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

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)) Case No. 995-A
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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 January 11,2013

IT IS SO ORDERED DECEmber 7,2012

Original Signed

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

ΪL.	
Kamala D. Harris	
Attorney General of California LINDA K. SCHNEIDER	
Supervising Deputy Attorney General LAURO A. PAREDES	
Deputy Attorney General State Bar No. 254663	
110 West "A" Street, Suite 1100	
San Diego, CA 92101 P.O. Box 85266	
San Diego, CA 92186-5266 Telephone: (619) 645-2091	
Facsimile: (619) 645-2061 Attorneys for Complainant	
	BEFORE THE
BOARD FOR PROFESSIO	NAL ENGINEERS, LAND SURVEYORS, AND
	GEOLOGISTS ENT OF CONSUMER AFFAIRS
ST	ATE OF CALIFORNIA
In the Matter of the Accusation Again	st: Case No. 995-A
IAN ROBERTSON WADDELL	OAH No. 2012 07 0357
519 10th Street Huntington Beach, CA 92648	STIPULATED SETTLEMENT AND
Civil Engineer License No. C 41219	DISCIPLINARY ORDER
	spondent.
	spondent.
In the interest of a prompt and s	peedy settlement of this matter, consistent with the publ
interest and the responsibility of the B	Board for Professional Engineers, Land Surveyors, and
Geologists of the Department of Cons	sumer Affairs, the parties hereby agree to the following
	y Order which will be submitted to the Board for approv
and adoption as the final disposition of	
	PARTIES
1. Richard B. Moore, PLS (Complainant) is the Executive Officer of the Board for
	ors, and Geologists. He brought this action solely in his
the second s	this matter by Kamala D. Harris, Attorney General of th
State of California, by Lauro A. Paredes, Deputy Attorney General.	
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	STIPULATED SETTLEMENT (A-

STIPULATED SETTLEMENT (A-995)

Respondent Ian Robertson Waddell (Respondent) is represented in this proceeding by 2. 1 attorney Hal G. Block, 650 Town Center Drive, Suite 1200 Costa Mesa, CA 92626-1925. 2 On or about August 1, 1986, the Board for Professional Engineers, Land Surveyors, 3. 3 and Geologists issued Civil Engineer License No. C 41219 to Ian Robertson Waddell 4 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the 5 charges brought in Accusation No. 995-A and will expire on March 31, 2013, unless renewed. 6 7 JURISDICTION Accusation No. 995-A was filed before the Board for Professional Engineers, Land 4. 8 Surveyors, and Geologists (Board), Department of Consumer Affairs, and is currently pending 9 against Respondent. The Accusation and all other statutorily required documents were properly 10 served on Respondent on May 8, 2012. Respondent timely filed his Notice of Defense contesting 11 the Accusation. 12 A copy of Accusation No. 995-A is attached as exhibit A and incorporated herein by 5. 13 14 reference. 15 ADVISEMENT AND WAIVERS 6. Respondent has carefully read, fully discussed with counsel, and understands the 16 charges and allegations in Accusation No. 995-A. Respondent has also carefully read, fully 17 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 18 Order. 19 20 7. 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 21 his own expense; the right to confront and cross-examine the witnesses against him; the right to 22 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel 23 24 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 25 26 Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly, and intelligently waives and gives up each and 27 8. 28 every right set forth above. 2

STIPULATED SETTLEMENT (A-995)

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 995-A., if proven at a hearing, constitute cause for imposing discipline upon his 1 License.

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. 8

11. Respondent agrees that his Civil Engineer License is subject to discipline and he 9 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below. 10

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CONTINGENCY

12. This stipulation shall be subject to approval by the Board for Professional Engineers, 12 Land Surveyors, and Geologists. Respondent understands and agrees that counsel for 13 14 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, 15 without notice to or participation by Respondent or his counsel. By signing the stipulation, 16 17 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the 18 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this 19 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of 20 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between 21 the parties, and the Board shall not be disqualified from further action by having considered this 22 matter.

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13. 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.

26 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. 27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 28

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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.

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

8 IT IS HEREBY ORDERED that Civil Engineer License No. C 41219 issued to Respondent 9 Ian Robertson Waddell (Respondent) is revoked. However, the revocation is stayed and 10 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

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

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.

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6. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the amount of \$5,072.50 within 30 months from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's costs of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

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

8. Ethics Course. Within 30 months of the effective date of the Board's decision,
Respondent shall successfully complete and pass a course in professional ethics, approved in
advance by the Board or its designee.

9. Notification. Within 30 days of the effective date of the decision, the Respondent 12 13 shall provide the Board with evidence that he has provided all persons or entities with whom he 14 has a contractual or employment relationship such that the relationship is in the area of practice of 15 professional engineering in which the violation occurred with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or 16 17 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 18 19 employment relationship such that the relationship is in the area of practice of professional 20 engineering and shall report to the Board the name and address of each person or entity so notified. 21

10. Violation of Probation. If Respondent violates the terms of this probation in any
respect, the Board, after giving Respondent notice and the opportunity to be heard, may set aside
the stay order and impose the revocation or suspension of the Respondent's license. If a Petition
to Revoke probation or Accusation is ever filed, all charges and allegations in Accusation Case
No. No. 995-A are deemed to be true and admitted by Respondent. If, during the period of
probation, an accusation and/or a petition to revoke probation or both has been filed against
Respondent's license or the Attorney General's Office has been requested to prepare an

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accusation and/or a petition to revoke probation or both against Respondent's license, the
 probationary period shall automatically be extended and shall not expire until the accusation
 and/or the petition to revoke probation has been acted upon by the Board. Upon successful
 completion of probation, Respondent's license will be fully restored.

5 11. Upon successful completion of all of the probationary conditions and the expiration
6 of the period of probation, the Respondent's Civil Engineer License, No. C 41219, shall be
7 unconditionally restored.

ACCEPTANCE

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

10/22/12 Original Signed IAN ROBERTSON WADDELL Respondent DATED:

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I have read and fully discussed with Respondent Ian Robertson Waddell the terms and
 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 I approve its form and content.
 DATED: /0/22/12

HAL G. BLOCK Attorney for Respondent

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STIPULATED SETTLEMENT (A-995)

	ENDORS	SEMENT
The foregoing Stin	and the second se	isciplinary Order is hereby respectfully
	the second se	
Geologists of the Depart		fessional Engineers, Land Surveyors, an
Geologists of the Depart	ment of Consumer Affan	rs.
Dated:		Long to Marco
Dated:		Respectfully submitted,
		KAMALA D. HARRIS Attorney General of California LINDA K. SCHNEIDER Supervising Deputy Attorney Genera
	and the second second	- ,
94.		Orígínal Sígned
	•	LAURO A. PAREDES Deputy Attorney General Attorneys for Complainant
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Exhibit A

Accusation No. 995-A

1	KAMALA D. HARRIS
2	Attorney General of California LINDA K. SCHNEIDER
3	Supervising Deputy Attorney General LAURO A. PAREDES
4	Deputy Attorney General State Bar No. 254663
5	110 West "A" Street, Suite 1100 San Diego, CA 92101
6	P.O. Box 85266 San Diego, CA 92186-5266
7	Telephone: (619) 645-2091 Facsimile: (619) 645-2061
8	Attorneys for Complainant
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. 995-A
13	IAN ROBERTSON WADDELL 519 10th Street
14	Huntington Beach, CA 92648 A C C U S A T I O N
15	Civil Engineer License No. C 41219
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 August 1, 1986, the Board for Professional Engineers, Land Surveyors,
24	and Geologists issued Civil Engineer License Number C 41219 to Ian Robertson Waddell
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, 2013, unless renewed.
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	Accusation

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 l	aws. 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,
7 8		[T]he board may reprove, suspend for a period not to exceed two s, or revoke the certificate of any professional engineer registered under chapter:
9		
10		(c) Who has been found guilty by the board of negligence or
11	incoi	mpetence in his or her practice.
12		•••
13		(g)Who in the course of the practice of professional engineering has found guilty by the board of having violated a rule or regulation of ofessional conduct adopted by the board.
14	, i i	(h)Who violates any provision of this chapter.
15		(ii) who violates any provision of this enapter.
16		•••
17	5.	Section 118, subdivision (b), of the Code provides that the suspension or experiation
18	of a license	e shall not deprive the Board of jurisdiction to proceed with a disciplinary action during
19	the period	within which the license may be renewed, restored, reissued or reinstated.
20		REGULATORY PROVISIONS
21	6.	California Code of Regulations, title 16, section 475 states, in pertinent part,
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23		
24		(e) Document Submittal:
25 26		(1) A licensee shall not misrepresent the completeness of the professional documents he or she submits to a governmental agency.
26 27 28		(2) A licensee shall not misrepresent the completeness of the professional documents he or she prepared to his or her client or to other involved parties.
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		Accusation

1	COSTS
2	7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3	administrative law judge to direct a licentiate found to have committed a violation or violations of
4	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5	enforcement of the case.
6	PROJECT OVERVIEW
7	8. Respondent reviewed and approved, stamped and signed slab-on-grade engineering
8	calculations and plans for a home located at 89 Via Regalo in San Clemente, California. Soon
9	after moving into the home, the owner complained that there was exposed rebar on the outside of
10	the home's foundation. The homeowner contacted the builder to request a site review and
11	comment on the safety to the residence caused by the exposed rebar. Based on the site
12	investigation done by others, Respondent generated and sent a letter to the builder, who then
13	provided this letter to the homeowner. The letter indicated that there was no structural safety
14	concerns caused by the exposed rebar; the letter also provided basic repair recommendations.
15	The homeowner contacted the Respondent to inquire about the letter provided but did not receive,
16	in her opinion, a satisfactory response. The homeowner believed that the exposed rebar was a
17	threat to the stability of her home and contacted the Board for Professional Engineers, Land
18	Surveyors, and Geologists who opened an investigation.
19	9. The Board's investigation revealed that the exposed rebar was not a threat to the
20	stability of the home. However, Respondent made several errors and omissions in the plans and
21	calculations which are detailed below.
22	FIRST CAUSE FOR DISCIPLINE
23	(Negligence in the Practice of Engineering)
24	10. Respondent is subject to disciplinary action under Code section 6775 (c) in that
25	Respondent was negligent in his practice of engineering regarding the project on 89 Via Regalo in
26	San Clemente, California, as follows.
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	Accusation

1	11. The plans prepared by Respondent did not meet the standard of care for a professional
2	civil engineer in that they contained a number of errors and deficiencies. These errors and
3	deficiencies included the following:
4	a. Respondent approved soil heaving calculations for a single concrete slab
5	when at minimum, two overlapping "L" shaped concrete slabs should have been used,
6	along with a separate set of calculations for the small "casita" portion of the residence.
7	b. Respondent used the full value of creep modulus concrete in his calculations
8	instead of the appropriate one-half value.
9	c. Respondent did not properly calculate or account for the simultaneous seismic
10	and soil heave load effects on the residence.
11	d. Respondent failed to properly calculate the uplift caused by the slab step
12	between the lower garage slab and the interior of the residence, which is a necessary
13	calculation.
14	e. Respondent approved residence plans included STHD10 hold downs without
15	rebar reinforcements. In this project rebar reinforcements are required. Respondent's
16	approval of plans without rebar reinforcements was another error.
17	SECOND CAUSE FOR DISCIPLINE
18	(Misrepresentation of Completeness of Documents Submitted to Government Agency)
19	12. Respondent is subject to disciplinary action under California Code of Regulations,
20	title 16, section 475(e) in that the plans submitted by Respondent to the Board regarding the 89
21	Via Regalo in San Clemente, California, residential home project were incomplete.
22	13. Respondent submitted plans and calculations for a single concrete slab configuration.
23	There should have been at least two overlapping rectangular slabs for the primary residence in
24	addition to a slab design for the "casita" portion of the residence. Respondent's failure to include
25	such calculations constitute a violation of his professional duties under California Code of
26	Regulations, title 16, section 475(e).
27	THIRD CAUSE FOR DISCIPLINE
28	(Misrepresentation of Completeness of Documents Submitted to Government Agency)
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	Accusation

13. Respondent is subject to disciplinary action under Code section 6775 (h) in that				
Respondent was negligent in his practice of engineering regarding the project on 89 Via Regalo in				
San Clemente, California, as outlined in paragraphs 12 and 13 above.				
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 Civil Engineer License Number C 41219, issued to Ian				
Robertson Waddell;				
2. Ordering Ian Robertson Waddell 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: 4/24/12 Orígínal Sígned 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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