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

11 In the Matter of the Accusation Against:

Case No. 973-A

12 **RONALD VELASCO**
13 **424 West Allstare Avenue**
14 **Tulare, CA 93274**

DEFAULT DECISION AND ORDER

15 **5813 Sparks Street**
16 **Bakersfield, CA 93307**

[Gov. Code, §11520]

Land Surveyor License No. L 7424

Respondent.

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18 **FINDINGS OF FACT**

19 1. On or about April 8, 2011, Complainant Joanne Arnold, in her official capacity as the
20 Interim Executive Officer of the Board for Professional Engineers, Land Surveyors, and
21 Geologists, Department of Consumer Affairs, filed Accusation No. 973-A against Ronald
22 Velasco (Respondent) before the Board for Professional Engineers, Land Surveyors, and
23 Geologists.

24 2. On or about July 18, 1997, the Board for Professional Engineers, Land Surveyors,
25 and Geologists (Board) issued Land Surveyor License No. L 7424 to Respondent. The Land
26 Surveyor License was in full force and effect at all times relevant to the charges brought herein
27 and will expire on December 31, 2011, unless renewed.

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1 3. On or about April 28, 2011, Respondent was served by Certified and First Class Mail
2 copies of Accusation No. 973-A, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 136
5 and California Code of Regulations, title 16, section 412, is required to be reported and
6 maintained with the Board, which was and is: 424 West Allstare Avenue, Tulare, CA 93274.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about April 30, 2011, the aforementioned documents were delivered to
11 Respondent's address of record by the U.S. Postal Service, and signed for by "Miles Velasco."

12 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
13 of the Accusation.

14 7. On or about August 5, 2011, Complainant Richard B. Moore, PLS, in his official
15 capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and
16 Geologists, Department of Consumer Affairs, filed First Amended Accusation No. 973-A against
17 Ronald Velasco (Respondent) before the Board for Professional Engineers, Land Surveyors, and
18 Geologists. (First Amended Accusation attached as Exhibit A)

19 8. On or about August 10, 2011, Respondent was served by Certified and First Class
20 Mail copies of the First Amended Accusation No. 973-A, Statement to Respondent, Notice of
21 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
22 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
23 Professions Code section 136 and California Code of Regulations, title 16, section 412, is
24 required to be reported and maintained with the Board, which was and is: 424 West Allstare
25 Avenue, Tulare, CA 93274. Respondent was also served by Certified and First Class Mail with
26 the same documents at an alternate address of 5813 Sparks Street, Bakersfield, CA 93307.

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1 9. Service of the First Amended Accusation was effective as a matter of law under the
2 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
3 Code section 124.

4 10. Respondent failed to file a Notice of Defense within 15 days after service upon him
5 of the First Amended Accusation. Respondent waived his right to a hearing on the merits of First
6 Amended Accusation No. 973-A.

7 11. Government Code section 11506 states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts
10 of the accusation not expressly admitted. Failure to file a notice of defense shall
11 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
12 may nevertheless grant a hearing.

13 12. California Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the
15 hearing, the agency may take action based upon the respondent's express admissions
16 or upon other evidence and affidavits may be used as evidence without any notice to
17 respondent.

18 13. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on the
20 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
21 as well as taking official notice of all the investigatory reports, exhibits and statements contained
22 therein on file at the Board's offices regarding the allegations contained in First Amended
23 Accusation No. 973-A, finds that the charges and allegations in First Amended Accusation No.
24 973-A, are separately and severally, found to be true and correct by clear and convincing
25 evidence.

26 14. Taking official notice of its own internal records, pursuant to Business and
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
28 and Enforcement is \$3,662.50 as of November 10, 2011.

DETERMINATION OF ISSUES

1 1. Based on the foregoing findings of fact, Respondent Ronald Velasco has subjected
2 his Land Surveyor License No. L 7424 to discipline.

1 2. The agency has jurisdiction to adjudicate this case by default.

2 3. The Board for Professional Engineers, Land Surveyors, and Geologists is authorized
3 to revoke Respondent's Land Surveyor License based upon the following violations alleged in the
4 First Amended Accusation which are supported by the evidence contained in the Default Decision
5 Evidence Packet in this case:

6 a. Respondent is subject to disciplinary action under Code section 8780 (a) in that
7 Respondent was deceitful and misrepresented the facts in his practice of land surveying regarding
8 the Jesus E. project in Thousand Palms, California, in that Respondent agreed to and accepted
9 money to prepare a record of survey and submit it for filing with the County of Riverside.
10 Respondent never prepared and never submitted the record to the County of Riverside

11 b. Respondent is subject to disciplinary action under Code section 8780 (g) in that
12 Respondent failed to perform the work he agreed to perform regarding the Jesus E. project in
13 Thousand Palms, California.

14 c. Respondent is subject to disciplinary action under Code section 8780 (d) for
15 violation of Code section 8759 in that he did not provide a written contract, regarding the Jesus E.
16 project in Thousand Palms, California, in violation of his obligations in his practice of land
17 surveying.

18 d. Respondent is subject to disciplinary action under Code section 8780 (d) for
19 violation of Code section 8762 (c) in that he failed to file the record of survey within 90 days of
20 his survey of the Jesus E. project in Thousand Palms, California.

21 e. Respondent is subject to disciplinary action under Code section 8780 (a) in that
22 Respondent was deceitful and misrepresented the facts in his practice of land surveying regarding
23 the Eric L. project in Thousand Palms, California, in that Respondent agreed to and accepted
24 money to prepare a record of survey and submit it for filing with the County of Riverside.
25 Respondent never prepared and never submitted the record to the County of Riverside.

26 f. Respondent is subject to disciplinary action under Code section 8780 (g) in that
27 Respondent failed to perform the work he agreed to perform regarding the Eric L. project in
28 Thousand Palms, California.

1 g. Respondent is subject to disciplinary action under Code section 8780 (d) for
2 violation of Code section 8759 in that he did not provide a written contract, regarding the Eric L.
3 project in Thousand Palms, California, in violation of his obligations in his practice of land
4 surveying.

5 h. Respondent is subject to disciplinary action under Code section 8780 (d) for
6 violation of Code section 8767 in that on six separate projects, he failed to re-submit the record of
7 survey within 60 days after the County of Riverside returned them to him for corrections. Those
8 surveys are set forth as follows:

- 9 (1) Bernard L. property in Palm Desert;
- 10 (2) Rosalie H. Trust property in Palm Springs;
- 11 (3) David D. property in Riverside County;
- 12 (4) Jeffrey S. property in Cathedral City;
- 13 (5) Tim P. property in Rancho Mirage;
- 14 (6) Homero B. property in Thousand Palms, California.

15 i. Respondent is subject to disciplinary action under Code section 8780 (d) for
16 violation of Code section 8767 in that on two separate projects, he failed to re-submit the record
17 of survey within 60 days after the County of San Bernardino returned them to him for corrections.

18 Those surveys are set forth as follows:

- 19 (1) Record of Survey Number 01-907;
- 20 (2) Record of Survey Number 08-176.

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ORDER

IT IS SO ORDERED that Land Surveyor License No. L 7424, heretofore issued to Respondent Ronald Velasco, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 13, 2012.

It is so ORDERED March 8, 2012

Original Signed

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

DOJ Matter ID:SD2011700379

Attachment:

Exhibit A: First Amended Accusation

Exhibit A

First Amended Accusation

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2 LINDA K. SCHNEIDER
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3 DAVID E. HAUSFELD
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10 **GEOLOGISTS**
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12 In the Matter of the Accusation Against:

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13 **RONALD VELASCO**
14 **424 West Allstare Avenue**
Tulare, CA 93274

FIRST AMENDED ACCUSATION

15 **5813 Sparks Street**
16 **Bakersfield, CA 93307**

17 **Land Surveyor License No. L 7424**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Richard B. Moore, PLS (Complainant) brings this First Amended Accusation solely
23 in his official capacity as the Executive Officer of the Board for Professional Engineers, Land
24 Surveyors, and Geologists, Department of Consumer Affairs.

25 2. On or about July 18, 1997, the Board for Professional Engineers, Land Surveyors,
26 and Geologists issued Land Surveyor License Number L 7424 to Ronald Velasco (Respondent).
27 The Land Surveyor License was in full force and effect at all times relevant to the charges
28 brought herein and will expire on December 31, 2011, unless renewed.

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

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

3 (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.

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

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

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8 (c) "Written contract" as used in this section includes a contract that is in
electronic form.

9 7. Section 8762 of the Code states, in pertinent part:

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

13 (b) Notwithstanding subdivision (a), after making a field survey in
conformity with the practice of land surveying, the licensed land surveyor or
14 licensed civil engineer shall file with the county surveyor in the county in which
the field survey was made a record of the survey relating to land boundaries or
property lines, if the field survey discloses any of the following:

15 (1) Material evidence or physical change, which in whole or in part does not
16 appear on any subdivision map, official map, or record of survey previously
recorded or properly filed in the office of the county recorder or county surveying
17 department, or map or survey record maintained by the Bureau of Land
Management of the United States.

18 (2) A material discrepancy with the information contained in any subdivision
map, official map, or record of survey previously recorded or filed in the office of
19 the county recorder or the county surveying department, or any map or survey
record maintained by the Bureau of Land Management of the United States. For
20 purposes of this subdivision, a "material discrepancy" is limited to a material
discrepancy in the position of points or lines, or in dimensions.

21 (3) Evidence that, by reasonable analysis, might result in materially alternate
positions of lines or points, shown on any subdivision map, official map, or record
22 of survey previously recorded or filed in the office of the county recorder or the
county surveying department, or any map or survey record maintained by the
Bureau of Land Management of the United States.

23 (4) The establishment of one or more points or lines not shown on any
subdivision map, official map, or record of survey, the positions of which are not
24 ascertainable from an inspection of the subdivision map, official map, or record of
survey.

25 (5) The points or lines set during the performance of a field survey of any
parcel described in any deed or other instrument of title recorded in the county
26 recorder's office are not shown on any subdivision map, official map, or record of
survey.

27 (c) The record of survey required to be filed pursuant to this section shall be
28 filed within 90 days after the setting of boundary monuments during the

1 performance of a field survey or within 90 days after completion of a field survey,
2 whichever occurs first.

3 (d)(1) If the 90-day time limit contained in subdivision (c) cannot be
4 complied with for reasons beyond the control of the licensed land surveyor or
5 licensed civil engineer, the 90-day time period shall be extended until the time at
6 which the reasons for delay are eliminated. If the licensed land surveyor or
7 licensed civil engineer cannot comply with the 90-day time limit, he or she shall,
8 prior to the expiration of the 90-day time limit, provide the county surveyor with a
9 letter stating that he or she is unable to comply. The letter shall provide an estimate
10 of the date for completion of the record of survey, the reasons for the delay, and a
11 general statement as to the location of the survey, including the assessor's parcel
12 number or numbers.

13 (2) The licensed land surveyor or licensed civil engineer shall not initially be
14 required to provide specific details of the survey. However, if other surveys at the
15 same location are performed by others which may affect or be affected by the
16 survey, the licensed land surveyor or licensed civil engineer shall then provide
17 information requested by the county surveyor without unreasonable delay.

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19 8. Section 8767 of the Code states, in pertinent part:

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

20 REGULATORY PROVISIONS

21 9. CCR, section 476 states, in pertinent part:

22 To protect and safeguard the health, safety, welfare, and property of the
23 public, every person who is licensed by the Board as a professional land surveyor
24 or professional civil engineer legally authorized to practice land surveying,
25 including licensees employed in any manner by a governmental entity or in private
26 practice, shall comply with this Code of Professional Conduct. A violation of this
27 Code of Professional Conduct in the practice of professional land surveying
28 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.

(a) Compliance with Laws Applicable to a Project:

A licensee shall provide professional services for a project in a manner that
is consistent with the laws, codes, ordinances, rules, and regulations applicable to
that project. A licensee may obtain and rely upon the advice of other professionals
(e.g., architects, attorneys, professional engineers, professional land surveyors, and

1 other qualified persons) as to the intent and meaning of such laws, codes, and
2 regulations.

3

4 **COST RECOVERY**

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

9 **JESUS E. PROJECT**

10 11. In or about June of 2007 Respondent was hired by property owner, Jesus E., to
11 perform a record of survey of his property in Thousand Palms, California. The record of survey
12 was not performed and there was never a record filed with the County by Respondent.

13 12. Respondent was paid \$3,000.00 to perform the survey and \$500.00 for the filing fees
14 with the County. Respondent did not enter into a written contract with the property owner.

15 13. During a subsequent survey performed by another land surveyor, boundary
16 monuments containing respondent's land surveyor license number were found on the property.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Deceit and Misrepresentation in the Practice of Land Surveying)**

19 14. Respondent is subject to disciplinary action under Code section 8780 (a) in that
20 Respondent was deceitful and misrepresented the facts in his practice of land surveying regarding
21 the Jesus E. project in Thousand Palms, California, as set forth in paragraphs 11 through 13
22 above, which are incorporated by reference herein.

23 15. In particular, Respondent agreed to and accepted money to prepare a record of survey
24 and submit it for filing with the County of Riverside. Respondent never prepared and never
25 submitted the record to the County of Riverside.

26 **SECOND CAUSE FOR DISCIPLINE**

27 **(Breach of Contract in the Practice of Land Surveying)**

28 16. Respondent is subject to disciplinary action under Code section 8780 (g) in that
Respondent failed to perform the work he agreed to perform regarding the Jesus E. project in

1 Thousand Palms, California, as set forth in paragraphs 11 through 13 above, which are
2 incorporated by reference herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Failure to Enter Into a Written Contract in the Practice of Land Surveying)**

5 17. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
6 of Code section 8759 in that he failed to enter into a written contract in violation of his
7 obligations in his practice of land surveying regarding the Jesus E. project in Thousand Palms,
8 California, as set forth in paragraphs 11 through 13 above, which are incorporated by reference
9 herein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to File a Timely Record of Survey)**

12 18. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
13 of Code section 8762 (c) in that he failed to file the record of survey within 90 days of his survey
14 of the Jesus E. project in Thousand Palms, California, as set forth in paragraphs 11 through 13
15 above, which are incorporated by reference herein.

16 **ERIC L. PROJECT**

17 19. In or about August of 2007 Respondent was hired by property owner, Eric L., to
18 perform a record of survey of his property in Thousand Palms, California. The record of survey
19 was not performed and there was never a record filed with the County by Respondent.

20 20. Respondent was paid \$3,000.00 to perform the survey. Respondent did not enter into
21 a written contract with the property owner.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Deceit and Misrepresentation in the Practice of Land Surveying)**

24 21. Respondent is subject to disciplinary action under Code section 8780 (a) in that
25 Respondent was deceitful and misrepresented the facts in his practice of land surveying regarding
26 the Eric L. project in Thousand Palms, California, as set forth in paragraphs 19 and 20 above,
27 which are incorporated by reference herein.

28 ///

1 c. David D. property in Riverside County, California. Respondent submitted the
2 record of survey to the County of Riverside on February 18, 2004. The survey was returned to
3 him for corrections on March 4, 2004. Respondent re-submitted the survey on April 5, 2004.
4 The County again returned the survey for further corrections on May 5, 2004. The survey was
5 never re-submitted.

6 d. Jeffrey S. property in Cathedral City, California. Respondent submitted the
7 record of survey to the County of Riverside on February 18, 2004. The survey was returned to
8 him for corrections on March 4, 2004. Respondent re-submitted the survey on April 5, 2004.
9 The County again returned the survey for further corrections on May 5, 2004. The survey was
10 never re-submitted.

11 e. Tim P. property in Rancho Mirage, California. Respondent submitted the
12 record of survey to the County of Riverside on March 30, 2004. The survey was returned to him
13 for corrections on April 14, 2004. The survey was never re-submitted.

14 f. Homero B. property in Thousand Palms, California. Respondent submitted the
15 record of survey to the County of Riverside on September 19, 2006. The survey was returned to
16 him for corrections on October 19, 2006. The survey was never re-submitted.

17 **NINTH CAUSE FOR DISCIPLINE**

18 **(Failure to Re-Submit a Timely Record of Survey)**

19 26. Respondent is subject to disciplinary action under Code section 8780 (d) for violation
20 of Code section 8767 in that on two separate projects he failed to re-submit the record of survey
21 within 60 days after the County of San Bernardino returned them to him for corrections. Those
22 surveys are set forth as follows:

23 a. Record of Survey number 01-097 in the County of San Bernardino, California.
24 Respondent submitted the record of survey to the County of San Bernardino on July 23, 2001.
25 The survey was returned to him for corrections on September 11, 2001. Respondent re-submitted
26 the survey on December 5, 2002. The County again returned the survey for further corrections on
27 January 16, 2003. The survey was never re-submitted.

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