

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

In the Matter of the Accusation against:

JONATHON CHANEY GOLDMAN

11 Olive Avenue

P. O. Box 1108

Ross, CA 94957-1108

Civil Engineer License No. C 42165,

Respondent.

Case No. 960-A

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

September 2, 2011

IT IS SO ORDERED

July 28, 2011

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 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1192
6 Facsimile: (415) 703-5480
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. 960-A

12 **JONATHON CHANEY GOLDMAN**
13 **11 Olive Avenue**
P.O. Box 1108
14 **Ross, CA 94957-1108**
Civil Engineer License No. C 42165

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

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

20 PARTIES

21 1. Joanne Arnold (Complainant) is the Acting Executive Officer of the Board for
22 Professional Engineers, Land Surveyors, and Geologists. She brought this action solely in her
23 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
24 State of California, by Brett A. Kingsbury, Deputy Attorney General.

25 2. Respondent Jonathon Chaney Goldman (Respondent) is represented in this
26 proceeding by Bob Haroche, Esq., whose address is:

27 Bob Haroche, Esq.

28 Beyers Costin

1 P.O. Box 878
2 200 Fourth Street
3 Santa Rosa, CA 95402
4 Phone: 707/547-2000
5 Fax: 707/526-2746

6 3. On or about August 21, 1987, the Board for Professional Engineers, Land Surveyors,
7 and Geologists issued Civil Engineer License No. C 42165 to Respondent. The Civil Engineer
8 License was in full force and effect at all times relevant to the charges brought in Accusation No.
9 960-A and will expire on March 31, 2012, unless renewed.

10 JURISDICTION

11 4. Accusation No. 960-A was filed before the Board for Professional Engineers, Land
12 Surveyors, and Geologists (Board), Department of Consumer Affairs, and is currently pending
13 against Respondent. The Accusation and all other statutorily required documents were properly
14 served on Respondent on or about December 10, 2010. Respondent timely filed his Notice of
15 Defense contesting the Accusation. A copy of Accusation No. 960-A is attached as exhibit A and
16 incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 5. Respondent has carefully read and understands the charges and allegations in
19 Accusation No. 960-A. Respondent has also carefully read and understands the effects of this
20 Stipulated Settlement and Disciplinary Order.

21 6. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
23 his own expense; the right to confront and cross-examine the witnesses against him; the right to
24 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
25 the attendance of witnesses and the production of documents; the right to reconsideration and
26 court review of an adverse decision; and all other rights accorded by the California
27 Administrative Procedure Act and other applicable laws.
28

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Civil Engineer License.

9. 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.

10. 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.

RESERVATION

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

CONTINGENCY

12. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board 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 facsimile copies of this Stipulated Settlement and Disciplinary Order, including 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 42165 issued to Respondent Jonathon Chaney Goldman (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** The Respondent shall obey all federal, state, and local laws and regulations related to the practices of professional engineering and 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 terms/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

1 period of probation, an accusation or petition to vacate stay is filed against the Respondent, or if
2 the matter has been submitted to the Office of the Attorney General for the filing of such, the
3 Board shall have continuing jurisdiction until all matters are final, and the period of probation
4 shall be extended until all matters are final.

5 **5. Completion of Probation.** Upon successful completion of all of the probationary
6 conditions and the expiration of the period of probation, the Respondent's Civil Engineer License
7 No. C 42165 shall be unconditionally restored.

8 **6. Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the
9 amount of \$5,475.00 within 2.5 years from the effective date of this Order for its investigative
10 and prosecution costs. Said reimbursement may be paid in installments.

11 **7. Examination.** Within 60 days of the effective date of this Order, the Respondent
12 shall successfully complete and pass the California Laws and Board Rules examination, as
13 administered by the Board.

14 **8. Notification.** Within 30 days of the effective date of this Order, the Respondent shall
15 provide the Board with evidence that he has provided all persons or entities with whom he has a
16 contractual or employment relationship relating to professional engineering and/or professional
17 land surveying in which the violation occurred with a copy of the decision and order of the Board
18 and shall provide the Board with the name and business address of each person or entity required
19 to be so notified. During the period of probation, the Respondent may be required to provide the
20 same notification of each new person or entity with whom he has a contractual or employment
21 relationship in the area of practice of professional engineering and/or land surveying and shall
22 report to the Board the name and address of each person or entity so notified.

23 **9. Take And Pass Examinations.** Within 2.5 years of the effective date of this Order,
24 Respondent shall take and pass four (4) workshops provided by the Department of Water
25 Resources (<http://goo.gl/jpgyh>). Said courses must be approved in advance by the Board or its
26 designee. Respondent shall provide the Board with official proof of completion of the requisite
27 courses.
28

1 ACCEPTANCE

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

7
8 DATED: 25 May 11 Original Signed
9 JONATHON CHANEY GOLDMAN
Respondent

10 I have read and fully discussed with Respondent the terms and conditions and other matters
11 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
12 content.

13 DATED: 5/31/11 Original Signed
14 Bob Haroche, Esq.
Attorney for Respondent

15 ENDORSEMENT

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

19 Dated: June 6, 2011

20 Respectfully submitted,

21 KAMALA D. HARRIS
Attorney General of California
22 FRANK H. PACOE
Supervising Deputy Attorney General

23 Original Signed

24 BRETT A. KINGSBURY
25 Deputy Attorney General
Attorneys for Complainant

26
27 SF2010202206
20395961.doc

Exhibit A

Accusation No. 960-A

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
State Bar No. 243744
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1192
Facsimile: (415) 703-5480
6 E-mail: Brett.Kingsbury@doj.ca.gov
Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 960-A

13 **JONATHON CHANEY GOLDMAN**
14 **11 Olive Avenue**
P.O. Box 1108
Ross, CA 94957-1108

FIRST AMENDED ACCUSATION

15 **Civil Engineer License No. C 42165**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Arnold ("Complainant") brings this First Amended Accusation ("Accusation")
21 solely in her official capacity as the Acting Executive Officer of the Board for Professional
22 Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs.

23 2. On or about August 21, 1987, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Civil Engineer License Number C 42165 to Jonathon Chaney Goldman
25 ("Respondent"). The Civil Engineer License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on March 31, 2012, unless renewed.
27
28

JURISDICTION & STATUTORY AUTHORITY

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

4. Section 6776 of the Code provides:

"The proceedings under this article shall be conducted in accordance with Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein."

5. Section 118, subdivision (b), of the Code 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.

6. Section 6775 of the Code 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.

". . . ."

7. Section 404 of Title 16, California Code of Regulations, provides in pertinent part:

". . . .

"(n) For the sole purpose of investigating complaints and making findings thereon under Section[] 6775 . . . of the Code, 'incompetence' as used in Section[] 6775 . . . of the Code is defined as the lack of knowledge or ability in discharging professional obligations as a professional engineer or land surveyor.

". . . .

"(w) For the sole purpose of investigating complaints and making findings thereon under Section[] 6775 . . . of the Code, 'negligence' as used in Section[] 6775 . . . of the Code is defined 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.

• • • • •

COSTS

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

CAUSE FOR DISCIPLINE

(Negligence and/or Incompetence)

9. Respondent is subject to disciplinary action under section 6775(c) of the Code and sections 404(n) & (w) of Title 16, California Code of Regulations, in that he acted negligently and/or incompetently in the practice of civil engineering. The circumstances are as follows:

10. In or around 2005, while acting as the City Engineer and Director of Public works for the City of St. Helena, California ("City"), Respondent administered earthwork in order to create a levee on a portion of reclamation field bordering the Napa River beyond the City's geographical limits in unincorporated Napa County. Respondent was aware that the area of work was within the 100-year floodplain but directed that the earthwork proceed without having performed any detailed analysis or study and without obtaining a permit from Napa County or performing a CEQA analysis.

11. In flooding that occurred on or around New Year's Day of 2006, homeowners across the Napa River were engulfed in water that caused significant damage to their property. With the City in a state of emergency, Respondent ordered the levee be removed and had the fill placed outside the floodplain.

///

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 42165, issued to Jonathon Chaney Goldman;
2. Ordering Jonathon Chaney Goldman 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: _____

1/19/11

Original Signed

JOANNE ARNOLD
Acting Executive Officer
Board for Professional Engineers, Land Surveyors, and
Geologists
Department of Consumer Affairs
State of California
Complainant

SF2010202206
20357451.doc