

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

In the Matter of the First Amended Accusation)	
and Petition to Revoke Probation against:)	
)	
KACIE ALLISON PLOUFF)	Case No. 1282-A
25570 Rye Canyon Rd, Ste A)	
Valencia, CA 91355)	OAH 2022060553
)	
Land Surveyor License, No. L 9013,)	
)	
Respondent.)	
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DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter, except that, pursuant to Government Code section 11517, subdivision (c)(2)(B), the penalty is reduced as follows:

1. Since Respondent satisfied proposed Probation Term and Condition Number 13 (File Record of Survey), by filing on November 22, 2022, the required Record of Survey, delete Probation Term and Condition Number 13.
2. Since Respondent satisfied proposed Probation Term and Condition Number 7 (Laws and Rules Examination) on or about November 30, 2020, delete Probation Term and Condition Number 7.
3. Delete Probation Terms and Conditions Numbers 10 (second Division Examination) and 11 (Practice Under Reviewing Professional).
4. Respondent's license shall be suspended for 60 days pursuant to Probation Term and Condition Number 6 (license suspension).
5. Respondent shall successfully complete Probation Term and Condition Number 8 (Ethics Course) within one (1) year from the effective date of this Decision.
6. Respondent shall complete Probation Term and Condition Number 12 (Land Surveying Coursework) by completing and passing two (2) college-level courses within three (3) years of the effective date of this Decision in accordance with the conditions of this probation term.

In addition, pursuant to Government Code section 11517, subdivision (c)(2)(C), the following minor and technical errors are corrected:

1. On page 2, under Factual Findings, Jurisdictional Matters, paragraph 2, first line, remove and replace “Mary” with “May”
2. On page 6, in the heading “Cumbet Avenue Survey,” and paragraph 12, third line, remove and replace “Cumbet” with “Columbet”
3. On page 9, paragraph 18, fourth line, remove and replace “\$1000” with “\$1,000.00”
4. On page 10, paragraph 23, third line, remove and replace “\$4097.50” with “\$4,097.50” and “\$1000” with “\$1,000.00”
5. On page 9, paragraph 25, third line, remove and replace “\$4097.50” with “\$4,097.50”
6. On page 9, paragraph 26, second line, remove and replace “\$1000” with “\$1,000.00”
7. On page 12, paragraph 31, fifth line, remove and replace “\$1000” with “\$1,000.00”
8. On page 13, paragraph 33, second line, remove and replace “\$1260” with “\$1,260.00”
9. On page 14, paragraph 3, fourth line, remove and replace “his” with “her”
10. On page 14, paragraph 4, fourth line, before “(h)” insert “(d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying. [¶] . . . [¶]”
11. On page 15, paragraph 5, fourth line, after “States.” insert “(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 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 purposes of this subdivision, a ‘material discrepancy’ is limited to a material discrepancy in the position of points or lines, or in dimensions.”
12. On page 15, paragraph 8, sixth line, remove and replace “record map” with “a subdivision map, official map, or record of survey.”
13. On page 16, paragraph 12, fourth line, remove and replace “\$1000” with “\$1,000.00”
14. On page 17, paragraph 14, eleventh line, remove and replace “(b)” with “(c)”
15. On page 18, paragraph 16, first line, remove and replace “123.5” with “125.3”
16. On page 19, first paragraph, fourth line, remove and replace “\$1260” with “\$1,260.00” and “\$7000” with “\$7,000.00”
17. On page 20, paragraph 6, second line, remove and replace “be” with “begin on the”

This Decision shall become effective on March 9, 2023.

IT IS SO ORDERED February 2, 2023.

Original Signed

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

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

**In the Matter of the First Amended Accusation and Petition
to Revoke Probation against:**

KACIE ALLISON PLOUFF, Respondent.

Agency Case No. 1282-A

OAH No. 2022060553

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on October 6, 2022 by videoconference.

Deputy Attorney General Brian Lee represented Complainant.

Negin Yamini, Attorney at Law, represented Respondent Kacie Allison Plouff (Respondent).

Oral and documentary evidence was received. The record remained open until October 13, 2022 for submission of additional documents by Respondent and until October 18, 2022 for Complainant to file objections, if any. The record was closed and the matter was submitted for decision on October 18, 2022.

On November 7, 2022, the ALJ reopened the record for the parties to file briefs and supplemental evidence concerning specific issues. Each party filed a brief and exhibits which were marked and admitted. The record was closed and the matter was deemed submitted on December 1, 2022.

FACTUAL FINDINGS

Jurisdictional Matters

1. Complainant Richard B. Moore, PLS (Complainant) brought the First Amended Accusation (Accusation) and Petition to Revoke Probation (Petition) solely in his official capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists (Board), Department of Consumer Affairs.

2. On May 29, 2013, the Board issued Land Surveyor License L9013 to Respondent. The license was in effect at all times relevant to the charges brought herein and will expire on September 30, 2023, unless renewed.

Allegations of the Accusation

WOODWARD AVENUE SURVEY

3. On July 28, 2020, the Board received a complaint from Matthew Dudley, a licensed land surveyor, regarding Respondent's survey work for property located on Woodward Avenue in Sausalito, California for one of Mr. Dudley's mutual clients. Respondent's work revealed encroachments and differences in the size of the lot. Mr. Dudley complained that Respondent did not file a record of survey but should have when there were material discrepancies revealed by her topographic survey and map,

but no public record. He contacted Respondent, discussed the matter with her, and understood her to agree to file a Record of Survey.

4. On January 27, 2021, Board Investigator Daniel Quanchi sent a letter to Respondent at her address of record advising her of the allegation and requesting a response by February 26, 2021.

5. On March 30, 2021, the Board received a letter dated March 26, 2021 from Respondent wherein she stated the contract for the property on Woodward Avenue was to provide a topographic survey and map, and not to perform a boundary survey. Respondent included the contract and topographic map she prepared for the project. Respondent's contract with the property owner was not signed by the client, but did exclude preparation of Record of Survey without additional charge. (Ex. C.)

6. Board expert, Sudhir K. Chaudhary, is a registered professional land surveyor. He has 40 years of experience in various facets of the land surveying and civil engineering profession. Chaudhary concluded that Respondent was negligent on the project. Specifically, he opined:

[Respondent] carried out her work per the terms of the agreement with the property owner. She prepared a topographic map by field survey, found [a] couple of property corners and showed [a] parcel boundary on the map. . . [Respondent] released the map without doing proper research or minimal boundary analysis or closure. After [Respondent] found material discrepancies, it is [her] professional obligation to alert the client and inform there

are issues with the boundary and a full-blown ROS [report of survey] would be required at an additional costs.

Prior to taking on the project the subject should have done some research as to see if the parcel is shown on a subdivision map or official map or a record or survey. . . .

(Ex. 24.)

7. Respondent filed a survey with Marin County for the Woodward property on September 20, 2022, two years later. The survey was reviewed by Tracy Park, the County Surveyor and returned to Respondent for corrections and additional information which required a site visit. On November 22, 2022, after the administrative hearing, Respondent filed the Record of Survey and paid the associated fee.

42ND STREET SURVEY

8. On August 20, 2021, the Board received a complaint from another of Respondent's clients. The client had entered into a contract with Respondent to perform a land survey on property on 42nd Street in Oakland, California. The complaint alleged Respondent failed to meet the standard of care regarding the survey.

9. On January 25, 2022, the Board's investigator, Daniel Quanchi, sent a letter to Respondent at her address of record via certified mail advising her of the allegations and requesting a response by February 14, 2022. The United States Postal Service (USPS) tracking showed that the letter was delivered to an individual at Respondent's address at 11:04 a.m. on January 28, 2022. However, Respondent failed to respond to the letter.

26TH STREET SURVEY

10. On October 1, 2021, the Board received a complaint from one of Respondent's clients about a contract she entered into with Respondent to perform a land survey on his property on 26th Street in Santa Monica. The client alleged she made an advanced payment to Respondent, but Respondent failed to complete the survey.

11. On February 15, 2022, Board Investigator Daniel Quanchi sent a letter to Respondent at her address of record, via certified mail, advising her of the allegations and requesting a response by March 2, 2022. The USPS tracking system shows the letter was delivered to an individual at Respondent's address at 11:18 a.m. on February 18, 2022. However, Respondent failed to respond to the letter.

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Cumbet Avenue Survey

12. On June 16, 2022, the Board received a complaint from another of Respondent's clients about a contract with Respondent to perform a land survey for a property on Cumbet Avenue in San Martin, California. The complaint alleges Respondent failed to complete the contract and file a Record of Survey, as agreed.

13. On June 22, 2022, Board Investigator Quanchi sent Respondent a letter via certified mail advising her of the allegations and requesting a response by July 6, 2022. The letter was sent to Respondent's address of record and to a second address that Investigator Quanchi had for Respondent. United States Postal Service (USPS) tracking confirmed that the letter sent to Respondent's address of record was delivered. The letter sent to the second address was returned as undeliverable. Respondent failed to respond to the June 22, 2022 letter sent to her address of record.

Petition for Revocation of Probation

14. In a disciplinary action entitled In the Matter of the First Amended Accusation Against Kacie Allison Plouff, Case No. 1220-A, the Board issued a decision and order, effective September 24, 2020, in which Respondent's Land Surveyor License was revoked. However, the revocation was stayed and Respondent's Land Surveyor License was placed on probation for a period of two (2) years with certain terms and conditions.

15. The terms and conditions include the following:

Condition 1:

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Within one (1) year from 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.

Condition 2:

Within one (1) year from the effective date of the decision, the Respondent shall reimburse the Board for its enforcement costs in this matter in the amount of \$4,097.50, as charged by the Office of the Attorney General up to the date of this settlement offer. Payments may be made in installments.

Condition 3:

Within one (1) year from the effective date of the decision, the Respondent will comply with Citation Order 10862-L by paying the administrative fine of \$1,000 as ordered.

Condition 5:

Within thirty (30) days from the effective date of the decision, the Respondent shall provide the Board with evidence that she has provided all persons or entities with whom she has contractual or employment relationship relating to professional land surveying services with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person

or entity required to be so notified. During the period of probation, the Respondent may be required to provide the same notification to each new person or entity with whom she has a contractual or employment relationship relating to professional land surveying services and shall report to the Board the name and address of each person or entity so notified.

Condition 9:

If the Respondent violates the probationary conditions in any respect, the Board, after giving her 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 vacate stay is filed against the 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.

16. On September 24, 2020, probation monitor Angela Smith sent Respondent a letter outlining the terms, conditions and requirements of her probation.

17. On November 30, 2020, probation monitor Angela Smith sent a letter to Respondent advising her that her completed California Laws and Board Rules Examination had been received and scored. Respondent achieved a passing score. The letter also advised Respondent that Condition 5 of her probation required that she

provide written evidence that “you have provided all persons or entities with whom you have a contractual or employment relationship relating to professional land surveying with a copy of the Decision and Order in this matter” and to provide the Board with the “name and business address of each person or entity required to be so notified.” Respondent had not complied within the 30 day timeframe.

18. On November 29, 2020, Respondent emailed Ms. Smith in response to her letter. According to the email, Respondent sent a package by Federal Express to the Board on October 26, 2020 that contained the California Laws and Board Rules Examination, a cashier’s check in the amount of \$1000 for citation fines and a copy of a letter that was sent to her clients with a copy of the Board’s decision. Respondent also advised that when she contacted Federal Express about the package, she was advised that it was at one of the Federal Express facilities and had not been delivered. She expected to receive the package back at her office on Monday or Tuesday and planned to resend it to the Board. She also indicated that she would pay the Board’s costs in two installments within the required timeframe.

19. On November 30, 2020, Ms. Smith acknowledged Respondent’s email and provided Respondent with a letter indicating that Respondent had complied with Condition 4 of her probation, but the requirements of Condition 5 had not been met.

20. Respondent acknowledged receipt of Ms. Smith’s email and the attached November 30, 2020 letter and indicated she would comply with Condition 5.

21. On January 27, 2021, Ms. Smith sent an email to Respondent inquiring about the package and follow-up information from Respondent that did not arrive.

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22. On February 4, 2021, Respondent sent an email to Ms. Smith stating that “[t]he list of clients was resent to your attention via FedEx along with a payment towards the outstanding fine. It should be received today or tomorrow. Please let me know if there are any additional outstanding requirements (apart from the remaining fines) and I will address them immediately.”

23. On September 28, 2021, Ms. Smith wrote Respondent a letter detailing her violations of Conditions 1, 2, 3, and 5 of her probation including failing to complete an ethics course, pay \$4097.50 in costs, pay the \$1000 citation fine within one year by September 24, 2021, failure to provide the name and business address of each person or entity with whom she has a contractual or employment relationship relating to professional land surveying, and evidence that such persons were provided with a copy of the decision by October 24, 2020.

24. On November 10, 2021, Ms. Smith wrote Respondent another letter setting forth Respondent’s continuing violations of Conditions 1, 2, 3 and 5 of her probation.

25. On September 29, 2022, approximately one year after it was due and shortly before the administrative hearing, Respondent issued a check in the amount of \$4097.50 to pay the Board costs pursuant to her probation terms. The payment was received by the Board on October 7, 2022 and cashed.

26. Also, on October 7, 2022, approximately one year after it was due, Respondent paid the \$1000 citation fine with a check dated October 6, 2022.

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27. Respondent completed an approved ethics course on October 13, 2022, after the administrative hearing. There was no evidence that proof of completion had been provided to the Board.

28. Respondent has provided the Board with a client list dated October 15, 2020, but there was not sufficient evidence to establish that Respondent met her obligation to provide a copy of the disciplinary decision to each of her clients as required by the Condition 5 of her probation.

Respondent's Evidence

29. Respondent is a 46-year-old woman. She graduated from the University of California, Santa Cruz with a Bachelor of Science in Environmental Science in 2014. She obtained her Land Surveyor license in 2014. Respondent has worked at Christensen & Plouff Land Surveying since 2014 where she has been the lead or only Land Surveyor. Her two partners were brothers. From 2020-2022, Respondent and her two partners struggled with the illness and ultimately the loss of the partners' father, Bing Christensen. Respondent was very close to Bing Christenson and considered him part of her family. He was not only the father of her business partners, but also her mentor. During that period of time, Respondent traveled back and forth from Utah to California to handle Mr. Christensen's clients while trying to manage her own business affairs. During those two years, Respondent worked 14 to 16 hours each day and traveled between Utah and California weekly. Mr. Christensen succumbed to his illness and died in February of 2022.

30. Respondent has maintained an office in Valencia, California in a multi-unit office building since 2017. Respondent employs an office manager who is responsible for handling the business mail. Until March of 2020, when the Covid-19

Pandemic stay home orders were issued, the office manager was in the office each day. Once the stay-at-home orders were issued, Respondent's office manager, the mother of two young children, worked from home. She remained at home working until September of 2022. Respondent's business never received a significant amount of mail, but she experienced issues receiving mail often during the time her office manager worked from home. There were no employees present in the office during the Covid Pandemic lockdown and all employees worked remotely until September of 2022. Mail was received via a mail slot. Respondent has no recollection of receiving any certified mail or notices to pick up certified mail.

31. Respondent regrets that she let her grief, stress and travel during Bing Christensen's illness and death, impact her professional obligations and her compliance with probation. Respondent was exhausted from the ordeal and had few resources to assist her during the Pandemic. Respondent has made some recent attempts to belatedly comply with her probation. She has paid her \$1000 citation fine, paid the Board's Costs, completed an ethics course, provided her client list and filed a Record of Survey on the Woodruff property. Additionally, Respondent has made changes to her business practices and no longer travels to and from Utah. Respondent understands that her oversights and omissions are concerning to the Board and expressed remorse and regret for her conduct.

32. Respondent provided a letter of reference from Shawn Christensen, PLS, dated September 8, 2022 in support of her continued licensure. In relevant part, he wrote:

I have worked with and known Kacie Plouff professionally for almost twenty years. In the time I have worked with

Kacie I have found her to be reliable, conscientious and remarkably astute when it comes to surveys generally and boundary laws and decisions specifically. She always presents herself very well and is not intimidated by complex or highly demanding survey projects.

(Ex. E.)

Costs

33. Complainant provided credible evidence of investigation and prosecution costs consisting of \$1260 in expert consultant charges and \$13,293.50 in Attorney General charges for paralegal and Deputy Attorney General time. The costs are deemed reasonable given the technical nature of the case and the quality of the presentation.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving the alleged grounds to revoke Respondent's probation by a preponderance of the evidence. Complainant also bears the burden of proving the allegations of the Accusation by clear and convincing evidence. (See, e.g., *Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434, 1441.)

2. The Accusation is brought under the Professional Land Surveyors' Act (Bus. & Prof. Code, § 8700 et seq) and the rules and regulations relating to the practice of land surveying. The Board may, upon its own initiative or upon the receipt of a

complaint, investigate the actions of any licensed land surveyor who is legally authorized to practice land surveying and make findings thereon. The Board may publicly reprove, suspend for a period not to exceed two years, or revoke the license of the land surveyor or civil engineer on the grounds, in part, of negligence or incompetence, for violating any provisions of the Act or of any law relating to or involving the practice of land surveying, or for aiding or abetting any person in the violation of this Act or any regulation adopted thereunder. (Bus. & Prof. Code, § 8780, subds. (b), (d), and (f).)

3. The Petition is brought under the authority of the Board's Decision in the underlying disciplinary matter against Respondent. Specifically, Condition 4 of the Decision allows Complainant to seek revocation of Respondent's probation and impose the stayed revocation of his license for violating a condition(s) of probation.

4. Business and Professions Code section 8780, authorizes the Board to "[r]eprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor . . . whom it finds guilty of: [¶] . . . [¶] (b) Any negligence or incompetence in his or her practice of land surveying. [¶] . . . [¶] (h) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board."

5. Section 8762, subdivision (b), provides, in pertinent part, "Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or 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: (1) Material evidence or physical change, which in whole or in

part does not 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 department, or map or survey record maintained by the Bureau of Land Management of the United States. [¶] . . . [¶] (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 ascertainable from an inspection of the subdivision map, official map, or record of survey..... ”

6. Section 8764 provides that the record of survey shall show the relationship to those portions of adjacent tracts, streets, or senior conveyances which have common lines with the survey and any other data necessary for the intelligent interpretation of the various items and locations of the points, lines, and areas shown, or convenient for the identification of the survey or surveyor, as may be determined by the civil engineer or land surveyor preparing the record of survey.

7. First Cause for Discipline (Negligence) : Respondent is subject to disciplinary action under Code section 8780, section (b)(2), in that Respondent was negligent in the practice of land surveying by failing to comply with the standard of care when she failed to do proper research prior to taking on the Woodruff project.

8. Second Cause for Discipline (Failure to File Record of Survey): Respondent is subject to disciplinary action under Code section 8780, subdivision (d), in that Respondent violated Code sections 8762, subdivision (b)(2) and (b)(4) in that Respondent failed to file a record of survey after a survey of the Woodruff property resulted in material discrepancy and established one or more points not previously shown on record map.

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9. Third Cause, Fourth and Fifth Causes for Discipline (Failure to Respond or Cooperate with Board's Investigation): Respondent is subject to disciplinary action under Code section 8780, subdivision (d) and Code section 8780.2 because Respondent failed to respond to written requests for cooperation in investigations.

10. First Cause to Revoke Probation (Failure to Complete Ethics Course): Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 1 when she failed to provide evidence of successful completion of a professional ethics course by the Board by September 24, 2021.

11. Second Cause to Revoke Probation (Failure to Pay Enforcement Costs): Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 2 when she failed to reimburse the Board for its enforcement costs by September 24, 2021.

12. Third Cause to Revoke Probation (Failure to Pay Administrative Fine): Respondent's probation is subject to revocation because Respondent failed to comply Probation Condition 3 when she failed to comply with Citation Order 10826-L by paying the administrative fine of \$1000 by September 24, 2021.

13. Fourth Cause to Revoke Probation (Failure to Provide Required information): Respondent's probation is subject to revocation because Respondent failed to comply with Probation Condition 5 when she failed to provide the Board evidence that she provided persons or entities with whom she has a contractual or employment relationship relating to professional land surveying with a copy of the Decision and Order by October 24, 2020. Respondent also failed to provide the Board with the name and business address of each person or entity required to be so notified by October 24, 2020.

14. The purpose of licensing statutes is to protect the public. (Clerici v. Department of Motor Vehicles (1990) 224 Cal.App.3d 1016.) When considering the suspension or revocation of a license of a professional land surveyor, the Board will consider the following relevant factors in evaluating the rehabilitation of such persons and their eligibility to retain their licenses: the nature and severity of the acts under consideration as grounds for suspension or revocation; evidence of any acts committed prior to or subsequent to the acts under consideration as ground for suspension or revocation; the time that has elapsed since commission of the act; the extent to which the licensee has complied with any terms of parole, probation, restitution, any other sanctions lawfully imposed against the licensee; and any evidence of rehabilitation. (Cal. Code Regs., tit. 16, § 418, subd. (b).)

15. Respondent has recently and belatedly complied with most of the terms of her probation, but took little effort to comply with the provisions of her probation until shortly before the administrative hearing. Respondent presents a sympathetic situation, having experienced not only the impacts of the Covid-19 Pandemic, but also the illness and death of her mentor who was also the father of her business partners. Respondent attempted to handle both her own practice and Mr. Christensen's clients in Utah making frequent trips for extended periods of time with little support staff in place due to the Covid-19 Pandemic. Respondent made some mistakes in professional judgment resulting in new allegations of professional negligence and was lax in complying with her probation obligations. The evidence did not establish that Respondent's violations were in willful disregard of her obligations. However, Respondent's lack of organization and attention to detail are concerning as is the length of time it has taken for her to comply. Outright revocation of Respondent's license is not necessary to protect the public. Instead, a lengthy new term of probation

and a suspension during which time Respondent may undertake additional course work and organize her office is appropriate, will give Respondent time to demonstrate her ability to comply with probation and will be protective of the public while allowing Respondent to maintain licensure.

16. California Business and Professions Code section 123.5 provides that the Complainant may request the administrative law judge to direct a licensee found to have committed a violation to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 (*Zuckerman*), the Supreme Court directed the administrative law judge and the licensing agency to evaluate several factors to ensure that the cost recovery provision did not deter individuals from exercising their right to a hearing. Accordingly, the Department must not assess the full costs where it would unfairly penalize the Respondent who has committed some misconduct, but who has used the hearing process to obtain the dismissal of some charges or a reduction in the severity of the penalty; the Department must consider a Respondent's subjective good faith belief in the merits of his or her position and whether the Respondent has raised a colorable challenge; the Department must consider a Respondent's ability to pay; and the Department may not assess disproportionately large investigation and prosecution costs when it has conducted a disproportionately large investigation to prove that a Respondent engaged in relatively innocuous misconduct. (See *Zuckerman, supra*, at p. 45.)

17. Respondent raised a colorable challenge to the charges and has succeeded in obtaining a disciplinary result of less than full revocation of her license. While Complainant's costs are reasonable based upon the technical nature of some of the charges and the level of preparation, imposition of the full costs of investigation

and prosecution would be unduly punitive given the many requirements of probation and Respondent's recent expenditures for costs and fines related to her prior case. Accordingly, Respondent shall pay the Board's expert consultant cost in the amount of \$1260 and \$7000 toward the Board's prosecution costs, for a total of \$8,260 and such costs may be made on a payment schedule approved by the Board.

ORDER

Land Surveyor License number L9013 issued to Respondent Kacie Allison Plouff is revoked and Respondent's probation is revoked; provided however, the revocation of her license and her probation are stayed for a period of five years and Respondent is placed on a new term of probation on the following terms and conditions:

1. The Respondent shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.
2. The Respondent shall submit such special reports as the Board may require.
3. The period of probation shall be tolled during the time the Respondent is practicing exclusively outside the state of California. If, during the period of probation, the Respondent practices exclusively outside the state of California, the Respondent shall immediately notify the Board in writing.
4. If the Respondent violates the probationary conditions in any respect, the Board, after giving the 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 vacate stay is filed against the

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. Upon successful completion of all of the probationary conditions and the expiration of the period of probation, the Respondent's license shall be unconditionally restored.

6. The Respondent's license shall be suspended for a period not to exceed sixty (60) days. The suspension shall be effective date of the decision.

7. Within 60 days of the effective date of the decision, the Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

8. The Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. The probationary condition shall include a time period in which this course shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

9. Within 30 days of the effective date of the decision, the Respondent shall provide the Board with evidence that she has provided all persons or entities with whom she has a contractual or employment relationship such that the relationship is in the area of practice of professional land surveying in which the violation occurred with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or entity required to be so notified. During the period of probation, the respondent may be required to provide the same

notification of each new person or entity with whom she has a contractual or employment relationship such that the relationship is in the area of practice of land surveying in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

10. The Respondent shall take and achieve the passing score as set by the Board for the second division examination; provided that in the event the Respondent holds multiple licenses, the Board shall select the examination in the area of practice of professional land surveying in which the violation occurred and in the area of professional land surveying in which the Respondent is licensed. The Board or its designee may select the specific examination questions such that the questions relate to the specific area of violation and comprise an examination of the same duration as that required of an applicant for licensure. The Respondent shall be required to pay the application fee as described in Section 407 and shall be afforded all examination appeal rights as described in Sections 407, 443, and 444. The probationary condition shall include a time period in which the examination(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

11. During the period of probation, the Respondent may practice professional land surveying only under the supervision of a professional land surveyor licensed in the same branch as the Respondent. This person or persons shall be approved in advance by the Board or its designee. Such supervising professional land surveyor shall initial every stamped or sealed document in close proximity to Respondent's stamp or seal.

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12. The Respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one and a maximum of three college-level courses, approved in advance by the Board or its designee. Such courses shall be specifically related to the area of violation. For purposes of this subdivision, "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. The probationary condition shall include a time period in which the course(s) shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

13. For any records of survey and/or corner records found not to have been filed and recorded, the Respondent shall file or record, as appropriate, the required record(s) with the appropriate governmental agency within 90 days of the effective date of the decision. The Respondent shall provide the Board with verifiable proof that the required record(s) have been filed or recorded, as appropriate, by the governmental agency within 30 days of such filing or recordation. If an actual suspension of the Respondent's license is ordered as a probationary condition, the record(s) required by this subdivision shall be the only professional land surveying work the Respondent is allowed to perform during the suspension.

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14. Respondent shall pay the Board's investigation costs in the amount of \$1260 and prosecution costs in the amount of \$7000 (total \$8,260). Respondent shall be permitted to make payments on a schedule and in an amount approved by the Board provided that such payments are completed no later than 6 months before the completion of Respondent's probation.

DATE: 12/13/2022

Original Signed

GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings

1 ROB BONTA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
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7 *Attorneys for Complainant*

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

13 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 1282-A

14 **KACIE ALLISON PLOUFF**
15 25570 Rye Canyon Road, Suite A
Valencia, CA 91355

**FIRST AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION**

16 **Land Surveyor License No. L 9013**

17 Respondent.
18

19
20 **PARTIES**

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

25 2. On or about May 29, 2013, the Board issued Land Surveyor License Number L 9013
26 to Kacie Allison Plouff (Respondent). The Land Surveyor License was in effect at all times
27 relevant to the charges brought herein and will expire on September 30, 2023, unless renewed.

28 ///

1 3. In a disciplinary action titled *In the Matter of the First Amended Accusation Against:*
2 *Kacie Allison Plouff*, Case No. 1220-A, the Board issued a decision and order, effective
3 September 24, 2020, in which Respondent's Land Surveyor License was revoked. However, the
4 revocation was stayed and Respondent's Land Surveyor License was placed on probation for a
5 period of two (2) years with certain terms and conditions. A copy of that decision and order is
6 attached as Exhibit A and is incorporated by reference.

7 **JURISDICTION FOR ACCUSATION**

8 4. This First Amended Accusation is brought before the Board under the authority of the
9 following laws. All section references are to the Business and Professions Code (Code) unless
10 otherwise indicated.

11 5. Section 118 of the Code states:

12 (a) The withdrawal of an application for a license after it has been filed with a
13 board in the department shall not, unless the board has consented in writing to such
14 withdrawal, deprive the board of its authority to institute or continue a proceeding
 against the applicant for the denial of the license upon any ground provided by law or
 to enter an order denying the license upon any such ground.

15 (b) The suspension, expiration, or forfeiture by operation of law of a license
16 issued by a board in the department, or its suspension, forfeiture, or cancellation by
17 order of the board or by order of a court of law, or its surrender without the written
18 consent of the board, shall not, during any period in which it may be renewed,
19 restored, reissued, or reinstated, deprive the board of its authority to institute or
 continue a disciplinary proceeding against the licensee upon any ground provided by
 law or to enter an order suspending or revoking the license or otherwise taking
 disciplinary action against the licensee on any such ground.

20 (c) As used in this section, “board” includes an individual who is authorized by
21 any provision of this code to issue, suspend, or revoke a license, and “license”
 includes “certificate,” “registration,” and “permit.”

22 **STATUTORY PROVISIONS FOR ACCUSATION**

23 6. Section 8762 of the Code states, in pertinent part:

24 ...

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

29 ...

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

7 ...

8 (4) The location, relocation, establishment, reestablishment, or retracement of
9 one or more points or lines not shown on any subdivision map, official map, or record
10 of survey, the positions of which are not ascertainable from an inspection of the
11 subdivision map, official map, or record of survey.

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

13 ...

14 (b) By a majority vote, the board may publicly reprove, suspend for a period
15 not to exceed two years, or revoke the license or certificate of any land surveyor
16 licensed under this chapter or civil engineer licensed under the provisions of Chapter
17 7 (commencing with Section 6700) who is legally authorized to practice land
18 surveying on any of the following grounds:

19 ...

20 (2) Any negligence in their practice of land surveying.

21 ...

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

24 8. Section 8780.2 of the Code states:

25 The failure of, or refusal by, a licensee or a certificate holder to respond to a
26 written request from a representative of the board in the investigation of a complaint
27 against that licensee or certificate holder constitutes a cause for disciplinary action
28 under Section 8780 or 8780.1.

COST RECOVERY FOR ACCUSATION

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licensee 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.

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1 **WOODWARD AVENUE SURVEY**

2 10. On or about July 28, 2020, the Board received a complaint from M.D., a licensed land
3 surveyor, regarding Respondent’s survey work for a property located on Woodward Avenue in
4 Sausalito, California. M.D. indicated Respondent failed to file a record of survey, as required.

5 11. On or about January 27, 2021, the Board sent Respondent a letter advising her of the
6 allegation and requesting a response by February 26, 2021.

7 12. On or about March 30, 2021, the Board received a letter, dated March 26, 2021, from
8 Respondent. Respondent stated the contract for the property on Woodward Avenue was to
9 provide a topographic survey and map, and not to perform a boundary survey. Respondent
10 included the contract and topographic map she prepared for the project. However, the contract
11 was signed by Respondent, but not by the clients.

12 13. On or about January 25, 2022, the Board contacted the Marin County Surveyor’s
13 Office inquiring if Respondent had filed a record of survey. Marin County responded on January
14 26, 2022, advising that no record of survey had been filed.

15 14. On or about April 3, 2022, the Board received a report from S.C., an independent
16 expert consultant and licensed land surveyor. S.C. concluded that Respondent demonstrated
17 negligence in her land surveying practice and was required to file a record of survey.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Negligence)**

20 15. Respondent is subject to disciplinary action under Code section 8780(b)(2), in that
21 Respondent was negligent in the practice of land surveying by failing to comply with the standard
22 of care when she failed to do proper research prior to taking on the project. Complainant
23 incorporates paragraphs 10 through 14, by reference as though fully stated herein.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Failure to File Record of Survey)**

26 16. Respondent is subject to disciplinary action under Code section 8780(d), in that
27 Respondent violated the following provisions of the chapter [the Professional Land Surveyors’
28 Act, Bus. & Prof. Code, § 8700, et seq.]:

1 a. **Section 8762(b)(2)**: Respondent failed to file a record of survey after survey results
2 in material discrepancy.

3 b. **Section 8762(b)(4)**: Respondent failed to file a record of survey after survey results
4 establish of one or more points not previously shown on record map.

5 Complainant incorporates paragraphs 10 through 14, by reference as though fully stated
6 herein.

7 **42ND STREET SURVEY**

8 17. On or about August 10, 2021, the Board received a complaint from B.F. against
9 Respondent. B.F. owns a property on 42nd Street in Oakland, CA and entered into a contract
10 with Respondent to perform a land survey. B.F. made several allegations against Respondent
11 regarding the survey, including failure to meet the standard of care.

12 18. On or about January 25, 2022, the Board sent Respondent a letter via certified mail
13 advising her of B.F.'s allegations and requesting a response by February 14, 2022. Respondent
14 failed to respond.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Failure to Respond or Cooperate with Board's Investigation)**

17 19. Respondent is subject to disciplinary action under Code section 8780(d), in that
18 Respondent violated the following provisions of the chapter [the Professional Land Surveyors'
19 Act, Bus. & Prof. Code, § 8700, et seq.]:

20 a. **Section 8780.2**: Respondent failed to respond to a written request for cooperation in
21 an investigation.

22 Complainant incorporates paragraphs 17 through 18, by reference as though fully stated
23 herein.

24 **26TH STREET SURVEY**

25 20. On or about October 1, 2021, the Board received a complaint from H.A. against
26 Respondent. H.A. owns a property on 26th Street in Santa Monica, CA and entered into a contract
27 with Respondent to perform a land survey. H.A. alleges she made an advanced payment and
28 Respondent failed to complete the survey.

1 21. On or about February 15, 2022, the Board sent Respondent a letter via certified mail
2 advising her of H.A.’s allegations and requesting a response by March 2, 2022. Respondent
3 failed to respond.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Failure to Respond or Cooperate with Board’s Investigation)**

6 22. Respondent is subject to disciplinary action under Code section 8780(d), in that
7 Respondent violated the following provisions of the chapter [the Professional Land Surveyors’
8 Act, Bus. & Prof. Code, § 8700, et seq.]:

9 a. **Section 8780.2:** Respondent failed to respond to a written request for cooperation in
10 an investigation.

11 Complainant incorporates paragraphs 20 through 21, by reference as though fully stated
12 herein.

13 **COLUMBET AVENUE SURVEY**

14 23. On or about June 16, 2022, the Board received a complaint from J.L. against
15 Respondent. J.L. owns a property on Columbet Avenue in San Martin, CA and entered into a
16 contract with Respondent to perform a land survey. J.L. alleges Respondent failed to complete
17 the contract and file a record of survey as agreed.

18 24. On or about June 22, 2022, the Board sent Respondent a letter via certified mail
19 advising her of J.L.’s allegations and requesting a response by July 6, 2022. Respondent failed to
20 respond.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Respond or Cooperate with Board’s Investigation)**

23 25. Respondent is subject to disciplinary action under Code section 8780(d), in that
24 Respondent violated the following provisions of the chapter [the Professional Land Surveyors’
25 Act, Bus. & Prof. Code, § 8700, et seq.]:

26 a. **Section 8780.2:** Respondent failed to respond to a written request for cooperation in
27 an investigation.

28 ///

1 Complainant incorporates paragraphs 23 through 24, by reference as though fully stated
2 herein.

3 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

4 26. This Petition to Revoke Probation is brought before the Board under the authority of
5 the decision and order *In the Matter of the First Amended Accusation Against: Kacie Allison*
6 *Plouff*, Case No. 1220-A. Probation term and condition 9 states:

7 If the Respondent violates the probationary conditions in any respect, the
8 Board, after giving her notice and the opportunity to be heard, may vacate the stay
9 and reinstate the disciplinary order, which was stayed. If during the period of
10 probation, an accusation or petition to vacate stay is filed against the respondent, or if
11 the matter has been submitted to the Office of the Attorney General for the filing of
12 such, the Board shall have continuing jurisdiction until all matters are final, and the
13 period of probation shall be extended until all matters are final.

14 27. On or about January 24, 2021, the Board requested the Office of the Attorney General
15 to prepare a Petition to Revoke Probation against Respondent's license, thereby automatically
16 extending the probationary period, which shall not expire until the Petition has been acted upon
17 by the Board.

18 **FIRST CAUSE TO REVOKE PROBATION**

19 **(Failure to Complete Ethics Course)**

20 28. At all times after the effective date of Respondent's probation, Condition 1 stated:

21 Within one (1) year from the effective date of the decision, the Respondent
22 must successfully complete and pass a course in professional ethics, approved in
23 advance by the Board or its designee.

24 29. Respondent's probation is subject to revocation because she failed to comply with
25 Probation Condition 1, referenced above. The facts and circumstances regarding this violation
26 are that Respondent failed to provide evidence of successful completion of a professional ethics
27 course approved by the Board by September 24, 2021.

28 **SECOND CAUSE TO REVOKE PROBATION**

(Failure to Pay Enforcement Costs)

30. At all times after the effective date of Respondent's probation, Condition 2 stated:

Within one (1) year from the effective date of the decision, the Respondent
shall reimburse the Board for its enforcement costs in this matter in the amount of
\$4,097.50, as charged by the Office of the Attorney General up to the date of this

1 settlement offer. Payments may be made in installments.

2 31. Respondent's probation is subject to revocation because she failed to comply with
3 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
4 are that Respondent failed to reimburse the Board for its enforcement costs in the full amount of
5 \$4,097.50 by September 24, 2021.

6 **THIRD CAUSE TO REVOKE PROBATION**

7 **(Failure to Pay Administrative Fine)**

8 32. At all times after the effective date of Respondent's probation, Condition 3 stated:

9 Within one (1) year from the effective date of the decision, the Respondent will
10 comply with Citation Order 10826-L by paying the administrative fine of \$1,000.00
as ordered.

11 33. Respondent's probation is subject to revocation because she failed to comply with
12 Probation Condition 3, referenced above. The facts and circumstances regarding this violation
13 are that Respondent failed to comply with Citation Order 10826-L by paying the administrative
14 fine of \$1,000.00 by September 24, 2021.

15 **FOURTH CAUSE TO REVOKE PROBATION**

16 **(Failure to Provide Required Information)**

17 34. At all times after the effective date of Respondent's probation, Condition 5 stated:

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

24 35. Respondent's probation is subject to revocation because she failed to comply with
25 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
26 are that Respondent failed to provide the Board evidence that she has provided persons or entities
27 with who she has a contractual or employment relationship relating to professional land surveying
28 with a copy of the Decision and Order by October 24, 2020. Respondent also failed to provide

1 the Board with the name and business address of each person or entity required to be so notified
2 by October 24, 2020.

3 **PRAYER**

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

7 1. Revoking the probation that was granted by the Board for Professional Engineers,
8 Land Surveyors, and Geologists in Case No. 1220-A and imposing the disciplinary order that was
9 stayed thereby revoking Land Surveyor License No. L 9013 issued to Kacie Allison Plouff;

10 2. Revoking or suspending Land Surveyor License No. L 9013, issued to Kacie Allison
11 Plouff;

12 3. Ordering Kacie Allison Plouff to pay the Board for Professional Engineers, Land
13 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 125.3; and

15 4. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: 7/14/2022

Original Signed

19 _____
20 RICHARD B. MOORE, PLS
21 Executive Officer
22 Board for Professional Engineers, Land
23 Surveyors, and Geologists
24 Department of Consumer Affairs
25 State of California
26 *Complainant*

27
28
29 LA2022600351
30 64870575_4.docx

Exhibit A

Decision and Order

Board for Professional Engineers, Land Surveyors, and Geologists Case No. 1220-A

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

In the Matter of the First Amended Accusation)
against:)
)
KACIE ALLISON PLOUFF)
25570 Rye Canyon Road)
Valencia, CA 91355)
)
Land Surveyor License, No. L 9013,)
)
Respondent.)
_____)

Case No. 1220-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 above-entitled matter.

This Decision shall become effective on September 24, 2020.

IT IS SO ORDERED August 20, 2020.

Original Signed

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

1 XAVIER BECERRA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 MARIO CUAHUTLE
Deputy Attorney General
4 State Bar No. 305067
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6615
6 Facsimile: (916) 731-2126
E-mail: Mario.Cuahutle@doj.ca.gov
7 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **KACIE ALLISON PLOUFF**
15 **25570 Rye Canyon Road, Suite A**
16 **Valencia, CA 91355**
17 **Land Surveyor License No. L 9013**

18 Respondent.

Case No. 1220-A

OAH No. 2020050780

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Richard B. Moore, PLS (Complainant) is the Executive Officer of the Board for
24 Professional Engineers, Land Surveyors, and Geologists (Board). He brought this action solely in
25 his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the
26 State of California, by Mario Cuahutle, Deputy Attorney General.

27 2. Respondent Kacie Allison Plouff (Respondent) is representing herself in this
28 proceeding and has chosen not to exercise her right to be represented by counsel.

1 3. On or about May 29, 2013, the Board issued Land Surveyor License No. L 9013 to
2 Respondent. The Land Surveyor License was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 1220-A, and will expire on September 30, 2021, unless
4 renewed.

5 **JURISDICTION**

6 4. Accusation No. 1220-A was filed before the Board, and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on June 17, 2020. Respondent timely filed her Notice of Defense contesting the
9 Accusation.

10 5. A copy of Accusation No. 1220-A is attached as exhibit A and incorporated herein by
11 reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 1220-A. Respondent has also carefully read, and understands the effects of this
15 Stipulated Settlement and Disciplinary Order.

16 7. Respondent is fully aware of her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to
19 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
20 compel the attendance of witnesses and the production of documents; the right to reconsideration
21 and court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

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

25 **CULPABILITY**

26 9. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 1220-A.

28 ///

1 10. Respondent agrees that her Land Surveyor License is subject to discipline and she
2 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 **CONTINGENCY**

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

14 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
16 signatures thereto, shall have the same force and effect as the originals.

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

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

26 **DISCIPLINARY ORDER**

27 IT IS HEREBY ORDERED that Land Surveyor License No. L 9013 issued to Respondent
28 Kacie Allison Plouff is revoked. However, the revocation is stayed and Respondent is placed on

1 probation for two (2) years on the following terms and conditions:

2 1. Within one (1) year from the effective date of the decision, the Respondent must
3 successfully complete and pass a course in professional ethics, approved in advance by the Board
4 or its designee.

5 2. Within one (1) year from the effective date of the decision, the Respondent shall
6 reimburse the Board for its enforcement costs in this matter in the amount of \$4,097.50, as
7 charged by the Office of the Attorney General up to the date of this settlement offer. Payments
8 may be made in installments.

9 3. Within one (1) year from the effective date of the decision, the Respondent will
10 comply with Citation Order 10826-L by paying the administrative fine of \$1,000.00 as ordered.

11 4. Within sixty (60) days from the effective date of the decision, the Respondent shall
12 successfully complete and pass the California Laws and Board Rules examination, as
13 administered by the Board.

14 5. Within thirty (30) days from the effective date of the decision, the Respondent shall
15 provide the Board with evidence that she has provided all persons or entities with whom she has a
16 contractual or employment relationship relating to professional land surveying services with a
17 copy of the decision and order of the Board and shall provide the Board with the name and
18 business address of each person or entity required to be so notified. During the period of
19 probation, the Respondent may be required to provide the same notification to each new person or
20 entity with whom she has a contractual or employment relationship relating to professional land
21 surveying services and shall report to the Board the name and address of each person or entity so
22 notified.

23 6. The Respondent shall obey all federal, state, and local laws and regulations related to
24 the practices of professional engineering and land surveying.

25 7. The Respondent shall submit such special reports as the Board may require.

26 8. The period of probation shall be tolled during the time the Respondent is practicing
27 exclusively outside the state of California. If, during the period of probation, the Respondent
28 practices exclusively outside the state of California, the Respondent shall immediately notify the

1 Board in writing.

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

8 10. Upon successful completion of all of the probationary conditions and the expiration
9 of the period of probation, the Respondent's Land Surveyor License, No. L 9013, shall be
10 unconditionally restored.

11 **ACCEPTANCE**

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

17

18 DATED: 8/3/2020

Original Signed

19

KACIE ALLISON PLOUFF
Respondent

20

21 **ENDORSEMENT**

22 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
23 submitted for consideration by the Board for Professional Engineers, Land Surveyors, and
24 Geologists.

25

26

27

28

DATED: 08/07/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

/s/Mario Cuahutle
MARIO CUAHUTLE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1220-A

1 XAVIER BECERRA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 MARIO CUAHUTLE
Deputy Attorney General
4 State Bar No. 305067
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6615
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the First Amended Accusation
13 Against:

Case No. 1220-A

FIRST AMENDED ACCUSATION

14 **KACIE ALLISON PLOUFF**
25570 Rye Canyon Road, A
15 Valencia, CA 91355

16 **Land Surveyor License No. L 9013**

17 Respondent.
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20 **PARTIES**

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

24 2. On or about May 29, 2013, the Board issued Land Surveyor License Number L 9013
25 to Kacie Allison Plouff (Respondent). The Land Surveyor License was in full force and effect at
26 all times relevant to the charges brought herein and will expire on September 30, 2021, unless
27 renewed.

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1 **JURISDICTION**

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

5 4. Section 8762 of the Code states, in pertinent part:

6 ...

7 (b) Notwithstanding subdivision (a), after making a field survey in conformity
8 with the practice of land surveying, the licensed land surveyor or licensed civil
9 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:

10 ...

11 (4) The location, relocation, establishment, reestablishment, or retracement of
12 one or more points or lines not shown on any subdivision map, official map, or record
of survey, the positions of which are not ascertainable from an inspection of the
13 subdivision map, official map, or record of survey.

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

16 **REGULATORY PROVISIONS**

17 5. California Code of Regulations, title 16, section 473.3(b) states:

18 Failure of the cited person to abate the violation or to pay all of the assessed
19 fine within the time allowed is grounds for suspension or revocation of the cited
person's license.

20 **COST RECOVERY**

21 6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

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FACTUAL ALLEGATIONS

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2 7. On or about April 26, 2019, the Board issued Citation Order No. 10737-L to
3 Respondent. Citation No. 10737-L contained an order of abatement requiring Respondent to
4 comply with the law and ensure that Respondent does not violate Code sections 8762(b)(4) and
5 (5) in the future. Respondent was further ordered to submit a record of survey related to property
6 identified as 3380 Scadlock Lane, Los Angeles, California, to the Los Angeles County Surveyor's
7 Office and to provide a copy of the submitted record of survey to the Board Office within thirty
8 (30) days of the date the citation became final. In addition, Respondent was required to complete
9 the map recordation process in accordance with the law and to provide a copy of the final record
10 of survey to the Board Office within thirty (30) days of the date the record of survey is filed with
11 the Los Angeles County Recorder's Office. Respondent was ordered to pay an administrative
12 fine in the amount of \$1,000 within thirty (30) days of the date the citation becomes final.

13 8. On or about May 24, 2019, the Board received a letter and a check in the amount of
14 \$1,000 to pay the administrative fine. Respondent included a copy of a record of survey,
15 claiming it had been submitted to Los Angeles County Surveyor's Office.

16 9. On or about December 18, 2019, the Board contacted Los Angeles County
17 Department of Public Works to check on the status of the filing of the subject record of survey
18 and confirmed the subject record of survey has not been submitted to Los Angeles County.

19 10. On or about March 19, 2020, the Board issued Citation Order No. 10826-L to
20 Respondent. Citation No. 10826-L contained an order of abatement requiring Respondent to
21 comply with the law and ensure that Respondent does not violate Code section 8780(b) in the
22 future. Respondent was ordered to pay an administrative fine in the amount of \$1,000 within
23 thirty (30) days of the date the citation becomes final. This Citation became a final order of the
24 Board thirty (30) days after the date of issuance. Respondent failed to pay all of the assessed fine
25 within the time allowed.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Board's Order)**

3 11. Respondent is subject to disciplinary action under California Code of Regulations,
4 title 16, section 473.3(b), in that Respondent failed to comply with Citation Order No. 10737-L
5 by failing to file the subject record of survey, as set forth above in paragraphs 7 through 9.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with the Board's Order)**

8 12. Respondent is subject to disciplinary action under California Code of Regulations,
9 title 16, section 473.3(b), in that Respondent failed to comply with Citation Order No. 10826-L
10 by failing to pay all of the assessed fine within the time allowed, as set forth above in paragraph
11 10.

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, Land Surveyors, and
15 Geologists issue a decision:

16 1. Revoking or suspending Land Surveyor License Number L 9013, issued to Kacie
17 Allison Plouff;

18 2. Ordering Kacie Allison Plouff to pay the Board for Professional Engineers, Land
19 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
20 pursuant to Business and Professions Code section 125.3; and,

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

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23 DATED: 6/16/2020

Original Signed

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