

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

In the Matter of the Petition to Revoke Probation)	
against:)	
)	
FRANK JOSEPH MUNGIA)	Case No. 1067-A
1065 N. College Ave.)	
Fresno, CA 93728)	
)	
Civil Engineer License, No. C 26317,)	
)	
Respondent.)	
_____)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on May 6, 2021.

IT IS SO ORDERED April 1, 2021.

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 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
4 State Bar No. 192083
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6320
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**

13 In the Matter of the Petition to Revoke
14 Probation Against:

15 **FRANK JOSEPH MUNGIA**
16 **1065 N. College Ave.**
17 **Fresno, CA 93728**

18 **Civil Engineer License No. C 26317**

19 Respondent.

Case No. 1067-A

OAH No. 2020100527

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 Nancy A. Kaiser, Deputy Attorney General.

27 2. Respondent Frank Joseph Mungia (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about March 10, 1976, the Board issued Civil Engineer License No. C 26317 to Frank Joseph Mungia (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 1067-A, and will expire on March 31, 2022, unless renewed.

4. In a disciplinary action titled *In the Matter of Accusation Against Frank Joseph Mungia*, Case No. 1067-A, the Board issued a decision, effective May 15, 2015, in which Respondent's Civil Engineer License was revoked. However, the revocation was stayed and Respondent's Civil Engineer License was placed on probation for a period of five (5) years with certain terms and conditions.

JURISDICTION

5. Petition to Revoke Probation No. 1067-A was filed before the Board, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on May 12, 2020. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation.

6. A copy of Petition to Revoke Probation No. 1067-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, and understands the charges and allegations in Petition to Revoke Probation No. 1067-A. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

10. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. 1067-A.

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

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 26317 issued to Respondent Frank Joseph Mungia is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) additional years. The probationary period is in addition to the probationary period Respondent is currently serving. The terms and conditions for the original probationary period remain the same. The terms and conditions for the extended two year probationary period are as follows:

1. **Engineering Coursework.** Within eighteen (18) months from the effective date of the decision, Respondent shall successfully complete and pass, with a grade of “C” or better, two (2) college-level civil engineering courses, which must be related to the areas of violation alleged in Accusation No. 1067-A. Said courses shall be approved in advance by the Board or its designee. The Respondent shall provide the Board with official proof of completion of the requisite courses. For purposes of this condition, “college-level course” shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; “college-level course” does not include seminars. Failure to provide the Board with official proof of completion of the requisite courses at least six (6) months prior to the end of the probation period will constitute a violation of probation.

Within 60 days from the effective date of the decision, Respondent shall submit proposed courses that meet the educational requirements to the Board or its designee and have the courses approved by the Board or its designee. Failure to submit and obtain Board approval of said courses within the 60 days will constitute a violation of probation.

2. **Ethics Exam.** Within one (1) year from the effective date of the decision, the Respondent shall successfully complete and pass a course in professional ethics. The Respondent shall successfully complete and pass the Advanced Level Study (90 PDH) course of the Comprehensive Levels of Professional Development Hours in Engineering Ethics via Distance

1 Learning as offered by the Murdough Center for Engineering Professionalism, Texas Tech
2 University, or an equivalent professional ethics course that has been approved in advance by the
3 Board or its designee. Failure to provide the Board with official proof of completion of the
4 requisite courses at least one (1) year prior to the end of the probation period will constitute a
5 violation of probation.

6 Within 60 days from the effective date of the decision, Respondent shall provide proof of
7 enrollment of said ethics course to the Board. Failure to provide said proof of enrollment within
8 the 60 days will constitute a violation of probation.

9 3. **Obey All Laws.** The Respondent shall obey all laws and regulations related to the
10 practices of professional engineering and professional land surveying.

11 4. **Submit Reports.** The Respondent shall submit such special reports as the Board may
12 require.

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

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

24 7. **Completion of Probation.** Upon successful completion of all of the probationary
25 conditions and the expiration of the period of probation, the Respondent's license shall be
26 unconditionally restored.

27 8. **Notification.** Within 30 days of the effective date of the decision, the Respondent
28 shall provide the Board with evidence that he has provided all persons or entities with whom he

1 has a contractual or employment relationship such that the relationship is in the area of practice of
2 professional engineering and/or professional land surveying in which the violation occurred with
3 a copy of the decision and order of the Board and shall provide the Board with the name and
4 business address of each person or entity required to be so notified. During the period of
5 probation, the Respondent may be required to provide the same notification of each new person
6 or entity with whom he has a contractual or employment relationship such that the relationship is
7 in the area of practice of professional engineering and/or land surveying in which the violation
8 occurred and shall report to the Board the name and address of each person or entity so notified.

9 **ACCEPTANCE**

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

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16 DATED: 3/1/2021

Original Signed

FRANK JOSEPH MUNGIA
Respondent

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ENDORSEMENT

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

DATED: 3/1/2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

Original Signed

NANCY A. KAISER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Petition to Revoke Probation No. 1067-A

1 XAVIER BECERRA
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2 CARL SONNE
Senior Assistant Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
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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**

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

Case No. 1067-A

14 **FRANK JOSEPH MUNGIA**
1065 N. College Ave.
15 Fresno, CA 93728

PETITION TO REVOKE PROBATION

16 **Civil Engineer License No. C 26317**

17 Respondent.

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19 **PARTIES**

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

23 2. On or about March 10, 1976, the Board issued Civil Engineer License Number C
24 26317 to Frank Joseph Mungia (Respondent). The Civil Engineer License was in effect at all
25 times relevant to the charges brought herein and will expire on March 31, 2022, unless renewed.

26 3. In a disciplinary action titled *In the Matter of Accusation Against Frank Joseph*
27 *Mungia*, Case No. 1067-A, the Board issued a decision, effective May 15, 2015, in which
28 Respondent's Civil Engineer License was revoked. However, the revocation was stayed and

1 Respondent's Civil Engineer License was placed on probation for a period of five (5) years with
2 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
3 by reference.

4 **JURISDICTION**

5 4. This Petition to Revoke Probation is brought before the Board under Probation Term
6 and Condition No. 9 of the Board's decision *In the Matter of the Accusation Against Frank*
7 *Joseph Mungia*, Case No. 1067-A. Condition 9 states:

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

12 5. Grounds exist to revoke Respondent's probation under the authority of Condition 9 of
13 the decision, in that Respondent did not comply with the terms and conditions of his probation, as
14 set forth below.

15 **FIRST CAUSE TO REVOKE PROBATION**

16 **(Failure to Comply with Engineering Coursework)**

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

18 **Engineering Coursework.** Within four and one-half (4 ½) years from the
19 effective date of the decision, the respondent shall successfully complete and pass
20 two (2) college-level civil engineering courses, which must be related to the areas of
21 violation alleged in the Accusation. Said courses shall be approved in advance by the
22 Board or its designee. The respondent shall provide the Board with official proof of
23 completion of the requisite courses. For purposes of this condition, "college-level
24 course" means a course offered by a community college or a four-year university of
25 three semester units or the equivalent; it does not include seminars.

23 7. Respondent's probation is subject to revocation because he failed to comply with
24 Probation Condition 1, referenced above. The facts and circumstances regarding this violation
25 are that Respondent failed to provide the Board with official proof of successful completion of the
26 Board approved college-level civil engineering courses, due by November 15, 2019.

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1 **SECOND CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with Ethics Exam)**

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

4 **Ethics Exam.** Within four and one-half (4 ½) years from the effective date of
5 the decision, the respondent shall successfully complete and pass a course in
6 professional ethics. The respondent shall successfully complete and pass the
7 Advanced Level Study (90 PDH) course of the Comprehensive Levels of Professional
8 Development Hours in Engineering Ethics via Distance Learning as offered by the
9 Murdough Center for Engineering Professionalism, Texas Tech University, or an
10 equivalent professional ethics course that has been approved in advance by the Board
11 or its designee.

12 9. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
14 are that Respondent failed to provide the Board with official proof of successful completion of a
15 Board approved professional ethics courses, due by November 15, 2019.

16 **PRAYER**

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

20 1. Revoking the probation that was granted by the Board for Professional Engineers,
21 Land Surveyors, and Geologists in Case No. 1067-A and imposing the disciplinary order that was
22 stayed thereby revoking Civil Engineer License No. C 26317 issued to Frank Joseph Mungia;

23 2. Revoking or suspending Civil Engineer License No. C 26317, issued to Frank Joseph
24 Mungia; and

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

26 DATED: 5/12/20

27 *Original Signed*

28 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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Exhibit A

Decision and Order

Board for Professional Engineers, Land Surveyors, and Geologists Case No. 1067-A

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

In the Matter of the Accusation against:)	
)	
FRANK JOSEPH MUNGIA)	Case No.1067-A
1065 N. College Avenue)	
Fresno, CA 93728)	
)	
)	
Civil Engineer License No. C 26317,)	
)	
Respondent.)	
_____)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on May 15, 2015.

IT IS SO ORDERED April 16, 2015.

Original Signed

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

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
9 **GEOLOGISTS**
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **FRANK JOSEPH MUNGIA**
1065 N. College Ave.
13 Fresno, CA 93728
Civil Engineer License No. C 26317

14 Respondent.

Case No. 1067-A

OAH No. 2014090539

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

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

24 2. Respondent Frank Joseph Mungia ("Respondent") is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 10, 1976, the Board for Professional Engineers, Land Surveyors,
27 and Geologists issued Civil Engineer License No. C 26317 to Frank Joseph Mungia

28 ///

1 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the
2 charges brought in Accusation No. 1067-A and will expire on March 31, 2016, unless renewed.

3 JURISDICTION

4 4. Accusation No. 1067-A was filed before the Board for Professional Engineers, Land
5 Surveyors, and Geologists (Board), Department of Consumer Affairs, and is currently pending
6 against Respondent. The Accusation and all other statutorily required documents were properly
7 served on Respondent on May 8, 2014. Respondent timely filed his Notice of Defense contesting
8 the Accusation.

9 5. A copy of Accusation No. 1067-A is attached as exhibit A and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 1067-A. Respondent has also carefully read, and understands the effects of this
14 Stipulated Settlement and Disciplinary Order.

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

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

24 CULPABILITY

25 9. Respondent understands and agrees that the charges and allegations in Accusation
26 No. 1067-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil
27 Engineer License.

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

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

CONTINGENCY

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

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

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

///

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 26317 issued to Respondent Frank Joseph Mungia (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

Civil Engineer License, No. C 26317, issued to Frank Joseph Mungia, is revoked; however, the revocation shall be stayed, and he shall be placed on probation for a period of five (5) years upon the following terms and conditions:

1. **Engineering Coursework.** Within four and one-half (4 ½) years from the effective date of the decision, the respondent shall successfully complete and pass two (2) college-level civil engineering courses, which must be related to the areas of violation alleged in the Accusation. Said courses shall be approved in advance by the Board or its designee. The respondent shall provide the Board with official proof of completion of the requisite courses. For purposes of this condition, “college-level course” means a course offered by a community college or a four-year university of three semester units or the equivalent; it does not include seminars.

2. **Ethics Exam.** Within four and one-half (4 ½) years from the effective date of the decision, the respondent shall successfully complete and pass a course in professional ethics. The respondent shall successfully complete and pass the Advanced Level Study (90 PDH) course of the Comprehensive Levels of Professional Development Hours in Engineering Ethics via Distance Learning as offered by the Murdough Center for Engineering Professionalism, Texas Tech University, or an equivalent professional ethics course that has been approved in advance by the Board or its designee.

3. **Cost Recovery.** Within four and one-half (4 ½) years from the effective date of the decision, the respondent shall reimburse the Board for its investigative and enforcement costs in this matter in the amount of \$3,880.00. Said reimbursement may be paid in installments.

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1 4. **Laws and Rules Exam.** Within one hundred twenty (120) days from the effective
2 date of the decision, the respondent shall successfully complete and pass the California Laws and
3 Board Rules examination, as administered by the Board.

4 5. **Client Notification.** Within thirty (30) days from the effective date of the decision,
5 the respondent shall provide the Board with evidence that he has provided all persons or entities
6 with whom he has a contractual or employment relationship relating to professional civil
7 engineering services with a copy of the decision and order of the Board and shall provide the
8 Board with the name and business address of each person or entity required to be so notified.
9 During the period of probation, the respondent may be required to provide the same notification
10 to each new person or entity with whom he has a contractual or employment relationship relating
11 to professional civil engineering services and shall report to the Board the name and address of
12 each person or entity so notified.

13 6. **Obey Laws.** The respondent shall obey all federal, state, and local laws and
14 regulations related to the practices of professional engineering and land surveying.

15 7. **Report to Board.** The respondent shall submit such special reports as the Board may
16 require.

17 8. **Out-of-State Practice.** The period of probation shall be tolled during the time the
18 respondent is practicing exclusively outside the state of California. If, during the period of
19 probation, the respondent practices exclusively outside the state of California, the respondent
20 shall immediately notify the Board in writing.

21 9. **Probation Violation.** If the respondent violates the probationary conditions in any
22 respect, the Board, after giving him notice and the opportunity to be heard, may vacate the stay
23 and reinstate the disciplinary order which was stayed. If during the period of probation, an
24 accusation or petition to vacate stay is filed against the respondent, or if the matter has been
25 submitted to the Office of the Attorney General for the filing of such, the Board shall have
26 continuing jurisdiction until all matters are final, and the period of probation shall be extended
27 until all matters are final.

28 ///

Exhibit A

Accusation No. 1067-A

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
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Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 1067-A

12 **FRANK JOSEPH MUNGIA**
1065 N. College Ave.
13 **Fresno, CA 93728**

A C C U S A T I O N

14 **Civil Engineer License No. C 26317**

15 Respondent.

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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 March 10, 1976, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Civil Engineer License Number C 26317 to Frank Joseph Mungia
25 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on March 31, 2016, unless renewed.

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Negligence)**

5 8. Respondent is subject to disciplinary action under section 6775, subdivision (c), in
6 conjunction with California Code of Regulations, title 16, section 419, in that Respondent was
7 negligent in his practice of professional engineering. The circumstances are set forth below.

8 a. On or about March 21, 2009, Respondent entered into a contract with Anacapa
9 Acquisitions, LLC ("Anacapa"), to provide engineering services which called for the preparation
10 of subdivision improvement plans and a final map for submittal to and approval by the City of
11 Victorville, California. Said contract stated that time was of the essence and called for
12 Respondent's work to begin immediately.

13 b. Respondent failed to produce the plans and maps in a timely manner and, throughout
14 the course of his work on the project, repeatedly missed promised deadlines for submitting maps
15 and plans to the City of Victorville. More than two years after the contract had been executed,
16 the improvement plans prepared by Respondent remained very preliminary (less than 50%
17 complete) and lacked the details necessary for checking, approval or construction. For example,
18 the plans contained the following deficiencies: (1) the storm drainage plan failed to show pipe
19 sizes or elevations for the catch basin laterals, and no pipe sizing calculations were included; (2)
20 rim and invert elevations were missing from the catch basins; (3) the sewer plans were missing
21 quantities on sheet 1 of 5; (4) the profile of other utilities were not shown in the sewer profile
22 drawing to indicate potential crossing conflicts; (5) sewer lines shown in plan view were not
23 shown in the corresponding profile view; (6) the rough grading plan was incomplete for
24 construction, did not include lot pad grades and showed 16,200 cubic yards of fill to complete,
25 which was excessive for the site; (7) the street improvement and lighting plan was missing street
26 light locations, signs and ADA ramps; and (8) the profile sheets have three different profiles
27 shown for the same street instead of one.

28 ///

1 c. In June 2010, Respondent received \$35,000 from Anacapa. Said funds were not
2 provided to Respondent as payment for services rendered but were instead to be held in trust by
3 Respondent and used for project submittal and processing fees required by the City of Victorville.
4 Respondent failed to use said funds for the specified purposes and was unwilling or unable to
5 return the funds to Anacapa upon demand some ten months later. Ultimately, Anacapa was forced
6 to file a civil lawsuit against Respondent in June 2012 in order to obtain restitution of the funds.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Breach/Violation of Contract)**

9 9. Respondent is subject to disciplinary action under section 6775, subdivision (d), in
10 conjunction with California Code of Regulations, title 16, section 419, in that Respondent
11 breached and/or violated the terms of a contract to provide professional engineering services.
12 Complainant refers to, and by this reference incorporates, the allegations set forth above in
13 paragraph 8, subdivisions a – c, inclusive, as though set forth fully herein.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Criminal Conviction)**

16 10. Respondent is subject to disciplinary action under section 6775, subdivision (a), in
17 conjunction with California Code of Regulations, title 16, section 419, in that Respondent was
18 convicted of a crime substantially related to the qualifications, functions and duties of a licensed
19 professional engineer. The circumstances are as follows:

20 a. In May 2000, following a jury trial in the criminal proceeding entitled *United States*
21 *v. Frank Mungia*, No. CR 00-30-WJR (C.D. Cal., 2000), Respondent was found guilty and
22 convicted of nine (9) felony counts of violating U.S. Code, title 18, section 1343 [wire fraud] and
23 four (4) felony counts of violating U.S. Code, title 18, section 1957 [transactions in excess of
24 \$10,000 in criminally derived property]. On or about August 31, 2000, Respondent was
25 sentenced to 37 months in federal prison, fined and ordered to pay more than \$500,000 in
26 restitution.

27 b. The circumstances surrounding Respondent's convictions are that Respondent
28 engaged in a scheme to defraud individuals out of hundreds of thousands of dollars by falsely

1 representing that, for a fee, he and his company would provide the individuals with access to
2 millions of dollars in funds on deposit at a legitimate bank when, in fact, said bank was a bogus
3 entity with no deposits on hand which Respondent had created for the purpose of carrying out his
4 fraudulent scheme.

5 PRAYER

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

- 9 1. Revoking or suspending Civil Engineer License Number C 26317, issued to Frank
10 Joseph Mungia;
11 2. Ordering Frank Joseph Mungia to pay the Board for Professional Engineers, Land
12 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
13 pursuant to Business and Professions Code section 125.3;
14 3. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 4/10/14

Original Signed

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

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