

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

In the Matter of the Accusation against:	)	
	)	
DAVID XU	)	Case No.1164-A
808 Gilman Street	)	
Berkeley, CA 94710	)	
	)	
Chemical Engineer License, No. CH 6689	)	
Electrical Engineer License, No. E 21593	)	
Mechanical Engineer License, No. M 36372,	)	
	)	
Respondent.	)	
_____	)	

**DECISION**

The attached Stipulated Settlement and Disciplinary Order for Public Repeval is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on January 18, 2019.

IT IS SO ORDERED December 13, 2018

*Original Signed*

\_\_\_\_\_  
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 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
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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. 1164-A

12 **DAVID XU**  
13 **808 Gilman Street**  
**Berkeley, CA 94710**

**STIPULATED SETTLEMENT**  
**AND DISCIPLINARY ORDER FOR**  
**PUBLIC REPROVAL**

14 **Mechanical Engineer License No. M 36372**  
15 **Chemical Engineer License No. CH 6689**  
**Electrical Engineer License No. E 21593**

[Bus. & Prof. Code § 495]

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 (Board), Department of Consumer  
23 Affairs. He brought this action solely in his official capacity, and is represented in this matter by  
24 Xavier Becerra, Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney  
25 General.

26 2. Respondent David Xu (Respondent) is representing himself in this proceeding and  
27 has chosen not to exercise his right to be represented by counsel.

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1 JURISDICTION

2 3. On or about December 21, 2012, the Board issued Mechanical Engineer License No.  
3 M 36372 to Respondent. On or about December 17, 2014, the Board issued Chemical Engineer  
4 License Number CH 6689 to Respondent. On or about May 26, 2016, the Board issued Electrical  
5 Engineer License Number E 21593 to Respondent. The Mechanical, Chemical, and Electrical  
6 Engineer Licenses were in full force and effect at all times relevant to the charges brought in  
7 Accusation No. 1164-A. The Electrical Engineer License will expire on September 30, 2018,  
8 unless renewed; the Mechanical and Chemical Engineer Licenses will expire on March 31, 2019,  
9 unless renewed.

10 4. Accusation No. 1164-A was filed before the Board and is currently pending against  
11 Respondent. The Accusation and all other statutorily required documents were properly served  
12 on Respondent on March 30, 2018. Respondent timely filed his Notice of Defense contesting the  
13 Accusation. A copy of Accusation No. 1164-A is attached as Exhibit A and incorporated herein  
14 by reference.

15 ADVISEMENT AND WAIVERS

16 5. Respondent has carefully read and understands the charges and allegations in  
17 Accusation No. 1164-A. Respondent has also carefully read and understands the effects of this  
18 Stipulated Settlement and Disciplinary Order for Public Repeval.

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

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

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 1164-A.

4 9. Respondent agrees that his Mechanical, Chemical, and Electrical Engineer Licenses  
5 are subject to discipline, and he agrees to be bound by the Disciplinary Order below.

6 CIRCUMSTANCES IN MITIGATION

7 10. Respondent has never been the subject of any disciplinary action, admitted  
8 responsibility at an early stage in the proceedings, and took prompt corrective action upon  
9 learning of his mistake.

10 RESERVATION

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

14 CONTINGENCY

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

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

27 14. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by  
28 the parties to be an integrated writing representing the complete, final, and exclusive embodiment

1 of their agreement. It supersedes any and all prior or contemporaneous agreements,  
2 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated  
3 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,  
4 supplemented, or otherwise changed except by a writing executed by an authorized representative  
5 of each of the parties.

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Mechanical Engineer License No. M 36372, Chemical  
11 Engineer License No. CH 6689, and Electrical Engineer License No. E 21593, issued to  
12 Respondent David Xu shall be publicly reprovod by the Board for Professional Engineers, Land  
13 Surveyors, and Geologists under Business and Professions Code section 495 in resolution of  
14 Accusation No. 1164-A, attached as Exhibit A.

15 **Cost Recovery.** Respondent shall pay \$1,690.00 to the Board for its costs associated with  
16 the investigation and enforcement of this matter. Respondent shall be permitted to pay these  
17 costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as  
18 ordered, Respondent shall not be allowed to renew his Mechanical, Chemical, or Electrical  
19 Engineer Licenses until he pays costs in full.

20 **ACCEPTANCE**

21 I have carefully read the Stipulated Settlement and Disciplinary Order for Public Repeval.  
22 I understand the stipulation and the effect it will have on my Mechanical, Chemical, and  
23 Electrical Engineer Licenses. I enter into this Stipulated Settlement and Disciplinary Order for  
24 Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision  
25 and Order of the Board for Professional Engineers, Land Surveyors, and Geologists.

26  
27 DATED: 8/20/18

28 *Original Signed*  
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DAVID XU  
Respondent

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ENDORSEMENT

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

Dated: 8/31/18

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

*Original Signed*

LESLIE E. BRAST  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 1164-A**

1 XAVIER BECERRA  
Attorney General of California  
2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
3 VALERIE J. LOPEZ  
Deputy Attorney General  
4 State Bar No. 314583  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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*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 Accusation Against:

Case No. 1164-A

12 **DAVID XU**  
13 **808 Gilman Street**  
**Berkeley, CA 94710**

**ACCUSATION**

14 **Mechanical Engineer License No. M 36372**  
15 **Chemical Engineer License No. CH 6689**  
**Electrical Engineer License No. E 21593**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about December 21, 2012, the Board issued Mechanical Engineer License  
24 Number M 36372 to David Xu (Respondent). The Mechanical Engineer License was in full force  
25 and effect at all times relevant to the charges brought herein and will expire on March 31, 2019,  
26 unless renewed.

27 3. On or about December 17, 2014, the Board issued Chemical Engineer License  
28 Number CH 6689 to Respondent. The Chemical Engineer License was in full force and effect at



1 all times relevant to the charges brought herein and will expire on March 31, 2019, unless  
2 renewed.

3 4. On or about May 26, 2016, the Board issued Electrical Engineer License Number  
4 E 21593 to Respondent. The Electrical Engineer License was in full force and effect at all times  
5 relevant to the charges brought herein and will expire on September 30, 2018, unless renewed.

#### 6 JURISDICTION

7 5. This Accusation is brought before the Board, under the authority of the following  
8 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
9 indicated.

10 6. Code section 118 (b), provides that the suspension, expiration, surrender or  
11 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
12 action during the period within which the license may be renewed, restored, reissued or  
13 reinstated.

#### 14 STATUTES AND REGULATIONS

15 7. Code section 6775 states, in pertinent part:

16 The Board may, upon its own initiative or upon the receipt of a complaint, investigate the  
17 actions of any professional engineer licensed under this chapter and make findings thereon.

18 By a majority vote, the board may publicly reprove, suspend for a period not to exceed two  
19 years, or revoke the certificate of any professional engineer licensed under this chapter on any of  
20 the following grounds:

21 ...

22 (g) A violation in the course of the practice of professional engineering of a rule or  
23 regulation of unprofessional conduct adopted by the board.

24 (h) A violation of any provision of this chapter or any other law relating to or involving the  
25 practice of professional engineering.

26 8. California Code of Regulations, title 16, section 473.3, states, in pertinent part:

27 (a) If a cited person who has been issued an order of abatement is unable to complete the  
28 correction within the time set forth in the citation because of conditions beyond his or her control

1 after the exercise of reasonable diligence, then he or she may request from the Executive Officer  
2 an extension of time within which to complete the correction. Such a request shall be in writing  
3 and shall be made within the time set forth for abatement.

4 (b) Failure of the cited person to abate the violation or to pay all of the assessed fine within  
5 the time allowed is grounds for suspension or revocation of the cited person's license.

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7 **COST RECOVERY**

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

12 **CAUSE FOR DISCIPLINE**

13 **(Failure to Pay Citation Fine)**

14 10. Respondent is subject to disciplinary action under Code section 6775, subsections (g)  
15 and (h), and under California Code of Regulations, title 16, section 473.3(b), in that he has failed  
16 to pay the assessed fine in a citation. The circumstances are as follows:

17 11. On or about December 1, 2016, the Board issued Modified Citation Order 10522-L to  
18 Respondent. The citation included an administrative fine of \$500.00. The deadline for payment  
19 of the fine was on or about February 1, 2017. Respondent failed to comply with this order.

20 **PRAYER**

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

24 1. Revoking or suspending Mechanical Engineer License Number M 36372, issued to  
25 David Xu;

26 2. Revoking or suspending Chemical Engineer License Number CH 6689, issued to  
27 David Xu;

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3. Revoking or suspending Electrical Engineer License Number E 21593, issued to David Xu;

4. Ordering David Xu, Ph.D. 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,

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

DATED: 3/26/18

*Original Signed*

RICHARD B. MOORE, PLS  
Executive Officer  
Board for Professional Engineers, Land Surveyors, and Geologists  
Department of Consumer Affairs  
State of California  
*Complainant*