

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

1 XAVIER BECERRA  
Attorney General of California  
2 CHAR SACHSON  
Supervising Deputy Attorney General  
3 MICHAEL B. FRANKLIN  
Deputy Attorney General  
4 State Bar No. 136524  
455 Golden Gate Avenue, Suite 11000  
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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

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

13 **RICKARD THOMAS SWINTH**  
14 1275 4th Street, #240  
Santa Rosa, CA 95404

15 Civil Engineer License No. C 60906,

16 Respondent.

Case No. 1058-A

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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19  
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 Michael B. Franklin, Deputy Attorney General.

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

1           3.     On or about July 28, 2000, the Board for Professional Engineers, Land Surveyors,  
2     and Geologists issued Civil Engineer License Number C 60906 to Respondent. The Civil  
3     Engineer License was in effect at all times relevant to the charges brought herein and will expire  
4     on December 21, 2020, unless renewed.

5           4.     In a disciplinary action entitled "In the Matter of the Accusation Against Rickard  
6     Thomas Swinth," Case No. 1058-A, the Board for Professional Engineers, Land Surveyors, and  
7     Geologists issued a decision, effective October 24, 2014, in which Respondent's Civil Engineer  
8     License was revoked. However, the revocation was stayed and Respondent's Civil Engineer  
9     License was placed on probation for a period of five (5) years with certain terms and conditions.  
10    A copy of that decision is attached as Exhibit A and is incorporated by reference.

#### 11                                   **JURISDICTION**

12           5.     Petition to Revoke Probation No. 1058-A was filed before the Board, and is currently  
13     pending against Respondent. The Petition to Revoke Probation and all other statutorily required  
14     documents were properly served on Respondent on July 29, 2019. Respondent timely filed his  
15     Notice of Defense contesting the Petition to Revoke Probation.

16           6.     A copy of Petition to Revoke Probation No. 1058-A is attached as exhibit A and  
17     incorporated herein by reference.

#### 18                                   **ADVISEMENT AND WAIVERS**

19           7.     Respondent has carefully read, and understands the charges and allegations in Petition  
20     to Revoke Probation No. 1058-A. Respondent has also carefully read, and understands the effects  
21     of this Stipulated Settlement and Disciplinary Order.

22           8.     Respondent is fully aware of his legal rights in this matter, including the right to a  
23     hearing on the charges and allegations in the Petition to Revoke Probation; the right to be  
24     represented by counsel at his own expense; the right to confront and cross-examine the witnesses  
25     against him; the right to present evidence and to testify on his own behalf; the right to the  
26     issuance of subpoenas to compel the attendance of witnesses and the production of documents;  
27     the right to reconsideration and court review of an adverse decision; and all other rights accorded  
28     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. 1058-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

The Board's prior Decision and Order in this case, effective October 24, 2014, revoked Civil Engineer License No. C 60906 issued to Respondent Rickard Thomas Swinth but stayed the revocation and placed Respondent on probation for five (5) years with terms and conditions. If Respondent had been compliant therewith, that probation would have terminated on or about October 24, 2019.

IT IS HEREBY ORDERED that term of probation is now to be extended for two (2) years from the previous termination date of October 24, 2019. The original termination date of October 24, 2019 is now replaced by a new termination date of October 24, 2021. The original terms and conditions of probation shall remain in full force and effect, and are fully incorporated herein by reference. In addition, Respondent agrees that all terms and conditions shall be completed prior to six (6) months from the end of the new termination date of October 24, 2021.

## 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 License. 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, Land Surveyors, and Geologists.

DATED: 9/11/19

*Original Signed*  
 RICKARD THOMAS SWINTH  
*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: September 12, 2019

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
CHAR SACHSON  
Supervising Deputy Attorney General

*Original Signed*  
MICHAEL B. FRANKLIN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Petition to Revoke Probation No. 1058-A**

1 XAVIER BECERRA  
Attorney General of California  
2 CHAR SACHSON  
Supervising Deputy Attorney General  
3 MICHAEL B. FRANKLIN  
Deputy Attorney General  
4 State Bar No. 136524  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3455  
6 Facsimile: (415) 703-5480  
*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**

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

13 **RICKARD THOMAS SWINTH**  
14 1275 4th Street, #240  
Santa Rosa, CA 95404

15 Civil Engineer License No. C 60906,

16 Respondent.  
17

Case No. 1058-A

**PETITION TO REVOKE PROBATION**

18  
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, Department of Consumer Affairs.

23 2. On or about July 28, 2000, the Board for Professional Engineers, Land Surveyors,  
24 and Geologists issued Civil Engineer License Number C 60906 to Rickard Thomas Swinth  
25 (Respondent). The Civil Engineer License was in effect at all times relevant to the charges  
26 brought herein and will expire on December 21, 2020, unless renewed.

27 3. In a disciplinary action entitled "In the Matter of the Accusation Against Rickard  
28 Thomas Swinth," Case No. 1058-A, the Board for Professional Engineers, Land Surveyors, and



1 Geologists issued a decision, effective October 24, 2014, in which Respondent's Civil Engineer  
2 License was revoked. However, the revocation was stayed and Respondent's Civil Engineer  
3 License was placed on probation for a period of five (5) years with certain terms and conditions.  
4 A copy of that decision is attached as Exhibit A and is incorporated by reference.

### 5 **JURISDICTION**

6 4. This Petition to Revoke Probation is brought before the Board for Professional  
7 Engineers, Land Surveyors, and Geologists (Board), Department of Consumer Affairs, under the  
8 authority of the following laws. All section references are to the Business and Professions Code  
9 unless otherwise indicated.

### 10 **FIRST CAUSE TO REVOKE PROBATION**

11 (Cost Recovery)

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

13 **“Cost Recovery.** Within four and one-half (4 ½) years from the effective date of the  
14 decision, the respondent shall reimburse the Board for its investigative and enforcement costs in  
15 this matter in the amount incurred through the date of this settlement offer, \$8,533.00. Said  
16 reimbursement may be paid in installments.”

17 6. Respondent's probation is subject to revocation because he failed to comply with  
18 Probation Condition 6, referenced above. The facts and circumstances regarding this violation  
19 are as follows:

20 A. Respondent made no cost recovery payments to the Board by the date required, April  
21 24, 2019.

### 22 **SECOND CAUSE TO REVOKE PROBATION**

23 (Ethics Course)

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

25 **“Ethics Course.** Within four and one-half (4 ½) years from the effective date of the  
26 decision, the respondent must successfully complete and pass a course in professional ethics,  
27 approved in advance by the Board or its designee.”

28 ///

1           8.     Respondent's probation is subject to revocation because he failed to comply with  
2 Probation Condition 8, referenced above. The facts and circumstances regarding this violation  
3 are as follows:

4           A.     Respondent failed to successfully complete and pass a course in professional ethics  
5 by the date required, April 24, 2019.

6                                   **THIRD CAUSE TO REVOKE PROBATION**

7                                   (Civil Engineering Courses)

8           9.     At all times after the effective date of Respondent's probation, Condition 10 stated:

9           **“Take and Pass Examinations.** Within four and one-half (4 ½) years from the effective  
10 date of the decision, the respondent shall successfully complete and pass three (3) college-level  
11 civil engineering courses, which must be related to the areas of violation alleged in the  
12 Accusation. Said courses shall be approved in advance by the Board or its designee. The  
13 respondent shall provide the Board with official proof of completion of the requisite courses. For  
14 purposes of this condition, “college-level course” means a course offered by a community college  
15 or a four-year university of three semester units or the equivalent; it does not include seminars.”

16          10.    Respondent's probation is subject to revocation because he failed to comply with  
17 Probation Condition 10, referenced above. The facts and circumstances regarding this violation  
18 are as follows:

19          A.     Respondent failed to successfully complete and pass three (3) college-level civil  
20 engineering courses by the date required, April 24, 2019.

21  
22                                   **PRAYER**

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

26          1.     Revoking the probation that was granted by the Board for Professional Engineers,  
27 Land Surveyors, and Geologists in Case No. 1058-A and imposing the disciplinary order that was  
28 stayed thereby revoking Civil Engineer License No. C 60906 issued to Rickard Thomas Swinth;

1           2.     Revoking or suspending Civil Engineer License No. C 60906, issued to Rickard  
2 Thomas Swinth;

3           3.     Taking such other and further action as deemed necessary and proper.  
4

5  
6 DATED: 7/22/19

*Original Signed*

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. 1058-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:	)	
	)	
RICKARD THOMAS SWINTH	)	Case No. 1058-A
1275 4 <sup>th</sup> Street, #240	)	
Santa Rosa, CA 95404	)	
	)	
	)	
Civil Engineer License No. C 60906,	)	
	)	
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 **October 24, 2014** \_\_\_\_\_.

IT IS SO ORDERED **September 25, 2014** \_\_\_\_\_.

*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 MICHAEL B. FRANKLIN  
Deputy Attorney General  
4 State Bar No. 136524  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5622  
6 Facsimile: (415) 703-5480  
*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  
12 In the Matter of the Accusation Against:

Case No. 1058-A

13 **RICKARD THOMAS SWINTH**

OAH No. 2014070697

14 1275 4th Street, # 240  
Santa Rosa, CA 95404,

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Civil Engineer License No. C 60906,**

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 B. Franklin, Deputy Attorney General.

25 2. Respondent Rickard Thomas Swinth ("Respondent") is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about July 28, 2000, the Board for Professional Engineers, Land Surveyors,  
28 and Geologists issued Civil Engineer License No. C 60906 to Rickard Thomas Swinth

1 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the  
2 charges brought in Accusation No. 1058-A and will expire on December 31, 2014, unless  
3 renewed.

#### 4 JURISDICTION

5 4. Accusation No. 1058-A was filed before the Board for Professional Engineers, Land  
6 Surveyors, and Geologists (Board), Department of Consumer Affairs, and is currently pending  
7 against Respondent. The Accusation and all other statutorily required documents were properly  
8 served on Respondent on March 27, 2014. Respondent timely filed his Notice of Defense  
9 contesting the Accusation.

10 5. A copy of Accusation No. 1058-A is attached as exhibit A and incorporated herein by  
11 reference.

#### 12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, and understands the charges and allegations in  
14 Accusation No. 1058-A. Respondent has also carefully read, and understands the effects of this  
15 Stipulated Settlement and Disciplinary Order.

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

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

#### 25 CULPABILITY

26 9. Respondent understands and agrees that the charges and allegations in Accusation  
27 No. 1058-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil  
28 Engineer 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.

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.

## RESERVATION

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

## CONTINGENCY

13. 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.

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

15. 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,



1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Civil Engineer License No. C 60906 issued to  
9 Respondent Rickard Thomas Swinth (Respondent) is revoked. However, the revocation is stayed  
10 and Respondent is placed on probation for five (5) 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.

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

15 3. **Tolling of Probation.** The period of probation shall be tolled during the time the  
16 respondent is practicing exclusively outside the state of California. If, during the period of  
17 probation, the respondent practices exclusively outside the state of California, the respondent  
18 shall immediately notify the Board in writing.

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

26 5. **Completion of Probation.** Upon successful completion of all of the probationary  
27 conditions and the expiration of the period of probation, the respondent's Civil Engineer License,  
28 No. C 60906, shall be unconditionally restored.

1       6.   **Cost Recovery.** Within four and one-half (4 ½) years from the effective date of the  
2 decision, the respondent shall reimburse the Board for its investigative and enforcement costs in  
3 this matter in the amount incurred through the date of this settlement offer, \$8,533.00. Said  
4 reimbursement may be paid in installments.

5       7.   **Examination.** Within sixty (60) days from the effective date of the decision, the  
6 respondent shall successfully complete and pass the California Laws and Board Rules  
7 examination, as administered by the Board.

8       8.   **Ethics Course.** Within four and one-half (4 ½) years from the effective date of the  
9 decision, the respondent must successfully complete and pass a course in professional ethics,  
10 approved in advance by the Board or its designee.

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

20       10. **Take And Pass Examinations.** Within four and one-half (4 ½) years from the  
21 effective date of the decision, the respondent shall successfully complete and pass three (3)  
22 college-level civil engineering courses, which must be related to the areas of violation alleged in  
23 the Accusation. Said courses shall be approved in advance by the Board or its designee. The  
24 respondent shall provide the Board with official proof of completion of the requisite courses. For  
25 purposes of this condition, "college-level course" means a course offered by a community college  
26 or a four-year university of three semester units or the equivalent; it does not include seminars.

27 ///

28 ///



**Exhibit A**

**Accusation No. 1058-A**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 MICHAEL B. FRANKLIN  
Deputy Attorney General  
4 State Bar No. 136524  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5622  
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*Attorneys for Complainant*

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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. 1058-A

12 **RICKARD THOMAS SWINTH**

**A C C U S A T I O N**

13 1275 4th Street, # 240  
Santa Rosa, CA 95404,

14 **Civil Engineer License No. C 60906,**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about July 28, 2000, the Board for Professional Engineers, Land Surveyors, and  
23 Geologists issued Civil Engineer License Number C 60906 to Rickard Thomas Swinth  
24 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on December 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board for Professional Engineers, Land  
28 Surveyors, and Geologists (Board), Department of Consumer Affairs, under the authority of the



1 following laws. All section references are to the Business and Professions Code unless otherwise  
2 indicated.

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

6 . . .

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

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

11 (d) Who has been found guilty by the board of any breach or violation of a contract to  
12 provide professional engineering services.

13 . . .

14 (g) Who in the course of the practice of professional engineering has been found guilty by  
15 the board of having violated a rule or regulation of unprofessional conduct adopted by the board.

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

17 5. Section 6749 of the Code states:

18 "(a) A professional engineer shall use a written contract when contracting to provide  
19 professional engineering services to a client pursuant to this chapter. The written contract  
20 shall be executed by the professional engineer and the client, or his or her representative,  
21 prior to the professional engineer commencing work, unless the client knowingly states in  
22 writing that work may be commenced before the contract is executed. The written contract  
23 shall include, but not be limited to, all of the following:

24 . . .

25 (3) The name, address, and license or certificate number of the professional engineer, and  
26 the name and address of the client.

27 . . . "

28 6. Section 6770 of the Code states:

1       "(a) A licensee shall report to the board in writing the occurrence of any of the following  
2 events that occurred on or after January 1, 2008, within 90 days of the date the licensee has  
3 knowledge of the event:

4       ...

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

10       ...

11       (b) The report required by subdivision (a) shall be signed by the licensee and set forth the  
12 facts that constitute the reportable event. If the reportable event involves the action of an  
13 administrative agency or court, the report shall set forth the title of the matter, court or agency  
14 name, docket number, and the date the reportable event occurred.

15       (c) A licensee shall promptly respond to oral or written inquiries from the board concerning  
16 the reportable events, including inquiries made by the board in conjunction with license renewal.

17       ...

18       (e) Failure of a licensee to report to the board in the time and manner required by this  
19 section shall be grounds for disciplinary action.

20       ... "

21       7. Section 6770 of the Code states:

22       "(a) All civil (including structural and geotechnical) engineering plans, calculations,  
23 specifications, and reports (hereinafter referred to as "documents") shall be prepared by, or under  
24 the responsible charge of, a licensed civil engineer and shall include his or her name and license  
25 number. Interim documents shall include a notation as to the intended purpose of the document,  
26 such as "preliminary," "not for construction," "for plan check only," or "for review only." All  
27 civil engineering plans and specifications that are permitted or that are to be released for  
28 construction shall bear the signature and seal or stamp of the licensee and the date of signing and

1 sealing or stamping. All final civil engineering calculations and reports shall bear the signature  
2 and seal or stamp of the licensee, and the date of signing and sealing or stamping. If civil  
3 engineering plans are required to be signed and sealed or stamped and have multiple sheets, the  
4 signature, seal or stamp, and date of signing and sealing or stamping shall appear on each sheet of  
5 the plans. If civil engineering specifications, calculations, and reports are required to be signed  
6 and sealed or stamped and have multiple pages, the signature, seal or stamp, and date of signing  
7 and sealing or stamping shall appear at a minimum on the title sheet, cover sheet, or signature  
8 sheet.

9 . . . "

10 8. Title 16, California Code of Regulations section 475 states:

11 "To protect and safeguard the health, safety, welfare, and property of the public, every  
12 person who is licensed by the Board as a professional engineer, including licensees employed in  
13 any manner by a governmental entity or in private practice, shall comply with this Code of  
14 Professional Conduct. A violation of this Code of Professional Conduct in the practice of  
15 professional engineering constitutes unprofessional conduct and is grounds for disciplinary action  
16 pursuant to Section 6775 of the Code. This Code of Professional Conduct shall be used for the  
17 sole purpose of investigating complaints and making findings thereon under Section 6775 of the  
18 Code.

19 (a) Compliance with Laws Applicable to a Project:

20 A licensee shall provide professional services for a project in a manner that is consistent  
21 with the laws, codes, ordinances, rules, and regulations applicable to that project. A licensee may  
22 obtain and rely upon the advice of other professionals (e.g., architects, attorneys, professional  
23 engineers, professional land surveyors, and other qualified persons) as to the intent and meaning  
24 of such laws, codes, and regulations.

25 . . . "

26 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of  
28



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

3 **YOUNTVILLE VINEYARDS PROJECT**

4 10. In or about February 2007, Respondent, as principal and engineer in responsible  
5 charge for Enterra Associates, Inc., entered into an agreement with Yountville Vineyards, LLC,  
6 David Del Dotto, to provide civil engineering services for a new winery and tasting room and to  
7 coordinate applications for permits from Napa County to allow construction to go forward .

8 11. Respondent's work file for the Yountville Vineyards project includes the following:

9 a. Project Statement, Use Permit Request, undated, unsigned and not stamped by  
10 Respondent.

11 b. Letter to Napa County Department of Environmental Health, re Septic Feasibility,  
12 [Septic Feasibility Report] undated, unsigned and not stamped by Respondent.

13 c. Letter to Napa County Department of Environmental Health, re Water Use, [Water  
14 Use Report] undated, unsigned and not stamped by Respondent.

15 d. Four full size plan sheets, including two site plan sheets, a septic plan sheet, including  
16 notes and details, and an entrance gate and portal detail plan sheet.

17 12. In or about August 2009, Yountville Vineyards, LLC, filed a civil law suit against  
18 Respondent and Enterra Associates, Inc., alleging breach of contract, negligence, fraud and  
19 negligent misrepresentation. On or about December 29, 2009, the parties entered a settlement  
20 whereby Respondent and/or Enterra Associates, Inc. and/or Enterra Associates, Inc.'s, insurer  
21 paid Yountville Vineyards LLC, the amount of \$80,000.00.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Negligence)

24 13. Respondent is subject to disciplinary action under section 6775(c) in that  
25 Respondent's work file demonstrated negligence in the practice of civil engineering as follows:

26 a. Respondent failed to include sizing calculations for the winery process waste water  
27 treatment unit in the Septic Feasibility Report to Napa County Department of Environmental  
28

1 Health (DEH) and the treatment unit proposed in the report, Advantex Model AX-100 by Orenco,  
2 was not called out on the site plans.

3 b. In the Septic Feasibility Report, the discussion of winery process effluent winter  
4 storage and disposal were incomplete and inconsistent with depictions referenced on the site plans  
5 and therefore unclear whether the plan for winery process wastewater was workable. Specifically:

6 1. Two 10-ft. diameter tanks for winter effluent storage were mentioned but the  
7 capacity was not calculated and the tanks were not shown on the site plans.

8 2. Effluent disposal was proposed by "drip disposal" in both the "approved 0.3-acre  
9 leachfield area" and by landscape irrigation in a vegetated area with runoff control berm. The  
10 discussion did not include a calculation of the required size of the drip disposal area. Moreover, it  
11 was not clear whether the disposal area was intended to be common with that for domestic septic  
12 effluent.

13 c. The Septic Feasibility Report was incomplete and inconsistent with respect to the  
14 treatment and disposal of domestic wastewater, and therefore unclear as to exactly what plan was  
15 proposed by Respondent for the purposes of obtaining a permit. Specifically:

16 1. Respondent indicated that a 2,400 gallon septic tank would be used for treatment  
17 but also, without explanation, stated that treatment would be by an Advantex AX-100 system but  
18 did not size this system nor call it out on the plans.

19 2. Respondent mentioned a domestic septic effluent leachfield and showed such on  
20 the plans, but also, without explanation, calculated the required size of a sand mound effluent  
21 disposal system but did not show such on the plans.

22 d. The Water Use Report included a discussion of the well water supply and water  
23 consumption, but failed to include a calculation of fire flow requirement, failed to size the two  
24 new storage tanks mentioned and shown on the site plans, failed to show that the existing 100-  
25 gallons/minute well was adequate to supply peak hourly demands and failed to state in the report  
26 or show on the plans the method of delivery of fire flows.

27 e. Site plans showed a drain line from the crush pad trench to the new storm drain and  
28 another line to the process wastewater treatment unit. Respondent failed to explain, either on the

1 plan sheets or the Septic Feasibility Report, the function, or seasonal operation plan for the line to  
2 the storm drain.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Incompetence)

5 14. Respondent is subject to disciplinary action under section 6775(c) in that  
6 Respondent's work file demonstrated incompetence in the practice of civil engineering as follows:

7 a. Respondent failed to competently check for errors, including errors in the documents  
8 submitted to the Board, missing pages from the Septic Feasibility Report and incorrect unit of  
9 measure in the Water Use Report for acre-feet/acre/year.

10 b. Respondent's site plans failed to address a re-grading concept for the proposed crush  
11 pad area that would be necessary given that the pad area extended into the hillside.

12 c. Respondent failed to include revision information in subsequent versions of similar  
13 plans so as to properly document the progress of the design.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct)

16 15. Respondent is subject to disciplinary action under 6770 in that Respondent failed to  
17 report to the Board the settlement, described in paragraph 12 above, as required.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct)

20 16. Respondent is subject to disciplinary action under section 6775(h), in that Respondent  
21 failed to comply with section 6749(a)(3) in that Respondent failed to include his license number  
22 on the written contract between Enterra Associates, Inc. and Yountville Vineyards, LLC, David  
23 Del Dotto.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 (Deceit, Misrepresentation, Fraud)

26 17. Respondent is subject to disciplinary action under section 6775(b) in that  
27 Respondent's work product demonstrated deceit, misrepresentation and/or fraud in the practice of  
28 civil engineering as follows:

1       a.     Respondent submitted drawings and reports to the Board that were dated 2008, but  
2     were signed and sealed by Respondent showing an expiration date of December 31, 2012. If the  
3     drawings had been signed contemporaneously with the date of preparation, the expiration date  
4     would have been December 31, 2008.

5                               **VAN DER HEYDEN VINEYARDS PROJECT**

6       18.    In or about August 2004, Respondent, as principal and engineer in responsible charge  
7     for Enterra Associates, Inc., entered into an agreement with Van Der Heyden Vineyards, Andreas  
8     Van Der Heyden, to provide civil engineering services and to coordinate applications for permits  
9     from Napa County to allow construction to go forward.

10      19.    Respondent's work file, and other relevant documents, for the Van Der Heyden  
11     Vineyards project includes the following:

12      a.     Contract proposal dated August 14, 2004, for Van der Heyden Vineyards, the scope of  
13     which included preparation and processing of permits for demolition, roadway encroachment,  
14     grading, and a domestic septic system, the preparation of designs and plans, assistance with  
15     obtaining bids, contractor submittal review, preparation of a construction cost estimate and  
16     periodic observation of construction.

17      b.     Updated civil engineering scope for the Van Der Heyden Vineyards project dated  
18     August 19, 2004.

19      c.     Contract proposal dated August 27, 2004, for the Van der Heyden Vineyards project  
20     substantially identical to the proposal identified in paragraph 18(a) above.

21      d.     Commercial Development Checklist dated September 9, 2004, for the Van Der  
22     Heyden Vineyards project, which included design consultant assignments for various tasks.

23      e.     Record of a septic site evaluation of the Van Der Heyden Vineyard property and  
24     accompanying site map, dated December 6, 2004.

25      f.     Drawings dated between November 2004 through March 2005 showing  
26     configurations of a new barrel room and adjoining tasting room, a new crush pad, a process waste  
27     system with a septic tank and pump tank north of the barrel room, and leach lines. None of these  
28     drawings were stamped or signed by the Respondent.

1 g. "Opinion of Probable Construction Costs based on Preliminary Construction Plans"  
2 dated July 26, 2006 and included costs for paving, grading and concrete work for the new crush  
3 pad and building and costs for a 3,000 gallon septic tank, 800 gallon pump tank, pump and a leach  
4 field. None of these drawings were stamped or signed by the Respondent.

5 h. A two-sheet set of septic plans, Sheet-1 dated October 1, 2006, and Sheet-2 dated  
6 August 15, 2006, both showing a revision date of October 7, 2006. None of these drawings were  
7 stamped or signed by the Respondent.

8 i. Set of five structural drawings dated April 25, 2007, each titled "Van Der Heyden  
9 Winery Structural Details." None of these drawings were stamped or signed by the Respondent.

10 j. Letter dated October 1, 2007 from Respondent to Napa County Department of  
11 Environmental [DEM] entitled "Van Der Heyden Winery-Voluntary Septic Repair" and included  
12 process waste and domestic septic plans and design calculations. None of these calculations were  
13 stamped or signed by the Respondent.

14 k. Napa County Building Permit application dated October 23, 2007, permit number  
15 B07-1375. In this application Respondent represented himself as the property owner.

16 l. Seven-sheet drawing set received by Napa County DEM on October 29, 2007. All  
17 sheets showed a revision date of October 7, 2006. Sheet 1 was signed and stamped by  
18 Respondent with no expiration date.

19 m. Napa County Building Permit application dated November 6, 2007, number B07-  
20 1439. Work description was stated as "Demo Crush Pad."

21 n. Sheets 1 and 3 of a 7-sheet drawing set, sheet 1 stamped and signed by Respondent  
22 with an expiration date of December 31, 2008. Sheet 1 indicated it was received by Napa County  
23 on November 8, 2007. Napa County DEM annotated this set with Building Permit No. B07-1439  
24 and indicated plan approval on November 28, 2007.

25 o. Letter dated November 19, 2007 from Respondent to Napa County DEM entitled  
26 "Van Der Heyden Winery-Voluntary Septic Repair-Process waste septic tank and pump tank  
27 water tightness testing and certification." This letter was not signed by Respondent.

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1 p. On Enterra letterhead dated November 20, 2007, re: "Van Der Heyden Winery- Septic  
2 Application Calculations Process Waste Sizing," no author was indicated and was signed or  
3 stamped by Respondent.

4 q. Site Evaluation Report for an evaluation conducted by Respondent on November 28,  
5 2007, with accompanying site plan. This report was signed and stamped by Respondent.

6 r. Application dated December 11, 2007 for "Very Minor Modification of Use Permit"  
7 prepared by Respondent. Included in the application package was a letter from Respondent and a  
8 drawing, signed and stamped by Respondent, both dated December 11, 2007.

9 s. Drawings SS1 and SS2 dated December 11, 2007, stamped and signed by  
10 Respondent, with Napa County DEM stamped "Plans Approved" on December 18, 2007, subject  
11 to conditions.

12 t. Napa County DEM letter dated December 18, 2007, identifying the conditions of  
13 approval of the plans identified in Paragraph 16.s above.

14 u. Napa County DEM letter dated December 19, 2007, to Andreas and Sandra Van Der  
15 Heyden stating that the winery wastewater system under Permit No. E07-00942 was not to be  
16 utilized until the septic system was "finaled" per the conditions outlined in the County's letter  
17 dated December 18, 2007.

18 v. Fax to Napa County DEM dated July 10, 2008, from Van Der Heyden Vineyards with  
19 as-built locations of the process waste septic and pump tanks and effluent pump control panel.

20 20. In or about March 22, 2010, Van Der Heyden Vineyards filed a civil law suit against  
21 Respondent and Enterra Associates, Inc., alleging breach of contract and negligence, and alleged  
22 that Respondent billed for labor and materials not included in the agreed scope and was  
23 responsible for construction of defective facilities including a septic system that subsequently  
24 failed. On or about September 20, 2010, the parties entered a settlement whereby Respondent  
25 and/or Enterra Associates, Inc. and/or Enterra Associates, Inc.'s, insurer paid Van Der Heyden  
26 Vineyards the amount of \$175,000.00.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 (Deceit, Misrepresentation, Fraud)

3 21. Respondent is subject to disciplinary action under section 6775(b) in that  
4 Respondent's work product demonstrated deceit, misrepresentation and/or fraud in the practice of  
5 civil engineering as follows:

6 a. Respondent represented himself as the property owner on Napa County Building  
7 Permit application, No. B07-1375.

8 b. Respondent misrepresented site evaluation data used as the basis for the design for the  
9 septic system submitted on October 1, 2007 to Napa County DEM.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 (Negligence)

12 22. Respondent is subject to disciplinary action under section 6775(c) in that  
13 Respondent's work product demonstrated negligence in the practice of civil engineering as  
14 follows:

15 a. Respondent failed to complete the proper permitting and installation of the process  
16 waste system for three years after commencement of work.

17 b. Respondent located a domestic waste leach field, as shown on the septic plan sheet  
18 SS1, where no site evaluation had been conducted.

19 c. Respondent designed septic disposal systems subject to root intrusion and located in a  
20 vineyard, as shown on the septic plan sheets SS1 and SS2, which resulted in early failure and the  
21 necessity for replacement.

22 d. Respondent proposed a replacement system in the same location, and of the same  
23 design, as the system that failed.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 (Incompetence)

26 23. Respondent is subject to disciplinary action under section 6775(c) in that  
27 Respondent's work product demonstrated incompetence the practice of civil engineering as  
28 follows:

1 a. Respondent failed to adequately identify drawing versions as evidenced by the  
2 issuance of multiple revisions of the same drawing with the same date but no indication that the  
3 drawing had been revised or the purpose of the revision.

4 b. Respondent failed to competently check for errors in the design calculations  
5 submitted to Napa County DEM on October 1, 2007, including the incorrect domestic waste flow  
6 rate, lack of any calculation of the finally selected domestic leach line length and lack of  
7 justification for the use of a fast percolation rate in the domestic leach field calculation.

8 c. Respondent failed to indicate authorship on the septic calculation sheets submitted to  
9 Napa County DEM on October 1, 2007.

#### 10 **NINTH CAUSE FOR DISCIPLINE**

##### 11 (Unprofessional Conduct)

12 24. Respondent is subject to disciplinary action under section 6775(h), in that Respondent  
13 failed to comply with section 6735(a) as follows:

14 a. Respondent failed to sign or seal septic plan sheets SS1 [dated October 1, 2006] and  
15 SS2 [dated August 15, 2006].

16 b. Respondent's seal on drawing sheet 1, annotated "EM B07-11375" with Napa County  
17 DEM date stamp received October 29, 2007, did not show an expiration date.

18 c. Respondent's seal with an expiration date of December 31, 2008, appeared on a  
19 drawing that was dated in 2005 [sheet 1 of 7-sheet drawing set with a receipt stamp at Napa  
20 County Planning department of November 8, 2007].

21 d. Respondent signed and sealed the cover sheets of 7-sheet drawing sets submitted to  
22 Napa County on October 29, 2007, and November 8, 2007, respectively, but failed to sign or seal  
23 any of the other sheets in these sets.

24 e. Respondent failed to sign or seal process waste and domestic septic plans and design  
25 calculations for the septic system submitted to Napa County DEM on October 1, 2007.

26 f. Respondent failed to sign or seal his septic and pump tank water tightness testing  
27 certification submitted to Napa County DEM on November 19, 2007.

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1 d. Five un-signed agreements between Respondent and Reilly entitled: "Proposal for the  
2 Reilly Lot Line Adjustment" October 10, 2006; Proposal for the Reilly Winery" October 10,  
3 2006; "Proposal for the Reilly Residence" October 10, 2006; "Proposal for the Reilly Vineyards-  
4 Topographic Survey" January 4, 2007; and "Proposal for the Reilly Vineyards (26-acre vineyard  
5 development with timber harvest plan)" January 4, 2007.

6 e. Commercial Development Checklist-Private Winery, dated October 8, 2006.

7 f. Respondent letter to Napa County dated March 20, 2007, regarding "Orchard clearing  
8 and fuels removal." This letter was signed and stamped by Respondent.

9 g. Set of six full size plan sheets, each sheet titled "Reilly Vineyards" and signed and  
10 sealed by Respondent with the expiration of December 31, 2012. Sheets include the following:  
11 Cover Sheet, dated May 29, 2007; Site Plan, dated May 26, 2007; Slope Analysis, dated May 3,  
12 2007; Grading and Drainage Plan (2), dated May 3, 2007; and Notes and Details, dated March 26,  
13 2007.

14 h. Notice of Violation from Napa County dated October 1, 2007, addressed to Mr. Reilly  
15 and directing immediate cessation of on-site earthwork and/or vineyard development, installation  
16 of winterization measures, and submittal of an Erosion Control Plan for the new vineyard and a  
17 Track II permit application for the replant area.

18 i. Letter dated October 12, 2007, from Respondent to Napa County in response to the  
19 Notice of Violation issued October 1, 2007. This letter was signed and stamped by Respondent.

20 j. Napa County (Senior Soil Conservationist) memorandum to Respondent dated April  
21 15, 2008, memorializing a site visit of the same date.

22 k. Napa County letter dated May 15, 2008, addressed to Reilly but sent to Respondent's  
23 address, reviewing the Agricultural Erosion Control Plan for the Reilly Vineyard Conversion  
24 submitted on April 7, 2008, and declaring the plan to be incomplete.

25 l. Napa County (Senior Soil Conservationist) memorandum to Respondent dated April  
26 October 9, 2008, memorializing a site visit and identifying remaining issues to be resolved.

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1 m. Napa County letter dated October 30, 2008, addressed to Reilly but sent to  
2 Respondent's address, reviewing the Agricultural Erosion Control Plan for the Reilly Vineyard  
3 Conversion submitted on September 26, 2008, and declaring the plan to be incomplete.

4 n. Set of five full size plan sheets, each sheet titled "Reilly Vineyards" and signed and  
5 sealed by Respondent with an expiration date of December 31, 2012. Sheets include the  
6 following: Cover Sheet; Site Plan, dated May 26, 2007; Slope Analysis; Grading and Drainage  
7 Plan; and Notes and Details.

8 o. Set of two full plan sheets dated December 1, 2008, each sheet titled "Reilly  
9 Vineyards Hydrology Exhibit" and signed and sealed by Respondent with an expiration date  
10 December 31, 2012. Sheet 1 shows a USGS quad map with the Reilly property delineated, and  
11 sheet 2 is the Grading and Drainage Plan.

12 28. In or about September 2009, Reilly filed a civil law suit against Respondent and  
13 Enterra Associates, Inc., alleging breach of contract and negligence. On or about October 20,  
14 2011, the parties entered a settlement whereby Respondent and/or Enterra Associates, Inc. and/or  
15 Enterra Associates, Inc.'s, insurer paid Reilly the amount of \$300,000.00.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

17 (Deceit, Misrepresentation, Fraud)

18 29. Respondent is subject to disciplinary action under section 6775(b) in that  
19 Respondent's work product demonstrated deceit, misrepresentation and/or fraud in the practice of  
20 civil engineering as follows:

21 a. Respondent submitted drawings to the Board that were dated 2007 and 2008, but were  
22 signed and sealed by Respondent showing an expiration date of December 31, 2012. If the  
23 drawings had been signed contemporaneously with the date of preparation, the expiration date  
24 would have been December 31, 2008.

25 b. Respondent failed to inform Reilly regarding initial clearing activities and continued  
26 development of the Reilly project without the required approved Erosion Control Plan from Napa  
27 County so that Reilly could have taken appropriate action.

28 ///

1 c. In his letter to Napa County dated March 20, 2007, Respondent misrepresented the  
2 slope range on which clearing activities were occurring to have been no more than 20% where the  
3 actual slope was in excess of 30%.

4 **TWELFTH CAUSE FOR DISCIPLINE**

5 (Negligence/Incompetence)

6 30. Respondent is subject to disciplinary action under section 6775(c) in that  
7 Respondent's work product demonstrated negligence and/or incompetence in the practice of civil  
8 engineering as follows:

9 a. In the Reilly Vineyards, Vineyard Development Analysis, dated December 4, 2004,  
10 Respondent mentions the requirement to prepare "mitigation plans (if EIR avoided) including  
11 preservation plans, revegetation plans, drainage plans, etc." but fails to include all of the studies  
12 and analyses actually required by Napa County CEQA Guidelines for new vineyard  
13 developments.

14 b. Respondent failed to correct the deficiencies in Napa County's first review of the  
15 Erosion Control Plan in May 2007 when Respondent resubmitted the plan in September 2008.  
16 Two specific instances were the incorrect and incomplete definition and delineation of statutory  
17 stream setbacks and the failure to produce any hydrologic analysis.

18 c. Respondent's drawing set dated December 1, 2008, was a revision of prior sets, but  
19 failed to describe revision information.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

21 (Breach of Contract)

22 31. Respondent is subject to disciplinary action under section 6775(d) in that Respondent  
23 breached the contract with Reilly when he failed to amend the contract to reflect the actual  
24 conditions of the proposed development. The initial contract stated that the proposed  
25 development would occur within cleared portions of the property (approximately 13 acres) when  
26 in fact the 5 acres actually being developed would occur on land requiring clearing.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 32. Respondent is subject to disciplinary action under section 6775(h), in that Respondent  
4 failed to comply with section 6749(a)(3) in that Respondent failed to include his license number  
5 on the written agreements between Enterra Associates, Inc. and Clinton Reilly.

6 **FIFTEENTH CAUSE FOR DISCIPLINE**

7 (Unprofessional Conduct)

8 33. Respondent is subject to disciplinary action under section 6775(h), in that Respondent  
9 failed to comply with section 6735(a) in that Respondent did not sign nor seal the Vineyard  
10 Development Analysis dated December 4, 2004.

11 **PRAYER**

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

- 15 1. Revoking or suspending Civil Engineer License Number C 60906, issued to Rickard  
16 Thomas Swinth;
- 17 2. Ordering Rickard Thomas Swinth to pay the Board for Professional Engineers, Land  
18 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,  
19 pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21  
22

23 DATED: 4/17/14

Original Signed

24 RICHARD B. MOORE, PLS

25 Executive Officer

26 Board for Professional Engineers, Land Surveyors, and  
27 Geologists

Department of Consumer Affairs

State of California

Complainant

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