

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

In the Matter of the Accusation against:)
)
HANK HSING-LIAN JONG) Case No. 881-A
881 Monte Verde Drive)
Arcadia, CA 91007)
)
Civil Engineer License No. C 45846)
Geotechnical Engineer License No. GE 2305,)
)
Respondent.)
_____)

DECISION

The attached Stipulated Settlement and 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 July 12, 2013.

IT IS SO ORDERED June 13, 2013.

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 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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8
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. 881-A

13 **HANK HSING-LIAN JONG**
881 Monte Verde Drive
14 Arcadia, CA 91007
Civil Engineer License No. C 45846
15 Geotechnical Engineer License No. GE 2305

OAH No. 2011080278
STIPULATED SETTLEMENT AND
ORDER

16 Respondent.

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

25 2. Respondent Hank Hsing-Lian Jong (Respondent) is represented in this proceeding by
26 attorney Randall F. Koenig, whose address is: 16300 Bake Parkway, Irvine, CA 92618.

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

3 CULPABILITY

4 10. Respondent understands and agrees that the charges and allegations in Accusation
5 No. 881-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil
6 Engineer License as well as for his Geotechnical Engineer License.

7 11. Respondent denies each and every allegation contained in Accusation No. 881-A.

8 12. For the purpose of resolving the Accusation without the expense and uncertainty of
9 further proceedings, Respondent hereby gives up his right to contest those charges.

10 13. Respondent, without admitting culpability, agrees to be bound by the Board's
11 probationary terms as set forth in the Order below.

12 RESERVATION

13 14. This Stipulated Settlement and any agreements made herein are only for the purpose
14 of these proceedings or any other proceedings in which the Board for Professional Engineers,
15 Land Surveyors and Geologists is involved, and shall not be admissible in any other criminal
16 or civil proceedings.

17 CIRCUMSTANCES IN MITIGATION

18 15. Respondent has never been the subject of any disciplinary action.

19 CONTINGENCY

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

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

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

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

14 **ORDER**

15 IT IS HEREBY ORDERED that Civil Engineer License No. C 45846 and Geotechnical
16 Engineer License No. GE 2305 issued to Respondent Hank Hsing-Lian Jong (Respondent) are
17 revoked. However, the revocations are stayed and Respondent's Civil Engineer License No. C
18 45846 and Geotechnical Engineer License No. GE 2305 are placed on probation for a period of
19 two (2) years from the effective date of the settlement on the following terms and conditions:

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

22 2. **Submit Reports.** During the period of probation, Respondent shall submit such
23 special reports as the Board may require.

24 3. **Tolling of Probation.** The period of probation shall be tolled during the time the
25 Respondent is practicing exclusively outside the state of California. If, during the period of
26 probation, the Respondent practices exclusively outside the state of California, the Respondent
27 shall immediately notify the Board in writing.

28 4. **Violation of Probation.** If the Respondent violates the probationary conditions in

1 any respect, the Board, after giving the Respondent notice and the opportunity to be heard, may
2 vacate the stay and reinstate the present Accusation. If, during the period of probation, an
3 accusation or petition to vacate stay is filed against the Respondent, or if the matter has been
4 submitted to the Office of the Attorney General for the filing of such, the Board shall have
5 continuing jurisdiction until all matters are final, and the period of probation shall be extended
6 until all matters are final.

7 **5. Completion of Probation.** Upon successful completion of all of the probationary
8 conditions and the expiration of the period of probation, the Respondent's Civil Engineer License
9 No. C 45846, and Geotechnical Engineer License, No. GE 2305 shall be unconditionally
10 restored.

11 **6. Cost Recovery.** Not less than six (6) months prior to the end of the probationary
12 period, Respondent shall reimburse the Board for its investigative and enforcement costs in this
13 matter in the amount of \$2,006.25. Payments may be made in installments.

14 **7. Examination.** Within sixty (60) days from the effective date of the decision,
15 Respondent shall take and pass the California Laws and Board Rules examination as administered
16 by the Board.

17 **8. Take And Pass Examinations.** Within eighteen (18) months from the effective date
18 of the settlement, the Respondent shall successfully complete the following course at California
19 State University - Fullerton:

20 EGCLE 494L Design of Civil Engineering Structures Laboratory.

21 Corequisite: EGCE 494. Design of bridges according to AASHTO code. Design of
22 project to the standards of professional practice.

23 **9. Contract.** Within thirty (30) days from the effective date of settlement, at the
24 expense of Respondent Hank Jong, Counsel for Respondent will review and approve Hank Jong's
25 standard form contract and proposal for compliance with all applicable Business and Professions
26 Code sections, including the code sections alleged to have been violated in the present
27 Accusation. Counsel for Respondent will forward the approved standard form contract and
28 proposal at the request of the Board or its designee.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Order and have fully discussed it with my attorney, Randall F. Koenig. I understand the stipulation and the effect it will have on my Civil Engineer License, and Geotechnical Engineer License. I enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board for Professional Engineers, Land Surveyors, and Geologists.

DATED: 4/24/13 Original Signed
HANK HSING-LIAN JONG
Respondent

I have read and fully discussed with Respondent Hank Hsing-Lian Jong the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED: 4/24/13 Original Signed
Randall F. Koenig
Attorney for Respondent

ENDORSEMENT

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

Dated: _____, 2013

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Order and have fully discussed it with my attorney, Randall F. Koenig. I understand the stipulation and the effect it will have on my Civil Engineer License, and Geotechnical Engineer License. I enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board for Professional Engineers, Land Surveyors, and Geologists.

DATED: _____
HANK HSING-LIAN JONG
Respondent

I have read and fully discussed with Respondent Hank Hsing-Lian Jong the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED: _____
Randall F. Koenig
Attorney for Respondent

ENDORSEMENT

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

Dated: April 24, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

Original Signed

MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 881-A

12 **HANK HSING-LIAN JONG**
13 **881 Monte Verde Drive**
Arcadia, CA 91007
14 **Civil Engineer License No. C 45846**
Geotechnical Engineer License No. GE 2305

A C C U S A T I O N

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about August 27, 1990, the Board for Professional Engineers, Land Surveyors,
24 and Geologists issued Civil Engineer License Number C 45846 to Hank Hsing-Lian Jong
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 December 31, 2012, unless renewed.

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1 (5) A description of the procedure to be used by any party to terminate the contract.

2 7. Section 6770 subdivision (a) of the Code states, in pertinent part "A licensee shall
3 report to the board in writing the occurrence of any of the following events that occurred on or
4 after January 1, 2008, within 90 days of the date the licensee has knowledge of the event:

5 . . .

6 (3) Any civil action judgment, settlement, arbitration award, or administrative action
7 resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging
8 fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or
9 recklessness by the licensee in the practice of professional engineering if the amount or value of
10 the judgment, settlement, or arbitration award is fifty thousand dollars (\$50,000) or greater."

11 8. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove,
12 suspend for a period not to exceed two years, or revoke the certificate of any professional
13 engineer registered under this chapter:

14 . . .

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

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

19 . . .

20 "(h) Who violates any provision of this chapter."

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

25 10. Section 118, subdivision (b), of the Code provides that the
26 suspension/expiration/surrender/cancellation of a license shall not deprive the
27 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
28 within which the license may be renewed, restored, reissued or reinstated.

1 **CHEN PROJECT**

2 11. On or about March 24, 1999, the Homeowner David Chen (Homeowner) entered into
3 an agreement with Respondent to provide surveying services and to provide a Grading and
4 Drainage plan for a proposed two (2) story residence and related improvements for property
5 located at 318 West Lemon Avenue, Arcadia, California (Chen Project). On or about October 11,
6 2001, the Board received a complaint from Homeowner against Respondent. Homeowner alleged
7 that the grading and drainage plan and grading certification prepared for the Chen Project were
8 deficient and that the City of Arcadia would not approve the plan. Homeowner alleged that
9 Respondent’s plan indicated the property was constructed as “sheet flow” and drained toward the
10 street, which did not accurately reflect the actual conditions.

11 12. The Respondent departed from the standard of care that would be exercised by a
12 reasonably prudent professional engineer.

13 **FIRST CAUSE FOR DISCIPLINE**

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

15 13. Respondent is subject to disciplinary action under section 6775, subdivision (c) of the
16 Code, in that on the Chen Project, Respondent committed negligence, and/or incompetence in
17 violation of the applicable standard of care, including, but limited to:

- 18 a. The site’s drainage pattern was not constructed in accordance with the original grading
19 plan approved by the City of Arcadia. The drainage was supposed to drain to the street,
20 however, it apparently was constructed to drain towards the proposed residence.
- 21 b. Respondent provided a “Final Grading Verification,” to certify an inspection on July 26,
22 2001 after completion of grading.
- 23 c. The As-built grading plans (by others) reflected that the front yard was built at an
24 elevation of up to 1/2 feet higher than planned along the front of the resident. The back
25 yard was also built about 1/2 foot higher, resulting in ponding and poor drainage.
- 26 d. These deficiencies resulted in rejection of the grading by the City of Arcadia and
27 resulted in additional costs and time delays for the Homeowner.

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- 1 e. Respondent signed and stamped the February 2000 revised Grading and Drainage Plan
2 when he knew it would not comply with the City of Acadia's standards indicates
3 negligence.
- 4 f. Respondent exhibits incompetence for making additional revisions to his Grading and
5 Drainage Plan after going to the site and rejecting the finished grading that was done
6 while he was not involved with the project.
- 7 g. Respondent displayed poor judgment in making the February 2000 and April 17, 2001
8 revisions when Respondent essentially had no engineering involvement in the project.
- 9 h. Respondent is negligent for signing and stamping a City of Arcadia's form without
10 doing this own lot grading and drainage survey prior to his certifying the finish grades
11 on July 26, 2001.
- 12 i. Respondent signed and stamped August 13, 2001 Grading and Drainage Plan shows a
13 number of discrepancies with the elevations along the sides of the residence and in the
14 rear yard. In adding recently-acquired elevations, Respondent neither checked that the
15 new elevations were correctly transferred, nor analyzed the effect of the new elevations
16 on the overall site drainage.

17 **BENJY PROJECT**

18 14. On or about 2003, Environmental Geotechnology Laboratory, Inc. (EGL) was
19 retained to provide geotechnical engineering services for construction of a private dwelling,
20 located at 1014 Laurel Way, Beverly Hills, California (Benjy Project). On or about August 29,
21 2008, the Board received a Reportable Events Form from XL Specialty Insurance Company
22 (Insurance Co.) in regards to a civil court settlement agreement. The Insurance Co. agreed to pay
23 \$200,000.00 to Homeowner Manoucher and Shahnaz Benjy (Homeowner Benjy), property
24 owners of the Benjy Project, in regards to construction delays and additional expenses allegedly
25 caused by violations committed by Respondent. The Homeowner Benjy hired Respondent to
26 perform soils engineering services on the property. Respondent reported that his tests revealed
27 that no significant ground water would affect the construction of a residence on the property.

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1 However, the site experienced significant ground water issues during construction, causing delays
2 and additional expenses.

3 15. The Respondent departed from the standard of care that would be exercised by a
4 reasonably prudent professional engineer.

5 **SECOND CAUSE FOR DISCIPLINE**

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

7 16. Respondent is subject to disciplinary action under section 6775, subdivision (c) of the
8 Code, in that on the Benjy Project, Respondent committed negligence, and/or incompetence in
9 violation of the applicable standard of care, including, but limited to:

- 10 a. Respondent's Report of Geotechnical and Engineering Geological Investigation
11 (Report) failed to show that the scope of his proposed site investigation, or the actual
12 site investigation that EGL performed, was in accordance with that needed by the City
13 of Beverly Hills.
- 14 b. Respondent's Report failed to state that uncertified fills are unacceptable for support of
15 structures.
- 16 c. Respondent's Report reference to the phenomenon "the pressure of gravels underneath"
17 is incoherent for terminating the test pits at 6' and 6.5' depths.
- 18 d. Respondent's Report failed to adequately investigate the critical site characteristics.
- 19 e. Respondent's Report failed to show the means by which the 40 feet fill and the
20 underlying Alluvium was encountered.
- 21 f. Respondent's Report failed to define the basis of his expressed professional opinion that
22 the absence of groundwater in the single 19 foot deep boring drilled during the summer
23 season would indicate that "Groundwater is therefore not expected to be significant
24 constrain during the construction."
- 25 g. Respondent's Report recommendation regarding surface soils removal and
26 recompaction are based on any information other than the subsurface information
27 obtained from a single source.

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- 1 h. Respondent's Report failed to provide information to the reason Respondent decided to
2 ignore the information obtained from site geology section of the report where he
3 represents that 40 feet of uncertified fill was encountered at the site.
- 4 i. Respondent's Report failed to provide information as to the criteria the Respondent
5 used to classify the "Silty clay, light brown, moist medium firm with few slates"
6 encountered in BH-1 at the depth of 14 feet as "bedrock".
- 7 j. Respondent's Report failed to provide information as to the methodology or date from
8 the Respondent's previous experience in the area, and/or investigation in the Project
9 site, that Respondent utilized to recommend only 14 feet of fill soils below existing
10 grade be removed and recompacted while purportedly 40 feet of fill was encountered.
- 11 k. Respondent's Report failed to provide information as to the reason for different vertical
12 scale below 100' depth.
- 13 l. Respondent's Report failed to provide relevance of extracting undisturbed samples from
14 uncertified fill material that the Respondent recommend be removed and replaced at the
15 site.
- 16 m. Respondent's Report failed to provide relevance of subjecting the extracted samples
17 from material to be removed and replaced to Moisture/Density, Shear, Consolidation,
18 Corrosion, and Expansion index tests.
- 19 n. Respondent's Report failed to provide relevance of utilizing the test results from tests
20 carried out on material that Respondent had recommended to be removed and replaced
21 in his engineering analysis to formulate design and construction recommendations.
- 22 o. Respondent's Report failed to provide relevance of angles of Friction of 80 to 400
23 degrees and cohesion of 30 to 45 pounds per square foot for fill soils, alluvial soils and
24 Concrete used for slope stability analysis.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Violating Requirements of the Business and Professions Code)

3 17. Respondent is subject to disciplinary action under section 6775 subdivision (h), in
4 conjunction with Section 6735, subdivision (a), for failing to show clearly that a civil engineering
5 report was preliminary.

6 18. Respondent is subject to disciplinary action under section 6775, subdivision (h), in
7 conjunction with Section 6749, subdivision (a)(1), for failing to provide a clear scope of services
8 in a written contract to provide professional engineering services.

9 19. Respondent is subject to disciplinary action under section 6775, subdivision (h), in
10 conjunction with Section 6749, subdivision (a)(3), for failing to include a license number in a
11 written contract.

12 20. Respondent is subject to disciplinary action under section 6775, subdivision (h), in
13 conjunction with Section 6749, subdivision (a)(4), for failing to include in a written contract a
14 description of the procedure to be used to accommodate additional services.

15 21. Respondent is subject to disciplinary action under section 6775, subdivision (h), in
16 conjunction with Section 6749, subdivision (a)(5), for failing to include in a written contract a
17 description of the procedure to be used to terminate a contract.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Failed to Notify Board of the Settlement Agreement)

20 22. Respondent is subject to disciplinary action under section 6770, subdivision (a)
21 subdivision (3) of the Code, in that on the Benjy Project, Respondent failed to notify the Board of
22 the settlement agreement within ninety days of the event.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 (Deceit, Misrepresentation, or Fraud)

25 23. Respondent is subject to disciplinary action under section 6775, subdivision (b) of the
26 Code, in that on the Benjy Project, Respondent's statement that West Coast Geotechnical
27 Consultant had accepted EGL report and all recommendations in the report is misleading and
28 inaccurate.

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 45846, issued to Hank Hsing-Lian Jong
- 2. Revoking or suspending Geotechnical Engineer License Number GE 2305, issued to Hank Hsing-Lian Jong;
- 3. Ordering Hank Hsing-Lian Jong 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; and
- 4. Taking such other and further action as deemed necessary and proper.

DATED: 5/17/11

Original Signed

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

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