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

In the Matter of the Accusation Against: **ROD POSADA** **2554 Sweetwater Springs Boulevard** **Spring Valley, CA 91978** **Land Surveyor License No. L 8314** Respondent.	Case No. 990-A **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about July 27, 2007, the Board for Professional Engineers, Land Surveyors, and Geologists issued Land Surveyor License Number L 8314 to Rod Posada (Respondent). The Land Surveyor License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

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JURISDICTION

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

4. Section 8780 of the Code states, in pertinent part:

". . . .

"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:

". . . .

"(c) Any fraud or deceit in obtaining his or her license.

". . . ."

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

STATUTORY PROVISIONS

6. Section 8742 of the Code states, in pertinent part:

> (a) The educational qualifications and experience in land surveying, which an applicant for the second division examination shall possess, shall not be less than one of the following prescribed criteria:
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> (1) Graduation from a four-year curriculum with an emphasis in land surveying approved by the board or accredited by a national or regional accrediting agency recognized by the United States Office of Education at a postsecondary educational institution and two years of actual broad based progressive experience in land surveying, including one year of responsible field training and one year of responsible office training, satisfactory to the board.
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> (2) Actual broad based progressive experience in land surveying for at least six years, including one year of responsible field training and one year of responsible office training, satisfactory to the board.

(3) Registration as a civil engineer with two years of actual broad based progressive experience in land surveying satisfactory to the board.

. . . .

7. Section 8743 of the Code states:

"The names and addresses of at least four land surveyors or civil engineers, duly qualified to practice in the place in which such practice has been conducted, each of whom has sufficient knowledge of the applicant to enable him to certify to the applicant's professional integrity, ability and fitness to receive a license, shall be submitted with the application for the second division of the examination."

REGULATORY PROVISIONS

8. 16 California Code of Regulations, (CCR), section 425 states:

(a) An applicant for licensure as a professional land surveyor shall be granted credit towards the experience requirements contained in Sections 8741 and 8742 of the Code, for the following education curriculum:

(1) Four (4) years experience credit for graduation from an approved land surveying curriculum.

(2) Two (2) years experience credit for graduation from a non-approved land surveying curriculum.

(3) Five (5) years of experience credit for graduation from an approved cooperative work-study land surveying curriculum.

(4) One-half (1/2) year of education credit for each year of study completed in an approved land surveying curriculum that did not result in the awarding of a baccalaureate degree, except that the maximum of such experience shall be two (2) years. A year of study shall be at least 32 semester units or 48 quarter units, no less than 10 semester units or 15 quarter units of which shall be from classes clearly identified as being land surveying subjects.

"Life Experience Degrees" are not acceptable and will not be counted towards the education credit.

(b) All qualifying work experience in land surveying shall be performed under the responsible charge of a person legally authorized to practice land surveying. An applicant shall possess at least two years of actual responsible training experience in land surveying which shall involve at least four of the land surveying activities specified in subdivisions (a)-(g) and (k)-(n) of Section 8726 of the Code. Qualifying experience in activities specified in subdivision (a), (b), (m), and (n) of Section 8726 shall not exceed one year. Qualifying experience shall be computed on an actual time worked basis, but not to exceed forty hours per week.

(c) For purposes of Section 8742 of the Code, the term "responsible field training" experience may include, but is not limited to, the land surveying

activities listed below. Under the responsible charge, direction, and review of a person legally authorized to practice land surveying, the applicant:

(1) Determines field survey methods and procedures, including selection of accuracy standards.

(2) Selects or verifies that the correct control monumentation is used to establish the designated survey datum(s) (horizontal and vertical) and selects on-the-ground locations for control monuments.

(3) Determines the relevance of monuments and physical field evidence for the purpose of establishing boundary and property lines.

(4) Reviews measurement observations for the determination of accuracy, completeness, and consistency.

(5) Reviews field notes and records for application of proper field survey procedures.

(6) Plans, performs, and reviews field checks and, based on such checks, determines if completed field surveys are accurate and sufficient.

(7) Searches for boundary and control monuments; assists in analyzing field evidence for locating boundary points and lines; identifies and describes such evidence; compares record data to found physical evidence; compares record data to measured data; documents discrepancies; assists in acquiring and documenting testimony regarding boundary locations; recommends boundary location and/or establishment; selects or verifies that the correct controlling monuments are used to locate or establish boundary points and lines; and prepares draft record documents.

(8) Coordinates the fieldwork necessary to prepare maps, plats, reports, descriptions, or other documents.

(9) Recommends when existing boundary monuments are to be replaced, selects the method(s) to be used for replacing and resetting monuments, and prepares field documentation of such work, including that necessary for Parcel Maps, Final Maps, Record of Survey Maps, and Corner Records.

(10) Functions as a party chief, chief of parties, or lead person in charge of field crew(s) in the performance of field surveys.

(11) Plans and performs field observations using Global Positioning System technology and determines if completed field surveys are accurate and sufficient in geodetic and land surveying applications.

(12) Performs surveys to facilitate the location or construction of infrastructure and fixed works of improvement.

The enumeration of the above tasks does not preclude the Board from awarding "responsible field training" credit for training of a similar character in other current or future land surveying activities not specifically enumerated herein. It is also understood that the listed tasks are only some of those that may be considered as responsible training, and that this list is not in any way intended to enumerate all of the tasks which may be performed by licensed Professional Land Surveyors.

(d) For purposes of Section 8742 of the Code, the term "responsible office training" experience may include, but is not limited to, the land surveying activities listed below. Under the responsible charge, direction, and review of a person authorized to practice land surveying, the applicant:

(1) Performs the planning and analysis necessary for the preparation of survey documents, such as Parcel Maps, Final Maps, Record of Survey Maps, Corner Records, legal descriptions, topographic maps, plat maps, lot line adjustments, annexations, and boundary line agreements.

(2) Reduces and evaluates field data.

(3) Develops procedures and systems for the collection, reduction, adjustment, and use of land surveying data.

(4) Prepares data to be used by field surveyors or field crews.

(5) Coordinates the processing of maps, plats, reports, descriptions, or other documents with local agencies, other licensed surveyors, or County Surveyors Offices.

(6) Coordinates the office work necessary to prepare maps, plats, reports, descriptions, or other documents.

(7) Coordinates survey and design efforts for improvement plans as required for sufficiency to enable proper location of improvements in the field.

(8) Researches public and private records to obtain survey and title data.

(9) Performs boundary analysis and determination using record descriptions, survey, and title data.

(10) Plans and coordinates the application of Global Positioning System technology for geodetic and land surveying applications.

(11) Plans, coordinates, performs, and reviews the entry of property boundary related geo-referenced data into an electronic database.

(12) Prepares topographic mapping utilizing photogrammetric methods.

The enumeration of the above tasks does not preclude the Board from awarding "responsible office training" credit for training of a similar character in other current or future land surveying activities not specifically enumerated herein. It is also understood that the listed tasks are only some of those that may be considered as responsible training, and that this list is not in any way intended to enumerate all of the tasks which may be performed by licensed professional land surveyors.

(e) Computation of qualifying experience for a license as a professional land surveyor shall be to the date of filing of the application, or it shall be to the final filing date announced for the examination if the application is filed within a period of thirty (30) days preceding the final filing date announced for such examination.

(f) An applicant for licensure as a land surveyor who holds a valid and unexpired license as a civil engineer is exempt from the application requirements

of subdivisions (b), (c), and (d) of this section provided he or she submits sufficient documentation that he or she has a minimum of two years of actual broad based progressive experience in land surveying as required by Business and Professions Code Section 8742(a)(3).

COST RECOVERY

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

CAUSE FOR DISCIPLINE

(Failure to Provide Accurate and Correct Information in the License Application)

10. Respondent is subject to disciplinary action under Code section 8780 (c) for violations of 16 CCR section 425 in that Respondent was deceitful and misrepresented the facts in his application for licensure as a land surveyor.

11. In particular, Respondent misrepresented the extent of his background, training and experience in land surveying in his application papers. In addition, Respondent knowingly submitted four letters of reference that contained falsehoods pertaining to Respondent's background, training and experience.

PRAYER

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

1. Revoking or suspending Land Surveyor License Number L 8314, issued to Rod Posada;

2. Ordering Rod Posada to pay the Board for Professional Engineers, Land Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 10/03/11

Original Signed

RICHARD B. MOORE, PLS
Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
Department of Consumer Affairs
State of California
Complainant

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