

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

In the Matter of the Petition to Revoke)	
Probation against:)	
)	
DANIEL PAUL MacNEIL)	Case No. 777-A
P. O. Box 1342)	
Topanga, CA 90290)	
)	
Land Surveyor License No. L 6961,)	
)	
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 June 17, 2011.

IT IS SO ORDERED May 12, 2011.

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 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-9954
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Attorneys for Complainant
7

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 Petition to Revoke
12 Probation Against:

13 **DANIEL PAUL MACNEIL**
14 **P.O. Box 1342**
Topanga, CA 90290
Land Surveyor License No. L 6961

15 Respondent.
16

Case No. 777-A

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

19 PARTIES

20 1. Joanne Arnold (Complainant) is the Acting Executive Officer of the Board for
21 Professional Engineers and Land Surveyors. He brought this action solely in his official capacity
22 and is represented in this matter by Kamala D. Harris, Attorney General of the State of California,
23 by Shawn P. Cook, Deputy Attorney General.

24 2. Respondent Daniel Paul MacNeil (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about July 16, 1993, the Board for Professional Engineers and Land Surveyors
27 issued Land Surveyor License No. L 6961 to Daniel Paul MacNeil (Respondent). The Land
28

1 Surveyor License was in full force and effect at all times relevant to the charges brought in
2 Petition to Revoke Probation No. 777-A and will expire on September 30, 2011, unless renewed.

3 JURISDICTION

4 4. Petition to Revoke Probation No. 777-A was filed before the Board for Professional
5 Engineers, Land Surveyors, and Geologists (Board), Department of Consumer Affairs, and is
6 currently pending against Respondent. The Petition to Revoke Probation and all other statutorily
7 required documents were properly served on Respondent on December 20, 2010. Respondent
8 timely filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of
9 Petition to Revoke Probation No. 777-A is attached as exhibit A and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in Petition
13 to Revoke Probation No. 777-A. Respondent has also carefully read, and understands the effects
14 of this Stipulated Settlement and Disciplinary Order.

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

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

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Petition to
26 Revoke Probation No. 777-A.

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ACCEPTANCE

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

DATED: 3/22/11

Original Signed

DANIEL PAUL MACNEIL
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board for Professional Engineers, Land Surveyors, and Geologists of the Department of Consumer Affairs.

Dated: March 18, 2011
30,

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General

Original Signed

SHAWN P. COOK
Deputy Attorney General
Attorneys for Complainant

LA2010502341
Stipulation.rtf

EXHIBIT A
Petition to Revoke Probation, Case No. 777-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
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Attorneys for Complainant
7

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

11 In the Matter of the Petition to Revoke
Probation Against,

Case No. 777-A

12 **DANIEL PAUL MACNEIL**
13 **P.O. Box 1342**
14 **Topanga, CA 90290**
Land Surveyor License No. L 6961

PETITION TO REVOKE PROBATION

15 Respondent.
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17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about July 16, 1993, the Board for Professional Engineers and Land Surveyors
23 issued Land Surveyor License Number L 6961 to Daniel Paul MacNeil (Respondent). The Land
24 Surveyor License was in effect at all times relevant to the charges brought herein and will expire
25 on September 30, 2011, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Daniel Paul
27 MacNeil," Case No. 777-A, the Board for Professional Engineers and Land Surveyors, issued a
28 decision, effective April 14, 2010, in which Respondent's Land Surveyor License was revoked.

1 However, the revocation was stayed and Respondent's license was placed on probation for a
2 period of four (4) years with certain terms and conditions. A copy of that decision is attached as
3 Exhibit A and is incorporated by reference.

4 JURISDICTION

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

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

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

17 7. Section 150 of the Code states: "The department is under the control of a civil
18 executive officer who is known as the Director of Consumer Affairs."

19 8. Section 22 of the Code states:

20 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the
21 administration of the provision is vested, and unless otherwise expressly provided, shall include
22 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
23 'agency.'

24 "(b) Whenever the regulatory program of a board that is subject to review by the Joint
25 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2
26 (commencing with Section 473), is taken over by the department, that program shall be
27 designated as a 'bureau.'"

28 ///

1 extension until December 31, 2009 to provide proof of his successful completion of a professional
2 ethics course.

3 THIRD CAUSE TO REVOKE PROBATION

4 (Failure to Complete and Pass Two Board-Approved Courses in Land Surveying)

5 13. At all times after the effective date of Respondent's probation, Condition Ten (10)
6 stated: "10. Take And Pass Courses. Within three (3) years of the effective date of the Board's
7 Decision and Order, the Respondent shall successfully complete and pass two (2) college-level
8 land surveying courses, specifically related to the areas of the violations alleged in Board
9 Accusation No. 777-A. Said courses shall be approved in advance by the Board or its designee.
10 The Respondent shall provide the Board with official proof of completion of the requisite courses.
11 For purposes of this condition, "college-level land surveying courses" means courses offered by a
12 community college or a four-year university of three semester units for each course or their
13 equivalent; it does not include seminars. The Board or its designee, in its discretion, may
14 consider any courses Respondent has taken since the Accusation was filed (July 7, 2005)
15 including extension courses, as satisfying this condition of probation. Any future extension
16 courses, in satisfaction of this condition of probation, must be approved in advance by the Board
17 or its designee."

18 14. Respondent's probation is subject to revocation because he failed to comply with
19 Probation Condition Ten (10), referenced above. The facts and circumstances regarding this
20 violation are that Respondent has failed to successfully complete and pass two college-level
21 courses in professional ethics, approved by the Board in advance, and submit proof of completion
22 to the Board within three (3) years of the effective date of the Board's Decision and Order that
23 revoked Respondent's license, with revocation stayed, and placed him on probation, despite
24 Respondent having been given an extension until December 31, 2009 to provide proof of his
25 successful completion of the courses.

26 PROBATION EXTENDED

27 15. At all times after the effective date of Respondent's probation, Condition Four (4)
28 stated: "4. Violation of Probation. If the Respondent violates the probationary conditions in any

1 respect, the Board, after giving the Respondent notice and the opportunity to be heard, may
2 vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of
3 probation, an accusation or petition to vacate stay is filed against the Respondent, or if the matter
4 has been submitted to the Office of the Attorney General for the filing of such, the Board shall
5 have continuing jurisdiction until all matters are final, and the period of probation shall be
6 extended until all matters are final."

7 16. Respondent's four (4) year probation with the Board that was due to terminate on or
8 about April 14, 2010, has been tolled and extended. The circumstances are that on or about April
9 8, 2010, the Board submitted the matter to the Office of the Attorney General for the filing of a
10 petition to revoke probation based on Respondent's violations of the terms and conditions of his
11 probation, thereby extending the period of probation until this matter is final.

12 PRAYER

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

16 1. Revoking the probation that was granted by the Board for Professional Engineers and
17 Land Surveyors in Case No. 777-A and imposing the disciplinary order that was stayed thereby
18 revoking Land Surveyor License No. L 6961 issued to Daniel Paul MacNeil;

19 2. Revoking or suspending Land Surveyor License No. L 6961, issued to Daniel Paul
20 MacNeil;

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

22
23 DATED: 01/24/10

Original Signed

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

LA2010502341
pet revoke prob.rtf

Exhibit A

Decision and Order

Board for Professional Engineers and Land Surveyors Case No. 777-A

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

In the Matter of the Accusation Against:

DANIEL PAUL MACNEIL
P.O. Box 1342
Topanga, CA 90290

Land Surveyor License No. L 6961

Respondent.

Case No. 777-A

OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board, as its Decision in this matter.

This Decision shall become effective on April 14, 2006
It is so ORDERED March 17, 2006

Original Signed

FOR THE BOARD FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

1 BILL LOCKYER, Attorney General
of the State of California
2 SHARON F. COHEN, R.N.
Supervising Deputy Attorney General
3 BARRY G. THORPE, State Bar No. 126422
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-5845
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 DANIEL PAUL MACNEIL
P.O. Box 1342
13 Topanga, CA 90290

14 Land Surveyor License No. L 6961,

15 Respondent.

Case No. 777-A

OAH Case No. L-2005120532

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

21 1. Cindi Christenson, P.E. (Complainant) is the Executive Officer of the
22 Board for Professional Engineers and Land Surveyors (Board). Complainant brought this action
23 solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General
24 of the State of California, by Barry G. Thorpe, Deputy Attorney General.

25 2. Respondent Daniel Paul MacNeil (Respondent) is representing himself in
26 this proceeding and has chosen not to exercise his right to be represented by counsel.

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1 Board shall have continuing jurisdiction until all matters are final, and the period of probation
2 shall be extended until all matters are final.

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

6 6. **Cost Recovery.** Within three and one-half years (3 ½) of the effective
7 date of the Board's Decision and Order, the Respondent shall reimburse the Board for its
8 investigative and enforcement costs in this matter in the amount of \$3,694.50. Said
9 reimbursements may be paid in installments.

10 7. **Examination.** Within sixty (60) days of the effective date of the Board's
11 Decision and Order, the Respondent shall successfully complete and pass the California Laws
12 and Board Rules examination, as administered by the Board.

13 8. **Ethics Course.** Within two (2) years of the effective date of the Board's
14 Decision and Order, the Respondent shall successfully complete and pass a course in
15 professionalism and ethics for land surveyors, approved in advance by the Board or its designee.
16 The Respondent shall provide the Board with official proof of completion of the requisite course.

17 9. **Notification.** Within thirty (30) days of the effective date of the decision,
18 the Respondent shall provide the Board with evidence that he has provided all persons or entities
19 with whom he has a contractual or employment relationship relating to professional land
20 surveying services with a copy of the Decision and Order of the Board and shall provide the
21 Board with the name and business address of each person or entity required to be so notified.
22 During the period of probation, the Respondent may be required to provide the same notification
23 to each new person or entity with whom he has a contractual or employment relationship relating
24 to professional land surveying services and shall report to the Board the name and address of
25 each person or entity so notified.

26 10. **Take And Pass Courses.** Within three (3) years of the effective date of
27 the Board's Decision and Order, the Respondent shall successfully complete and pass two (2)
28 college-level land surveying courses, specifically related to the areas of the violations alleged in

1 Board Accusation No. 777-A. Said courses shall be approved in advance by the Board or its
2 designee. The Respondent shall provide the Board with official proof of completion of the
3 requisite courses. For purposes of this condition, "college-level land surveying courses" means
4 courses offered by a community college or a four-year university of three semester units for each
5 course or their equivalent; it does not include seminars. The Board or its designee, in its
6 discretion, may consider any courses Respondent has taken since the Accusation was filed (July
7 7, 2005) including extension courses, as satisfying this condition of probation. Any future
8 extension courses, in satisfaction of this condition of probation, must be approved in advance by
9 the Board or its designee.

10 11. **Restitution.** Within three (3) years of the effective date of the Board's
11 Decision and Order, the Respondent shall provide verifiable proof to the Board that he has paid
12 restitution to consumer Ralph Rauli in the amount of \$3,312.50.

13 ACCEPTANCE

14 *I have carefully read the Stipulated Settlement and Disciplinary Order. I*
15 *understand the stipulation and the effect it will have on my Land Surveyor License. I enter into*
16 *this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and*
17 *agree to be bound by the Decision and Order of the Board.*

18 DATED: 1.27.06.

19 *Original Signed*

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21 DANIEL PAUL MACNEIL
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 1-31-06.

BILL LOCKYER, Attorney General
of the State of California

Original Signed

BARRY G. THORPE
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: LA2004602052

Exhibit A
Accusation No. 777-A

1 BILL LOCKYER, Attorney General
of the State of California
2 DIANE M. L. TAN, State Bar No. 86571
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-8764
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 777-A

12 DANIEL PAUL MACNEIL
P.O. Box 1342
13 Topanga, CA 90290

OAH No.

A C C U S A T I O N

14 Land Surveyor License No. L 6961,

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

22 2. On or about July 16, 1993, the Board issued Land Surveyor License No. L
23 6961 to Daniel Paul MacNeil (Respondent). The Land Surveyor License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on September 30, 2005,
25 unless renewed.

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1 JURISDICTION

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

5 4. Section 8780 states:

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

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

12

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

14 5. California Code of Regulations, title 16, section 404, states, in pertinent
15 part:

16 "For the purpose of the rules and regulations contained in this chapter, the
17 following terms are defined. No definition contained herein authorizes the practice of
18 professional engineering as defined in the Professional Engineers Act.

19

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

24

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

1 the pipe found on the north side of Oakdale, ignoring discrepancies indicated by measurements to
2 other points. Respondent did not consider alternate solutions which accounted for the 2.2 feet
3 change in boundary to be correct or incorrect.

4 e. Respondent's Certificate of Correction to his Record of Survey with a list
5 of corrections failed to be mathematically correct. The Certificate of Correction indicates that
6 1) the initial monument held for the survey at the point of curvature on the north side of Oakdale,
7 along with points set by the subject, are off by 2.43 feet west, and 2) that the distance along the
8 centerline of Oakdale along the north line and south line of lot 7 are incorrect and should be
9 shown as 2.21 feet longer. These numbers should be equal if there are no other changes in
10 dimensions and because none of the distances to the east are decreased in the Certificate of
11 Correction, the overall distance between Berkeley and San Marino would be increased by 2.21
12 feet after applying the corrections.

13 f. Respondent failed to file a "new" Record of Survey to correct his
14 erroneously filed and recorded Record of Survey after he located additional evidence: a found
15 two-inch pipe at the northeast corner of lot 8. To comply with Code §8762(b) and (c), a new
16 Record of Survey should be filed and recorded as the new survey indicated from the Certificate
17 of Correction to Respondent's Record of Survey discloses a material discrepancy with the
18 information shown on the recorded survey map and results in an alternate position of points and
19 lines shown on that map.

20 PRAYER

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

- 24 1. Revoking or suspending Land Surveyor License No. L 6961, issued to
25 Daniel Paul MacNeil.
- 26 2. Ordering Daniel Paul MacNeil to pay the Board for Professional Engineers
27 and Land Surveyors the reasonable costs of the investigation and enforcement of this case,
28 pursuant to Business and Professions Code section 125.3;

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

DATED: July 7, 2005

Original Signed

CINDI CHRISTENSON, P.E.
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California

Complainant