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

In the Matter of the Accusation Against: **PAUL VERNER BARTHOLOW III** **2450 Summit Drive** **Santa Rosa, CA 95404** **Civil Engineer Registration No. C 40512** Respondent.	Case No. 858-A

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers and Land Surveyors, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 10, 2010.

It is so ORDERED August 11, 2010.

Original Signed

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

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

In the Matter of the Accusation Against: **PAUL VERNER BARTHOLOW III** **2450 Summit Drive** **Santa Rosa, CA 95404** **Civil Engineer Registration No. C 40512** Respondent.	Case No. 858-A **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. David E. Brown (Complainant) is the Executive Officer of the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs. He brought this action solely in his official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney General.

2. Respondent Paul Verner Bartholow III (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 1, 1986, the Board issued Civil Engineer Registration No. C 40512 to Respondent. The registration was in full force and effect at all times relevant to the charges brought in Accusation No. 858-A and will expire on March 31, 2011, unless renewed.

JURISDICTION

4. Accusation No. 858-A was filed before the Board on July 20, 2009, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 29, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 858-A is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and understands the charges and allegations in Accusation No. 858-A. Respondent has also carefully read and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to 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.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 858-A.

9. Respondent agrees that his Civil Engineer Registration is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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CONTINGENCY

10. This stipulation shall be subject to approval by the Board for Professional Engineers and Land Surveyors. Respondent understands and agrees that counsel for Complainant and Board staff 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.

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

12. 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.

13. 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:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer Registration No. C 40512 issued to Respondent Paul Verner Bartholow III is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

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

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

3. **Tolling of Probation.** The period of probation shall be tolled during the time 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. **Violation of Probation.** 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. **Completion of Probation.** 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. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the amount of $3,500.00 within three-and-a-half (3 1/2) years from the effective date of this decision for its investigative and prosecution costs. Payments may be made by way of a Board-approved installment plan. Failure to reimburse the Board's cost of its investigation and prosecution according to the installment plan shall constitute a violation of the probation order.

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7. **Ethics Course.** Within three (3) years from the effective date of this decision, the Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee.

8. **Notification.** Within 30 days of the effective date of the decision, the Respondent shall provide the Board with evidence that he has provided all persons or entities with whom he has a contractual or employment relationship relating to professional civil engineering 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 of each new person or entity with whom he has a contractual or employment relationship relating to professional civil engineering services and shall report to the Board the name and address of each person or entity so notified.

9. **Take And Pass Examinations.** Within three-and-one-half (3 1/2) years from the effective date of this decision, the Respondent shall take and achieve the passing score as set by the Board for the California Special Civil Seismic Principles examination. The Respondent shall be required to pay the application fee as described in California Code of Regulations (CCR), title 16, section 407 and shall be afforded all examination appeal rights as described in CCR, title 16, sections 407, 443, and 444.

ACCEPTANCE

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

DATED: 3-11-10

Original Signed

PAUL VERNER BARTHOLOW III
Respondent

ENDORSEMENT

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

Dated: 5/6/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

LESLIE E. BRAST
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 858-A

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

In the Matter of the Accusation Against:	Case No. 858-A
PAUL VERNER BARTHOLOW III **2450 Summit Drive** **Santa Rosa, CA 95404** **Civil Engineer Registration No. C 40512** Respondent.	**A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about August 1, 1986, the Board issued Civil Engineer Registration Number C 40512 to Paul Verner Bartholow III (Respondent). The registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

JURISDICTION

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

4. Business and Professions Code (Code) section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

STATUTORY/REGULATORY PROVISIONS

5. Code section 6775 states, in pertinent part, that:

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

[¶] . . . [¶]

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

6. California Code of Regulations, title 16, section 404, subdivision (n), defines "incompetence" as used in Code sections 6775 as "the lack of knowledge or ability in discharging professional obligations as a professional engineer or land surveyor."

7. California Code of Regulations, title 16, section 404, subsection (w), defines "negligence" as used in Code sections 6775 as "the failure of a licensee, in the practice of professional engineering or land surveying, to use the care ordinarily exercised in like cases by duly licensed professional engineers and land surveyors in good standing."

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Negligence and/or Incompetence in the Practice of Civil Engineering)

9. Respondent is subject to disciplinary action under Code section 6775, subdivision (c), for negligence and/or incompetence in that, as the engineer of record on the Brush Street Project, Respondent failed to provide substantiating structural calculations and critical dimensions for a

revised pier and grade beam detail in conformance with standard engineering design practices and Building Code requirements, as follows:

Brush Street Project

a. Respondent was the engineer of record for a new two-story Sonoma County residence located at 2579 Brush Street in Graton, California. The foundation system for the structure consisted of reinforced concrete piers and grade beams. During construction in 2000, some of the piers, intended to support grade beams at the garage sidewall, were not properly located under the centerline of the grade beams. As a result, the Sonoma County Building Inspector issued a correction notice on or about December 21, 2000, identifying an offset between pier and grade beam and requesting corrective design details, along with substantiating calculations from the project engineer. In response to the correction notice from the Building Inspector, Respondent provided a signed and stamped detail on or about December 29, 2000, showing a reinforced concrete grade beam supported by a reinforced concrete pier with a concrete "block-out" connecting the offset pier to the grade beam.

b. The detail was deficient in that it failed to include typical information critical to substantiate the design and ensure proper construction of the detail. Specifically, the detail failed to include the following:

1. The offset dimension of the grade beam from the pier;
2. The length of the vertical bars that extend from the top of the pier;
3. The length of the "block-out";
4. The concrete cover dimension for the "Z" bar in the "block-out";
5. The location and angle of bends in vertical rebar closest to the grade beam that extends from the top of the pier;
6. The length of the lap splice between vertical rebar extending from the top of the pier and the "Z" bar in the "block-out."

c. In addition to these deficiencies, Respondent failed to provide structural calculations substantiating the structural adequacy of his detail and other affected structural members as requested by the Sonoma County Building Inspector.

SECOND CAUSE FOR DISCIPLINE

(Negligence and/or Incompetence in the Practice of Civil Engineering)

10. Respondent is subject to disciplinary action under Code section 6775, subdivision (c), for negligence and/or incompetence in that, as the engineer of record on the Oak Springs Lane Project, Respondent provided deficient calculations and details to address an offset between reinforced concrete grade beams and supporting foundation piers necessary to meet expected or maximum load conditions in conformance with standard engineering design practices and the requirements of the Building Code, as follows:

Oak Springs Lane Project

a. Respondent was the engineer of record for a new two-story Sonoma County residence located at 1455 Oak Springs Lane in Santa Rosa, California. During construction in 2000/2001, some of the piers, intended to support grade beams, were not properly located under the centerline of the grade beams. As a result, the Sonoma County Building Inspector issued four correction notices on or about January, 10, 19, 22, and 29, 2001, identifying an offset between piers and grade beams and requesting substantiating calculations from the project engineer. In response to the correction notices from the Building Inspector, Respondent provided a signed and stamped detail on or about January 20, 2001, modifying the connection between the top of the foundation pier and the grade beam.

b. The structural calculations and top-of-pier detail were deficient in that they failed to adequately address key structural elements impacted by the offset between the center of the grade beam and the pier. Specifically, the calculations and detail failed to:

1. Identify or limit the dimension of the offset;
2. Provide for straight reinforcing steel to carry axial loads at a critical interface;
3. Provide for adequate embedment of reinforcing steel into the grade beam;
4. Provide for an enclosure reinforcing for the pier-to-grade-beam connection;
5. Reconcile a discrepancy in that the reinforcing steel grade in the calculations did not match that specified in the detail.

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6. Reconcile a discrepancy between the assumed cross-sectional sections in the calculation and those depicted in the detail;

7. Address the impact of the offset on the strength of the pier and supporting soil.

c. As a result of these deficiencies, the Sonoma County Building Department issued a stop work order on or about January 20, 2001, shutting down the Oak Springs Lane Project. Respondent subsequently revised his calculations and his top-of-pier detail and, on or about May 24, 2001, provided a revised detail to address Building Department concerns. Still, the revised detail contained errors and failed to address critical structural issues, as follows:

1. The supporting calculations failed address the potential soil pressure overstress caused by the grade-beam-to-pier offset and the capacity of the pier to carry the additional moment caused by the offset;

2. The supporting calculations failed to address the capacity of the revised connection to transfer shear loads from the grade beam to the pier.

DISCIPLINE CONSIDERATIONS

12. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about January 30, 2004, in a prior disciplinary action before the Board entitled *In the Matter of the Accusation Against Paul Verner Bartholow, III,* Case Number 700-A, the Board adopted a stipulated settlement and issued a Decision and Order effective February 27, 2004, by which Respondent's Civil Engineer Registration Number C 40512 was revoked, revocation stayed subject to a four-year term of probation. The Board's Decision and Order in Case Number 700-A is incorporated by reference as if fully set forth herein.

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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 and Land Surveyors issue a decision:

1. Revoking or suspending Civil Engineer Registration Number C 40512, issued to Paul Verner Bartholow III;

2. Ordering Paul Verner Bartholow III to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: July 20, 2009

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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