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

In the Matter of the Accusation against:	)	
	)	
JACK C. LEE 576 East Lambert Road Brea, CA 92821	)))	Case No. 957-A
	)	
Civil Engineer License No. C 40870, Geotechnical Engineer License No. GE 2153, Land Surveyor License No. L 8407,	)))	
	)	
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 November 16, 2012.

IT IS SO ORDERED October 11, 2012.

Original Signed

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

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General
DAVID E. HAUSFELD
Deputy Attorney General
State Bar No. 110639
110 West "A" Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2025
Facsimile: (619) 645-2061
Attorneys for Complainant

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

In the Matter of the Accusation Against: **JACK C. LEE** **576 East Lambert Road** **Brea, CA 92821** **Civil Engineer License No. C 40870** **Geotechnical Engineer License No. GE 2153** **Land Surveyor License No. L 8407** Respondent.	Case No. 957-A **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

///

///

2. Jack C. Lee (Respondent) is represented in this proceeding by attorney Lawrence A. Treglia of Murtaugh Meyer Nelson & Treglia, LLP, whose address is: 2603 Main Street, 9th Floor, Irvine, CA 92614.

3. On or about August 1, 1986, the Board for Professional Engineers, Land Surveyors, and Geologists issued Civil Engineer License No. C 40870 to Respondent. The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 957-A and will expire on March 31, 2013, unless renewed.

4. On or about August 2, 1991, the Board for Professional Engineers, Land Surveyors, and Geologists issued Geotechnical Engineer License No. GE 2153 to Respondent. The Geotechnical Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 957-A and will expire on March 31, 2013, unless renewed.

5. On or about January 25, 2008, the Board for Professional Engineers, Land Surveyors, and Geologists issued Land Surveyor License No. L 8407 to Respondent. The Land Surveyor License was in full force and effect at all times relevant to the charges brought in Accusation No. 957-A and will expire on June 30, 2014, unless renewed.

JURISDICTION

6. Accusation No. 957-A was filed before the Board for Professional Engineers, Land Surveyors, and Geologists (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 21, 2010. Respondent timely filed his Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 957-A is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 957-A. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

11. Respondent understands that the charges and allegations in Accusation No. 957-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil Engineer License No. C 40870, his Geotechnical Engineer License No. GE 2153 and his Land Surveyor License No. L 8407.

12. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

13. Respondent agrees that his Civil Engineer License, his Geotechnical Engineer License and his Land Surveyor License are subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

14. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board for Professional Engineers, Land Surveyors, and Geologists, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

///

///

CONTINGENCY

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

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

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

18. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 40870, Geotechnical Engineer License No. GE 2153, and Land Surveyor License No. L 8407 issued to Respondent

Jack C. Lee are revoked. However, the revocations are stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state, and local laws and regulations related to the practices of professional engineering and land surveying.

2. **Submit Reports.** Respondent shall submit such special reports as the Board may require.

3. **Tolling of Probation.** The period of probation shall be tolled during the time Respondent is practicing exclusively outside the state of California. If, during the period of probation, Respondent practices exclusively outside the state of California, Respondent shall immediately notify the Board in writing.

4. **Violation of Probation.** If Respondent violates the probationary conditions in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of probation, an Accusation or Petition to Revoke Probation is filed against Respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of such, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.

5. **Completion of Probation.** Upon successful completion of all of the probationary conditions and the expiration of the period of probation, Respondent's Civil Engineer License No. C 40870, Geotechnical Engineer License No. GE 2153, and Land Surveyor License No. L 8407 shall be unconditionally restored.

6. **Cost Recovery.** Within three (3) years of the effective date of this decision, Respondent shall reimburse the Board the amount of $6,612.50, for its investigative and enforcement costs. Failure to reimburse the Board's investigative and enforcement costs shall constitute a violation of the probation order. Said reimbursement may be made in installments, subject to a payment plan the Board has agreed to in writing.

7. **Examination.** Within ninety (90) days of the effective date of the decision, Respondent shall successfully complete and pass the California Professional Engineers State

Laws and Board Rules Examination and the California Professional Land Surveyors State Laws and Board Rules Examination as administered by the Board.

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

9. **Take And Pass Examinations.** Within three and one-half (3 1/2) years from the effective date of the decision, Respondent shall successfully complete and pass two (2) college-level civil engineering courses, which must be related to the areas of violation alleged in the Accusation. Said courses shall be approved in advance by the Board or its designee. Respondent shall provide the Board with official proof of completion of the requisite courses. For purposes of this condition, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Lawrence A. Treglia. I understand the stipulation and the effect it will have on my Civil Engineer License, Geotechnical Engineer License, and 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: Aug 13, 2012

Original Signed

JACK C. LEE
Respondent

I have read and fully discussed with Respondent Jack C. Lee the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/13/12

Original Signed

LAWRENCE A. TREGLIA
Attorney for 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:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

SD2010701685
80620057.doc

I have read and fully discussed with Respondent Jack C. Lee the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

LAWRENCE A. TREGLIA
Attorney for 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: 8/16/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

Original Signed

DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

SD2010701685
80620057.doc

Exhibit A

Accusation No. 957-A

EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
DAVID E. HAUSFELD
Deputy Attorney General
State Bar No. 110639
110 West "A" Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2025
Facsimile: (619) 645-2061
Attorneys for Complainant

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

In the Matter of the Accusation Against: **JACK C. LEE** **576 East Lambert Road** **Brea, CA 92821** **Civil Engineer License No. C 40870** **Geotechnical Engineer License No. GE 2153** **Land Surveyor License No. L 8407** Respondent.	Case No. 957-A **ACCUSATION**

Complainant alleges:

PARTIES

1. David E. Brown (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board for Professional Engineers and Land Surveyors, Department of Consumer Affairs.

2. On or about August 1, 1986, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 40870 to Jack C. Lee (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

///

3. On or about August 2, 1991, the Board for Professional Engineers and Land Surveyors issued Geotechnical Engineer License Number GE 2153 to Jack C. Lee (Respondent). The Geotechnical Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

4. On or about January 25, 2008, the Board for Professional Engineers and Land Surveyors issued Land Surveyor License Number L 8407 to Jack C. Lee (Respondent). The Land Surveyor License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (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.

6. Section 6775 of the Code states, in pertinent part:

"[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

". . . .

"(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

". . . ."

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

"[T]he 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:

". . . .

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

". . . ."

8. 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

9. Section 8792 (a) of the Code states:

"Every person is guilty of a misdemeanor:

"(a) Who, unless he or she is exempt from licensing under this chapter, practices, or offers to practice, land surveying in this state without legal authorization."

COST RECOVERY

10. 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.

LIN PROJECT

11. In May 2005, Respondent, as principal of Cal Land Engineering, Inc., was retained by architect Justin Kao of P. J. Design Square to perform engineering work on a vacant lot in Temple City, California on behalf of the owner W. Lin, a dentist. The property was to be developed as a dental office. Respondent agreed to prepare a soils report, furnish a topographic and boundary survey, prepare a grading, drainage and erosion control plan and a street improvement plan.

12. Respondent hired licensed land surveyor William Shen to perform the boundary survey. Mr. Shen completed the survey in May 2005 and placed his own survey monuments on three of the project's corners.

13. In February 2007 an addendum to the agreement was made for additional civil engineering services for storm drain connection design.

14. After the County of Los Angeles approved the site grading plan in 2007, it was learned that the west property line monuments were missing. In April of 2007 Respondent re-set

the survey monuments along the west side, even though he was not licensed to perform that aspect of land surveying.

15. During the course of construction of the property it was learned that the property boundary lines as shown on the plans prepared by or on behalf of Respondent were incorrect causing the block wall that was built on that property line to be built in the wrong location.

16. During the course of construction on the property it was learned that the storm drain plans, including the catch basins and grading plans prepared by or on behalf of Respondent were seriously flawed and required redesign. Specifically, the on-site catch basins were improperly sized and would not have been able to perform their function if constructed to Respondent's design; the plan detail for the southwesterly catch basin calls for a non-traffic grate, even though the basin was located in a vehicular traffic area; the catch basin and detention basin details are inaccurate and confusing in that they do not line up as called for, rendering the detention basin useless. The property owner hired another civil engineer to re-draft the plans for this work.

17. During the course of construction on the property it was learned that the grading plans prepared by or on behalf of Respondent were also not in compliance with the requirements of the Americans with Disabilities Act in that the grading slopes and details were either in error or missing. The property owner hired another civil engineer to re-draft the plans for this work.

FIRST CAUSE FOR DISCIPLINE

(Negligence in the Practice of Engineering)

18. Respondent is subject to disciplinary action under Code section 6775 (c) in that Respondent was negligent in his practice of engineering regarding the undeveloped property to be built into a dental office in Temple City, in the County of Los Angeles, California, as follows.

19. The improper re-placement of lot stakes in April of 2007, as more fully described in paragraphs 14 and 15 above, was below the standard of care in that Respondent should have engaged a licensed land surveyor to perform that aspect of the work and not undertaken it himself, since he was not licensed as a land surveyor at that time.

///

///

20. The design of the storm drain plans, including the catch basins and grading plans was below the standard of care in that the plans were seriously flawed and required redesign as more fully described in paragraph 16 above.

21. The design of the grading plans was below the standard of care because they were not in compliance with the requirements of the Americans with Disabilities Act in that the grading slopes and details were either in error or missing as more fully described in paragraph 17 above.

SECOND CAUSE FOR DISCIPLINE

(Practicing Land Surveying Without Authorization)

22. Respondent is subject to disciplinary action under Code section 8780 (d), by his violation of Code section 8792 (a) in that Respondent was practicing land surveying without authorization by re-setting lot stakes prior to his receipt of a land surveyor license, as more fully described in paragraph 14 above.

PRAYER

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

1. Revoking or suspending Civil Engineer License Number C 40870, issued to Jack C. Lee.

2. Revoking or suspending Geotechnical Engineer License Number GE 2153, issued to Jack C. Lee.

3. Revoking or suspending Land Surveyor License Number L 8407, issued to Jack C. Lee.

4. Ordering Jack C. Lee to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3:

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

DATED: 12/6/10

Original Signed

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

SD2010701685
70341848.doc