

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

In the Matter of the Accusation against: )  
)  
PASQUALE BENENATI, JR. ) Case No. 934-A  
28749 Autumn Lane )  
Menifee, CA 92584 )  
)  
Photogrammetric Surveyor License No. PS 81 )  
Consulting Engineer License No. CO 145, )  
)  
Respondent. )  
\_\_\_\_\_ )

**DECISION**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter.

This Decision shall become effective on September 10, 2010.

IT IS SO ORDERED August 11, 2010.

*Original Signed*

\_\_\_\_\_  
BOARD FOR PROFESSIONAL ENGINEERS  
AND LAND SURVEYORS  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 NICOLE R. COOK  
Deputy Attorney General  
4 State Bar No. 263607  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2143  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:

13 PASQUALE BENENATI, JR.  
28749 Autumn Lane  
14 Menifee, CA 92584

15 Photogrammetric Surveyor License No. PS 81  
16 Consulting Engineer License No. CO 145

17 Respondent.

Case No. 934-A

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 **PARTIES**

22 1. David E. Brown (Complainant) is the Executive Officer of the Board for Professional  
23 Engineers and Land Surveyors. He brought this action solely in his official capacity and is  
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
25 by Nicole R. Cook, Deputy Attorney General.

26 2. Pasquale Benenati, Jr. (Respondent) is represented in this proceeding by attorney  
27 Elliott Luchs, whose address is 6377 Riverside Avenue, Suite 200, Riverside, CA 92506.  
28

1 3. On or about February 2, 1963, the Board for Professional Engineers and Land  
2 Surveyors issued Photogrammetric Surveyor License No. PS 81 to Pasquale Benenati, Jr.  
3 (Respondent). The Photogrammetric Surveyor License was in full force and effect at all times  
4 relevant to the charges brought in Accusation No. 934-A and will expire on June 30, 2012, unless  
5 renewed.

6 4. On or about November 29, 1971, the Board for Professional Engineers and Land  
7 Surveyors issued Consulting Engineer License No. CO 145 to Pasquale Benenati, Jr.  
8 (Respondent). The License was in full force and effect at all times relevant to the charges  
9 brought in Accusation No. 934-A and will expire on June 30, 2012, unless renewed.

10 **JURISDICTION**

11 5. Accusation No. 934-A was filed before the Board for Professional Engineers and  
12 Land Surveyors (Board) Department of Consumer Affairs, and is currently pending against  
13 Respondent. The Accusation and all other statutorily required documents were properly served  
14 on Respondent on June 7, 2010. Respondent timely filed his Notice of Defense contesting the  
15 Accusation. A copy of Accusation No. 934-A is attached as exhibit A and incorporated herein by  
16 reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the  
19 charges and allegations in Accusation No. 934-A. Respondent also has carefully read, fully  
20 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
21 Order.

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

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

3 **CULPABILITY**

4 9. Respondent understands that the charges and allegations in Accusation No. 934-A, if  
5 proven at a hearing, constitute cause for imposing discipline upon his Photogrammetric Surveyor  
6 License as well as for his Consulting Engineer License.

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

12 11. Respondent understands that by signing this stipulation he enables the Board to issue  
13 an order accepting the surrender of his Photogrammetric Surveyor License and Consulting  
14 Engineer License without further process.

15 **RESERVATION**

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

20 **CONTINGENCY**

21 13. This stipulation shall be subject to approval by the Board for Professional Engineers  
22 and Land Surveyors. Respondent understands and agrees that counsel for Complainant and the  
23 staff of the Board for Professional Engineers and Land Surveyors may communicate directly with  
24 the Board regarding this stipulation and surrender, without notice to or participation by  
25 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he  
26 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
27 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
28 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this

1 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
2 be disqualified from further action by having considered this matter.

3 14. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
4 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
5 the originals.

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

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

14 **ORDER**

15 IT IS HEREBY ORDERED that Photogrammetric Surveyor License No. PS 81, and  
16 Consulting Engineer License No. CO 145 issued to Respondent Pasquale Benenati, Jr., is  
17 surrendered and accepted by the Board for Professional Engineers and Land Surveyors.

18 17. Respondent hereby freely and voluntarily surrenders his Photogrammetric Surveyor  
19 License No. PS 81, and Consulting Engineer License No. CO 145. This voluntary surrender shall  
20 constitute the imposition of discipline against Respondent, which shall become part of  
21 Respondent's license history with the Board.

22 18. Respondent shall lose all rights and privileges as a Licensed Photogrammetric  
23 Surveyor and Licensed Consulting Engineer in California as of the effective date of the Board's  
24 Decision and Order.

25 19. Respondent shall cause to be delivered to the Board both his wall license certificates  
26 and, pocket licenses on or before the effective date of the Decision and Order.

27 20. Respondent agrees not to petition for reinstatement of the surrendered license.  
28 Respondent agrees not to apply for any license issued by the Board for three years from the

1 effective date of this surrender. Respondent understands and agrees that if he ever applies for any  
2 license issued by the Board, the Board shall treat it as a new application for licensure.

3 Respondent must comply with all the laws, regulations, and procedures for licensure in effect at  
4 the time the application is filed, including but not limited to submitting a completed application  
5 and the requisite fee and taking and passing the required examination(s), and all of the charges  
6 and allegations contained in the Accusation shall be deemed to be true, correct, and admitted by  
7 Respondent when the licensing agency determines whether to grant or deny the application.

8 21. In consideration of the terms and conditions of this stipulation, the Board waives  
9 reimbursement of costs for the investigation and enforcement of this matter.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Surrender of License and Order and have fully  
12 discussed it with my attorney, Elliott Luchs. I understand the stipulation and the effect it will  
13 have on my Photogrammetric Surveyor License, and Consulting Engineer License. I enter into  
14 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and  
15 agree to be bound by the Decision and Order of the Board for Professional Engineers and Land  
16 Surveyors.

17  
18 DATED: 6-22-10

*Original Signed*

PASQUALE BENENATI, JR.  
Respondent

20 I have read and fully discussed with Respondent Pasquale Benenati, Jr. the terms and  
21 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
22 approve its form and content.

23 DATED: 6-22-10

*Original Signed*

ELLIOTT LUCHS  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board for Professional Engineers and Land Surveyors of the Department of Consumer Affairs.

Dated: June 15, 2010

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

*Original Signed*

NICOLE R. COOK  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 934-A**



1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:  
13 PASQUALE BENENATI, JR.  
440 Shasta Circle  
14 Corona, CA 92881  
15 Photogrammetric Surveyor License No. PS 81  
Consulting Engineer License No. CO 145  
16  
17 Respondent.

Case No. 934-A

**A C C U S A T I O N**

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity  
22 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,  
23 Department of Consumer Affairs.
- 24 2. On or about February 2, 1963, the Board for Professional Engineers and Land  
25 Surveyors issued Photogrammetric Surveyor License Number PS 81 to Pasquale Benenati, Jr.  
26 (Respondent). The Photogrammetric Surveyor License was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on June 30, 2010, unless renewed.



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

2 Each board shall take into account all competent evidence of rehabilitation  
3 furnished by the applicant or licensee.

4 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
5 revoke a license on the ground that the licensee has been convicted of a crime substantially  
6 related to the qualifications, functions, or duties of the business or profession for which the  
7 license was issued.

8 9. Section 493 of the Code states:

9 Notwithstanding any other provision of law, in a proceeding conducted by a  
10 board within the department pursuant to law to deny an application for a license or  
11 to suspend or revoke a license or otherwise take disciplinary action against a  
12 person who holds a license, upon the ground that the applicant or the licensee has  
13 been convicted of a crime substantially related to the qualifications, functions, and  
14 duties of the licensee in question, the record of conviction of the crime shall be  
15 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
16 and the board may inquire into the circumstances surrounding the commission of  
17 the crime in order to fix the degree of discipline or to determine if the conviction is  
18 substantially related to the qualifications, functions, and duties of the licensee in  
19 question.

20 As used in this section, "license" includes "certificate," "permit,"  
21 "authority," and "registration."

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

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

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

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

....

(f) Who aids or abets any person in the violation of any provision of this  
chapter.

1 11. Section 8783 of the Code states:

2 A plea or verdict of guilty or a conviction following a plea of nolo  
3 contendere made to a charge substantially related to the qualifications, functions  
4 and duties of a land surveyor is deemed to be a conviction within the meaning of  
5 this article. The board may order the license or certificate suspended or revoked,  
6 or may decline to issue a license or certificate, when the time for appeal has  
7 elapsed, or the judgment of conviction has been affirmed on appeal or when an  
8 order granting probation is made suspending the imposition of sentence,  
9 irrespective of a subsequent order under the provisions of Section 1203.4 of the  
10 Penal Code allowing such person to withdraw his plea of guilty and to enter a plea  
11 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
12 information or indictment.

9 **REGULATORY PROVISIONS**

10 12. Title 16, California Code of Regulations section 416 states:

11 For the purpose of denial, suspension, or revocation of the license of a  
12 professional engineer or a land surveyor pursuant to Division 1.5 (commencing  
13 with Section 475) of the Business and Professions Code, a crime or act shall be  
14 considered substantially related to the qualifications, functions, and duties of a  
15 professional engineer or land surveyor if, to a substantial degree, it evidences  
16 present or potential unfitness of a professional engineer or land surveyor to  
17 perform the functions authorized by his or her license in a manner consistent with  
18 the public health, safety, or welfare. Such crimes or acts shall include, but not be  
19 limited to, those involving the following:

17 (a) For professional engineers, any violations of the provisions of the  
18 Professional Engineers Act or aiding and abetting any person in such a violation;

19 (b) For land surveyors, any violations of the provisions of the Professional  
20 Land Surveyors' Act or aiding and abetting any person in such a violation;

21 (c) A conviction of a crime arising from or in connection with the practice of  
22 professional engineering or land surveying.

22 13. Title 16, California Code of Regulations section 418 states:

23 (b) When considering the suspension or revocation of the certification of an  
24 engineer-in-training or a land surveyor-in-training, or the license of a professional  
25 engineer or a professional land surveyor, or the authority to use the title "structural  
26 engineer," or the authority to use the title "geotechnical engineer" under Section  
27 490 of the Code, the Board will consider the following criteria in evaluating the  
28 rehabilitation of such person and his or her present eligibility to retain his or her  
license:

(1) The nature and severity of the act(s) or crime(s) under consideration as  
grounds for suspension or revocation.

1 (2) Evidence of any act(s) committed prior to or subsequent to the act(s) or  
2 crime(s) under consideration as grounds for suspension or revocation which  
3 could also be considered as grounds for suspension or revocation under  
4 Section 490 of the Code.

5 (3) The time that has elapsed since commission of the act(s) or crime(s)  
6 referred to in subdivision (1) or (2).

7 (4) The extent to which the licensee has complied with any terms of parole,  
8 probation, restitution, or any other sanctions lawfully imposed against the  
9 license.

10 (5) Any evidence of rehabilitation submitted by the licensee.

11 (6) Total criminal record.

12 (7) If applicable, evidence of expungement proceedings pursuant to Section  
13 1203.4 of the Penal Code.

#### 14 COST RECOVERY

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

#### 19 FIRST CAUSE FOR DISCIPLINE

20 (September 6, 2006 Conviction for Theft Concerning Program Receiving Federal Funds)

21 15. Respondent's licenses are subject to disciplinary action under sections 490, 6775(a)  
22 and 8780(e) of the Code in that he was convicted of a crime that is substantially related to the  
23 qualifications, functions and duties of a photogrammetric surveyor and consulting engineer. The  
24 circumstances are as follows:

25 a. On or about September 6, 2006, in a criminal proceeding entitled *United States*  
26 *of America v. Pasquale Benenati, Jr.* in the United States District Court, Central District of  
27 California, case number EDCR 02-00062-RT, Respondent entered a plea of guilty to violation of  
28 Title 18, United States Code, Sections 666 and 2(a), aiding and abetting theft concerning  
programs receiving federal funds. On his plea agreement, Respondent admitted that he aided and  
abettted the crime of fraud knowingly and intentionally. The facts that led to the conviction are as  
follows:

1           b.     Respondent was a professional photogrammetric surveyor and owned and  
2 operated Aero Tech Surveys, Inc. ("Aero Tech"), an aerial land surveying company incorporated  
3 in California. Aero Tech bid and obtained contracts on Mohave Water Agency projects. The  
4 Mojave Water Agency ("MWA") was a public entity responsible for insuring safe and adequate  
5 water supplies for the citizens of the High Desert Region of San Bernardino County. The MWA  
6 was responsible for contracting and administering a number of public works projects including  
7 the Mojave River Pipeline and the Morongo Basin Pipeline Projects. The United States  
8 Environmental Protection Agency ("EPA") had been the principal financial supporter of the  
9 Mojave River Pipeline Project since 1995. As work on the Project progressed and MWA  
10 incurred expenses, it submitted its costs to the EPA and received reimbursement under the  
11 agreements. During the fiscal years ending September 30 of 1996, 1997, 1998, the MWA  
12 received in excess of \$10,000 in benefits each year from EPA.

13           c.     Russell John Mullins ("Mullins") owned and operated R.J.Mullins &  
14 Associates, Inc. ("RJM&A"), a surveying company and he was also employed by the Mohave  
15 Water Agency ("MWA"), at first as a Construction Manager, and later as its Director of  
16 Engineering, Operations, and Maintenance. Under California law, given his employment with  
17 MWA, Mullins was prohibited from having a financial interest in any contract made by him in his  
18 official capacity, or by any body of which he was a member. Nor could Mullins be a vendor at  
19 any purchase made by him in his official capacity.

20           d.     During the period of October 1996 through March 1998, Mullins, who was  
21 aided and abetted by Respondent, knowingly and intentionally obtained by fraud and misapplied  
22 over \$5,000 owned by, and under the care, custody, and control of, the MWA. Specifically, Aero  
23 Tech funneled money from MWA to Mullins through fraudulently inflated invoices. First,  
24 Mullins directed Respondent to subcontract a portion of the work to RJM&A. Then, at Mullins  
25 request, Respondent then submitted invoices to MWA which were inflated to factor in the  
26 amounts earmarked for RJM&A. The invoices made no mention of RJM&A's involvement in the  
27 project. After MWA issued checks to Aero Tech in payment on the invoices, Respondent then  
28 caused the following payments to be issued to RJM&A in payment on invoices received from

1 RJM&A: (1) \$2,050.60 deposited into RJM&A account on 11/14/1996; (2) \$5,218.60 deposited  
2 into RJM&A account on 2/26/1998; and (3) \$2,000 deposited into RJM&A account on  
3 3/10/1998.

4 e. On September 6, 2006, Respondent was sentenced to one year of probation,  
5 ordered to pay a \$5,000 fine and required to pay a \$100 special assessment fee to the United  
6 States.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Knowingly and Intentionally Aided and Abetted Fraud or Deceit)

9 16. Respondent's licenses are subject to disciplinary action under 6775(b) and (f), and  
10 8780(a) of the Code in that he knowingly and intentionally aided and abetted fraud in his  
11 professional practices as a photogrammetric surveyor and consulting engineer as described above  
12 in paragraph 15, incorporated by reference as if fully set forth herein.

13 **PRAYER**

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

17 1. Revoking or suspending Photogrammetric Surveyor License Number PS 81, issued to  
18 Pasquale Benenati, Jr.

19 2. Revoking or suspending Consulting Engineer License Number CO 145, issued to  
20 Pasquale Benenati, Jr.

21 3. Ordering Pasquale Benenati, Jr. to pay the Board for Professional Engineers and Land  
22 Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to  
23 Business and Professions Code section 125.3;

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

DATED: 5/5/10

*Original Signed*

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

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