a licensed land surveyor or civil engineer authorized to practice land surveying and shall include his or her name and
11	license number.
12	(c) Interim maps, plats, reports, descriptions, or other land surveying documents shall include a notation as to the intended purpose of the map, plat, report,
13	description, or other document, such as "preliminary" or "for examination only."
14	(d) All final maps, plats, reports, descriptions, or other land surveying documents issued by a licensed land surveyor or civil engineer authorized to practice land surveying shall bear the signature and seal or stamp of the licensee and the date of
15 16	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 appear, at a minimum, on the title sheet, cover sheet or page, or signature sheet,
17	unless otherwise required by law.
18	(e) It is unlawful for any person to sign, stamp, seal, or approve any map, plat, report, description, or other land surveying document unless the person is authorized to practice land surveying.
19	(f) It is unlawful for any person to stamp or seal any map, plat, report, description,
20	or other land surveying document with the seal or stamp after the certificate of the licensee that is named on the seal or stamp has expired or has been suspended or
21	revoked, unless the certificate has been renewed or reissued.
22	7. Section 8764 of the Code states, in pertinent part:
23	The record of survey shall show the applicable provisions of the following consistent with
24	the purpose of the survey:
25	····
26	(b) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map,
27	and north arrow.
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	Accusation

1		8. Section 8765 of the Code states, in pertinent part:
2		A record of survey is not required of any survey:
3		
4		(d) When the survey is a retracement of lines shown on a subdivision map, official
5		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
6		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
7		a material discrepancy in the position of points or lines, or in dimensions.
8		
9		9. Section 404.2 of Title 16 of the California Code of Regulations states, in pertinent
10	part:	
11		(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
12		(hereinafter referred to as "legally authorized civil engineer") is required to maintain while exercising independent control and direction of land surveying work or services
13		and the land surveying decisions which can be made only by a licensed land surveyor or legally authorized civil engineer.
14		(1) Extent of Control. The extent of control necessary to be in responsible charge
15		shall be such that the land surveyor or legally authorized civil engineer:
16		(A) Makes or review and approves the land surveying decisions defined and described in subdivision $(a)(2)$ below.
17		(B) In making or reviewing and approving the land surveying decisions, determines
18		the applicability of survey criteria and technical recommendations provided by others before incorporating such criteria or recommendations.
19		(2) Land Surveying Decisions. The term "responsible charge" relates to land
20		surveying decisions within the purview of the Professional Land Surveyors' Act.
21		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
22		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:
23		(E) Reviewing the sufficiency and accuracy of the work product.
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1	10. Section 464 of Title 16 of the California Code of Regulations states, in pertinent part:
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3	(c) The corner record shall be filed within 90 days from the date a corner was found, set,
4	reset, or used as control in any survey. The provisions for extending the time limit shall be the
5	same as provided for a record of survey in Section 8762 of the Code.
6	
7	
8	11. Section 476 of Title 16 of the California Code of Regulations states, in pertinent part:
9	To protect and safeguard the health, safety, welfare, and property of the public, every
10	person who is licensed by the Board as a professional land surveyor or professional civil engineer legally authorized to practice land surveying, including licensees
11	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
12	Conduct in the practice of professional land surveying constitutes unprofessional conduct and is grounds for disciplinary action pursuant to Section 8780 of the Code.
13	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.
14	(a) Depresentations:
15	(c) Representations:
16 17	(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.
18	(3) A licensee shall not misrepresent his or her scope of responsibility in connection
19	with projects or services for which the licensee is claiming credit
20	
21	(7) A licensee shall only express professional opinions that have a basis in fact or experience or accepted land surveying principles.
22	
23	(11) A licensee shall not misrepresent data and/or its relative significance in any professional land surveying report.
24	
25	(e) Document Submittal:
26	(1) A licensee shall not misrepresent the completeness of the professional documents
27	he or she submits to a governmental agency.
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(2) A licensee shall not misrepresent the completeness of the professional documents 1 he or she prepared to his or her client or to other involved parties. 2 . . . . 3 12. Section 118, subdivision (b), of the Code provides that the expiration of a license shall 4 not deprive the Board of jurisdiction to proceed with a disciplinary action during the period 5 within which the license may be renewed, restored, reissued or reinstated. 6 COST RECOVERY 7 Section 125.3 of the Code provides, in pertinent part, that the Board may request the 13. 8 administrative law judge to direct a licentiate found to have committed a violation or violations of 9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and 10 enforcement of the case. 11 AUBURN ROAD PROJECT 12 On or about April 8, 2008, the Board received a complaint against Respondent related 14. 13 to a land surveying project located at 15842 Auburn Road, Grass Valley, California ("Auburn 14 Road Project"). which belonged to homeowners R.H. and E.H. ("complainants"). An 15 investigation into the complaint revealed that the complainants were involved in a dispute with 16 the owner of a property located to the south of their property ("neighbor"). The dispute was over 17 the location of the boundary markers along the north side of the neighbor's property, which 18 adjoined the south side of the complainants' property. The neighbor contended that his property 19 extended to a fence that ran between the two properties. The complainants contended that the 20 fence was on their property and that their property extended approximately two feet south of the 21 location of the fence. 22 15. On or about December 29, 2005, complainants entered into a contract with 23 Respondent, to reset the boundary markers in accordance with an existing parcel map. A review 24 of the work order for the Auburn Road Project reveals that Respondent signed the agreement. On 25 or about January 26, 2006, complainants received a map in the form of a Record of Survey from 26 Respondent. This map was never filed with the County, nor was it submitted for review. 27 28

1 16. On or about March 21, 2007, complainants received a letter from Respondent stating
 2 that he was going to change their map and survey. The letter did not explain why these changes
 3 were going to be made.

17. On or about April 11, 2007, the neighbor informed complainants he had hired a land 4 surveyor who had determined that Respondent had set monuments incorrectly. The neighbor 5 contacted Respondent to inform him that the boundary was incorrect and that Respondent needed 6 to change it. Respondent proceeded to perform work to revise his boundary findings, resetting 7 points along the South line to coincide with the neighbor's fence and the findings of the 8 neighbor's land surveyor. Respondent revised and filed a new record of survey and although he 9 billed complainants for the County review fee, he did not provide his clients with a copy of the 10 revised Record of Survey. 11

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## **FIRST CAUSE FOR DISCIPLINE**

# (Negligence and/or Incompetence in the Practice of Land Surveying)

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18. Paragraphs 14 through 17 are incorporated by reference.

15 19. Respondent is subject to disciplinary action under section 8780(b) of the Code in that
16 he was negligent and/or incompetent in the practice of land surveying with respect to the Auburn
17 Road Project, from approximately December 29, 2005 through January 29, 2008, as follows:

a. Respondent was negligent and/or incompetent in that he put forth an entirely
inadequate effort in his initial survey of the Auburn Road Project and fell well short of his duty
in terms of research, fieldwork, analysis, and documentation. His survey demonstrated an effort
or ability below that which is indicative of minimal competence.

b. Respondent was negligent and/or incompetent in that he performed his corrective
survey of the Auburn Road Project with less than an adequate level of diligence.

c. Respondent was incompetent in that he used judgment that was neither sound nor
independent throughout the process of surveying the Auburn Road Project, by not giving due
consideration to the full body of boundary evidence available to him, and by not recognizing the
proper order of seniority (in time) of the mapping and monumentation surrounding the project. *11/1*

1	SECOND CAUSE FOR DISCIPLINE	
2	(Violation of Contract Content Requirements)	
3	20. Paragraphs 14 through 19 are incorporated herein by reference.	
4	21. Respondent is subject to disciplinary action under section 8780(d) for violating	
5	section 8759(a)(5) in that the work order prepared by Respondent for the Auburn Road Project	
6	did not include a description of the procedure to be used by any party to terminate the contract.	
7	THIRD CAUSE FOR DISCIPLINE	
8	(Failure to File a Corner Record)	
9	22. Paragraphs 14 through 21 are herein incorporated by reference.	
10	23. Respondent is subject to disciplinary action under section 8780(d) for violating	
11	section 8765(d) in that Respondent failed to file a corner record after his initial survey of the	
12	Auburn Road Project. Respondent set new monuments during the initial survey and was,	
13	therefore, required by law to file a corner record.	
14	FOURTH CAUSE FOR DISCIPLINE	
15	(Misrepresentation)	
16	24. Paragraphs 14 through 23 are herein incorporated by reference.	
17	25. Respondent is subject to disciplinary action under section 8780(h) for his violation	of
18	section 476, subdivisions (c)(2) and (c)(3), of Title 16 of the California Code of Regulations. in	1
19	that Respondent misrepresented his scope of responsibility of work for which he took or implie	ed
20	credit and for which he was compensated in relation to the Auburn Road Project. The	
21	circumstances are that on or about January 26, 2006. Respondent provided the complainants w	ith
22	an unfiled Record of Survey for the Auburn Road Project which contained the Surveyor's	
23	Statement, implying review, as well as the Recorder's Statement, implying that the map would	be
24	recorded. This was a misrepresentation as the Record of Survey was neither reviewed nor	
25	recorded.	
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27		
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	8	
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FIFTH CAUSE FOR DISCIPLINE         (Misrepresentation of Data and its Significance in a Professional Land Surveying Report)         26.       Paragraphs 14 through 25 are herein incorporated by reference.         27.       Respondent is subject to disciplinary action under 8780(h) for his violation of section         476(c)(11), of Title 16 or the California Code of Regulations, in that Respondent misrepresented         data and its significance in a professional land surveying report, as follows:         28.       Respondent improperly applied the seal of the County Surveyor, Thomas Martin (LS         5618) to the unfiled Record of Survey for the Auburn Road Project. This is a misrepresentation         of data (Mr. Martin's official seal) and of its significance (the implication of review). <u>SIXTH CAUSE FOR DISCIPLINE</u> (Breach of Contract to Provide Professional Land Surveying Services)
<ul> <li>26. Paragraphs 14 through 25 are herein incorporated by reference.</li> <li>27. Respondent is subject to disciplinary action under 8780(h) for his violation of section 476(c)(11), of Title 16 or the California Code of Regulations, in that Respondent misrepresented data and its significance in a professional land surveying report, as follows:</li> <li>28. Respondent improperly applied the seal of the County Surveyor, Thomas Martin (LS 5618) to the unfiled Record of Survey for the Auburn Road Project. This is a misrepresentation of data (Mr. Martin's official seal) and of its significance (the implication of review).</li> <li><u>SIXTH CAUSE FOR DISCIPLINE</u> (Breach of Contract to Provide Professional Land Surveying Services)</li> </ul>
<ul> <li>27. Respondent is subject to disciplinary action under 8780(h) for his violation of section 476(c)(11), of Title 16 or the California Code of Regulations, in that Respondent misrepresented data and its significance in a professional land surveying report, as follows:</li> <li>28. Respondent improperly applied the seal of the County Surveyor, Thomas Martin (LS 5618) to the unfiled Record of Survey for the Auburn Road Project. This is a misrepresentation of data (Mr. Martin's official seal) and of its significance (the implication of review).</li> <li><u>SIXTH CAUSE FOR DISCIPLINE</u> (Breach of Contract to Provide Professional Land Surveying Services)</li> </ul>
<ul> <li>476(c)(11), of Title 16 or the California Code of Regulations, in that Respondent misrepresented data and its significance in a professional land surveying report, as follows:</li> <li>28. Respondent improperly applied the seal of the County Surveyor, Thomas Martin (LS 5618) to the unfiled Record of Survey for the Auburn Road Project. This is a misrepresentation of data (Mr. Martin's official seal) and of its significance (the implication of review).</li> <li><u>SIXTH CAUSE FOR DISCIPLINE</u></li> <li>(Breach of Contract to Provide Professional Land Surveying Services)</li> </ul>
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<u>SIXTH CAUSE FOR DISCIPLINE</u> (Breach of Contract to Provide Professional Land Surveying Services)
(Breach of Contract to Provide Professional Land Surveying Services)
29. Paragraphs 14 through 28 are herein incorporated by reference.
30. Respondent is subject to disciplinary action under section 8780(g) in that Respondent
violated his contract to perform land surveying services on the Auburn Road Project. Respondent
failed to perform his work in a manner that approached the appropriate standard of care, failed to
adhere to legal requirements by filing the proper documentation, and failed to provide the
homeowners a copy of the Record of Survey reflective of his corrective survey.
BIRDSEYE CANYON PROJECT
31. On or about October 22, 2008, the Board received a complaint against Respondent
related to a land surveying project located in Grass Valley, California. The complaint concerned
the boundaries of a piece of property that is commonly referred to as Birdseye Canyon ("Birdseye
Canyon Project"). The complaint came from the owner of the property adjacent to Birdseye
Canyon and originated from a dispute over the boundary line between the two properties, as well
over the right to an access road in the same area.
32. An investigation into the complaint revealed that in approximately October of 2006,
Respondent was hired by the owner of Birdseye Canyon, the Brady Partnership, to determine the
line between the two properties. The original recorded survey of the property in question was
done in 1969 by Bertino and Sylvester ("Bertino Survey"). A dependant resurvey of the property
done in 1909 by Dertino and Sylvesici ("Dertino 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.		
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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 Responden	t	
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 ou		
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of a disagreement over the location of a boundary line between S.B.'s property and an adjacent
 property, 97 Bear Court, owned by B.R.

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

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

46. On or about January 19, 2007, Complainant S.B. entered into a contract with
Respondent to check the results of the McCreary Survey. The work order stated that Respondent
would do a record of survey, locate boundaries and set monuments, and record the survey map.
Field work was performed, and Respondent informed S.B. that he had concluded that the
McCreary Survey was correct. In May of 2007, S.B. told Respondent to stop work on the project,
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 Respondent did not exercise the appropriate level of control in that he did not personally visit the 23 site to observe field evidence and conditions and that he instead relied on unlicensed employees 24 to perform all fieldwork and relay any pertinent information to him. S.B. further alleged that 25 Respondent did not survey the entire boundary as indicated in the work order and that 26 Respondent had incorrectly represented to his employees and other surveyors that S.B. had 27 moved the markers set in the Beeson Survey to her benefit. 28

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 conclu	sions of the previous survey, independent of that survey.	
9	b.	Respondent misapplied the guidance of the Bureau of Land Management Manual.	
10	с.	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 or the California Code of		
18	Regulations, in that Respondent failed to exercise adequate responsible control of the work for the		
19	95 Bear C	ourt 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.		
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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.		
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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 reason	hable costs of the investigation and enforcement of this case,
9	pursuant to Business and Profession	s Code section 125.3;
10	3. Taking such other and fu	urther action as deemed necessary and proper.
11	DATED: <u>5/16/11</u>	Oríginal Signed -
12		JOANNÉ ARNOLD Interim Executive Officer
13		Board for Professional Engineers and Land Surveyors Department of Consumer Affairs
14		State of California Complainant
15		Comptainant
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