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

12 In the Matter of the Accusation Against:

Case No. 1032-A

13 **MARC SAMPSON URIBE**
14 **P. O. Box 86488**
San Diego, CA 92138
15 **Mechanical Engineer License No. M 35568**

OAH No. 2013020435
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Respondent.

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18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board for Professional Engineers, Land Surveyors, and
20 Geologists of the Department of Consumer Affairs, the parties hereby agree to the following
21 Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval
22 and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Richard B. Moore, PLS ("Complainant") is the Executive Officer of the Board for
25 Professional Engineers, Land Surveyors, and Geologists. He brought this action solely in his
26 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
27 State of California, by William A. Buess, Deputy Attorney General.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No, 1032-A.

4 10. Respondent agrees that his Mechanical Engineer License is subject to discipline and
5 he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
6 below.

7 CIRCUMSTANCES IN MITIGATION

8 11. Respondent Marc Sampson Uribe has never been the subject of any prior disciplinary
9 action. He is admitting responsibility at an early stage in the proceedings.

10 RESERVATION

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

15 CONTINGENCY

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

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

1 5. **Completion of Probation.** Upon successful completion of all of the probationary
2 conditions and the expiration of the period of probation, the Respondent's Mechanical Engineer
3 License, No. M 35568, shall be unconditionally restored.

4 6. **Cost Recovery.** Within two and one-half (2 1/2) years of the effective date of the
5 decision, the Respondent shall reimburse the Board for its investigative and enforcement costs in
6 this matter as charged by the Office of the Attorney General in the total amount of five thousand
7 eight hundred seventy dollars and no cents, (\$5,870.00). Said reimbursement may be paid in
8 installments.

9 7. **Examination.** Within sixty (60) days from the effective date of the decision, the
10 Respondent shall successfully complete and pass the California Laws and Board Rules
11 examination, as administered by the Board.

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

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

24 10. **Quarterly Reports.** Within thirty (30) days of the effective date of the decision, and
25 then continuing on a quarterly basis for the remainder of the probationary period, Respondent
26 must provide verifiable proof to the Board that he is in compliance with any criminal probation or
27 parole orders resulting from his conviction.

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Exhibit A

Accusation No. 1021-A

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

12 In the Matter of the Accusation Against:

Case No. 1032-A

13 **MARC SAMPSON URIBE**
14 **P. O. Box 86488**
San Diego, CA 92138

A C C U S A T I O N

15 **Mechanical Engineer License No. M 35568**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 10, 2011, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Mechanical Engineer License Number M 35568 to Marc Sampson Uribe
25 (Respondent). The Mechanical Engineer License was in full force and effect at all times relevant
26 to the charges brought herein and will expire on September 30, 2013, unless renewed.

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1 **JURISDICTION**

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

6 4. Section 6775 of the Code states, in pertinent part, that "[T]he board may revoke,
7 suspend for a period not to exceed two years, or revoke the certificate of any professional
8 engineer registered under this chapter:

9 "(a) Who has been convicted of a crime substantially related to the qualifications, functions
10 and duties of a registered professional engineer, in which case the certified record of conviction
11 shall be conclusive evidence thereof.

12 "(b) Who has been found guilty by the board of any deceit, misrepresentation, or fraud in
13 his or her practice."

14 5. Section 118 of the Code states:

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

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

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1 "(c) As used in this section, 'board' includes an individual who is authorized by any
2 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
3 'registration,' and 'permit.'"

4 6. Section 480 of the Business and Professions Code provides, in pertinent part, that a
5 board may deny a license if the applicant has been convicted of a crime substantially related to
6 the qualifications, functions or duties of the business or profession for which application is made,
7 has committed any act involving dishonesty, fraud or deceit, has committed any act which if done
8 by a licentiate would be grounds for suspension or revocation of a license, or has knowingly made
9 a false statement of fact required to be revealed in the application.

10 7. Section 482 of the Code states:

11 "Each board under the provisions of this code shall develop criteria to evaluate the
12 rehabilitation of a person when:

13 "(a) Considering the denial of a license by the board under Section 480; or

14 "(b) Considering suspension or revocation of a license under Section 490.

15 "Each board shall take into account all competent evidence of rehabilitation furnished by
16 the applicant or licensee."

17 8. Section 490 of the Code states in pertinent part:

18 "(a) In addition to any other action that a board is permitted to take against a licensee, a
19 board may suspend or revoke a license on the ground that the licensee has been convicted of a
20 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
21 or profession for which the license was issued.

22 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
23 discipline a licensee for conviction of a crime that is independent of the authority granted under
24 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
25 of the business or profession for which the licensee's license was issued.

26 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
27 conviction following a plea of nolo contendere. Any action that a board is permitted to take
28 following the establishment of a conviction may be taken when the time for appeal has elapsed, or

1 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
2 made suspending the imposition of sentence, irrespective of a subsequent order under the
3 provisions of Section 1203.4 of the Penal Code.

4 "(d) The Legislature hereby finds and declares that the application of this section has been
5 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
6 554, and that the holding in that case has placed a significant number of statutes and regulations
7 in question, resulting in potential harm to the consumers of California from licensees who have
8 been convicted of crimes. Therefore, the Legislature finds and declares that this section
9 establishes an independent basis for a board to impose discipline upon a licensee, and that the
10 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not
11 constitute a change to, but rather are declaratory of, existing law."

12 **REGULATORY PROVISIONS**

13 9. Section 404 of the Title 16, California Code of Regulations states in pertinent part:

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

17 "(a) 'ABET' means ABET, Inc., formerly known as the Accreditation Board for
18 Engineering and Technology.

19 "(i) 'Board' means the Board for Professional Engineers, Land Surveyors, and
20 Geologists.

21 "(aa) 'Mechanical engineer' refers to a person who holds a valid license in the branch of
22 mechanical engineering, as defined in Section 6702.2 of the Code.

23 "(bb) 'Mechanical engineering' is that branch of professional engineering as defined in
24 Section 6731.6 of the Code.

25 "(ii) 'Professional engineer' refers to a person engaged in the practice of professional
26 engineering as defined in Section 6701 of the Code.

27 "(jj) 'Professional engineering' within the meaning of this chapter comprises the
28 following branches: agricultural engineering, chemical engineering, civil engineering, control

1 system engineering, corrosion engineering, electrical engineering, fire protection engineering,
2 industrial engineering, manufacturing engineering, mechanical engineering, metallurgical
3 engineering, nuclear engineering, petroleum engineering, quality engineering, safety engineering,
4 and traffic engineering.”

5 10. Section 416 of the Title 16, California Code of Regulations states in pertinent part:
6 “For the purpose of denial, suspension, or revocation of the license of a professional engineer or a
7 land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and
8 Professions Code, a crime or act shall be considered substantially related to the qualifications,
9 functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it
10 evidences present or potential unfitness of a professional engineer or land surveyor to perform the
11 functions authorized by his or her license in a manner consistent with the public health, safety, or
12 welfare. Such crimes or acts shall include, but not be limited to, those involving the following:
13 (a) For professional engineers, any violations of the provisions of the Professional Engineers Act
14 or aiding and abetting any person in such a violation;... (c) A conviction of a crime arising from
15 or in connection with the practice of professional engineering or land surveying.”

16 11. Section 418 of Title 16, California Code of Regulations states in pertinent part:
17 “(b) When considering the suspension or revocation of the certification of an engineer-in-training
18 or a land surveyor-in-training, or the license of a professional engineer or a professional land
19 surveyor, or the authority to use the title “structural engineer,” or the authority to use the title
20 “geotechnical engineer” under Section 490 of the code, the Board will consider the following
21 criteria in evaluating the rehabilitation of such person and his or her present eligibility to retain
22 his or her license: (1) The nature and severity of the act(s) or crime(s) under consideration as
23 grounds for suspension or revocation. (2) Evidence of any act(s) committed prior to or
24 subsequent to the acts(s) or crime(s) under consideration as grounds for suspension or revocation
25 which could also be considered as grounds for suspension or revocation under Section 490 of the
26 Code. (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in
27 subdivision (1) or (2). (4) The extent to which the licensee has complied with any terms of
28 parole, probation, restitution, or any other sanctions lawfully imposed against the license. (5)

1 Any evidence of rehabilitation submitted by the licensee. (6) Total criminal record. (7) If
2 applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.”

3 **COST RECOVERY**

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

8 **CAUSE FOR DISCIPLINE**

9 (September 19, 2011 Criminal Conviction for Forging a Federal Judicial

10 Signature on January 12, 2011)

11 13. Respondent is subject to disciplinary action under sections 490 and 6775(a) in that
12 Respondent was convicted of a felony by plea in the Criminal Case *United States of America v.*
13 *Marc Uribe*, United States District Court, Southern District of California case number
14 11CR2397LAB for violation of 18 U.S.C. § 505 Forging Judicial Signature. The circumstances
15 are as follows:

16 14. On or about January 18, 2011, believing he was a victim of a wrongful foreclosure
17 proceeding involving his home, Respondent downloaded a court document purported to be an
18 order in a separate case, *Kaveh Khast v. Washington Mutual Bank; JP Morgan Bank; California*
19 *Reconveyance Company*, United States District Court Southern District of California case
20 number 10-CV-2168-IEG(JMA), entitled, “ORDER GRANTING PLAINTIFF’S MOTION FOR
21 A TEMPORARY RESTRAINING ORDER”, dated October 26, 2010, concerning similar
22 matters, signed by Judge Irma E. Gonzalez, Chief Judge, and then modified the court document to
23 reflect Respondent’s circumstances.

24 15. On or about June 15, 2011, the Court accepted Respondent’s guilty plea and on or
25 about September 28, 2011, the Court sentenced Respondent to five (5) years probation, payment
26 of an assessment of \$100.00, 250 hours of community service, and other terms of probation.

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PRAYER

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

1. Revoking or suspending Mechanical Engineer License Number M 35568, issued to Marc Sampson Uribe;
2. Ordering Marc Sampson Uribe to pay the Board for Professional Engineers, Land Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/28/12

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

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