

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

In the Matter of the First Amended Accusation)	
against:)	
)	
RON BARTO)	Case No. CG 2008-27
P.O. Box 6909)	
Big Bear Lake, CA 92315)	
)	
Professional Geologist License, No. 3356)	
Certified Engineering Geologist,)	
Certificate No. 966)	
Certified Hydrogeologist, Certificate No. 923,)	
)	
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 27, 2017.

IT IS SO ORDERED September 21, 2017.

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 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
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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 First Amended Accusation
12 Against:

13 **RON BARTO**
P.O. Box 6909
14 Big Bear Lake, CA 92315

15 Professional Geologist License No. 3356
Certified Engineering Geologist Certificate No. 966
16 Certified Hydrogeologist Certification No. 923

17 Respondent.
18

Case No. CG-2008-27

OAH No. 2015111037

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 PARTIES

22 1. Richard B. Moore, PLS (Complainant) is the Executive Officer of the Board for
23 Professional Engineers, Land Surveyors, and Geologists (Board). He brought this action solely in
24 his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the
25 State of California, by Kevin J. Rigley, Deputy Attorney General.

26 2. Respondent Ron Barto (Respondent) is represented in this proceeding by attorney
27 Omar S. Anorga, Esq., whose address is: 155 North Lake Avenue, Suite 800, Pasadena, CA
28 91101.

1 3. On or about January 3, 1977, the Board issued Professional Geologist License No.
2 3356 to Ron Barto (Respondent). The Professional Geologist License was in full force and effect
3 at all times relevant to the charges brought in First Amended Accusation No. CG-2008-27, and
4 will expire on October 31, 2017, unless renewed.

5 4. On or about January 21, 1977, the Board issued Certified Engineering Geologist
6 Certificate No. 966 to Ron Barto (Respondent). The Certified Engineering Geologist Certificate
7 was in full force and effect at all times relevant to the charges brought in First Amended
8 Accusation No. CG-2008-27, and will expire on October 31, 2017, unless renewed.

9 5. On or about July 13, 2009, the Board issued Certified Hydrogeologist Certification
10 No. 923 to Ron Barto (Respondent). The Certified Hydrogeologist Certification was in full force
11 and effect at all times relevant to the charges brought in First Amended Accusation No. CG-2008-
12 27, and will expire on October 31, 2017, unless renewed.

13 JURISDICTION

14 6. First Amended Accusation No. CG-2008-27 was filed before the Board, and is
15 currently pending against Respondent. The First Amended Accusation and all other statutorily
16 required documents were properly served on Respondent on November 30, 2016. Respondent
17 timely filed his Notice of Defense contesting the First Amended Accusation.

18 7. A copy of First Amended Accusation No. CG-2008-27 is attached as exhibit A and
19 incorporated herein by reference.

20 ADVISEMENT AND WAIVERS

21 8. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in First Amended Accusation No. CG-2008-27. Respondent has also
23 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
24 Settlement and Disciplinary Order.

25 9. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
27 cross-examine the witnesses against him; the right to present evidence and to testify on his own
28 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the

1 production of documents; the right to reconsideration and court review of an adverse decision;
2 and all other rights accorded by the California Administrative Procedure Act and other applicable
3 laws.

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

6 CULPABILITY

7 11. Respondent understands and agrees that the charges and allegations in the First
8 Amended Accusation No. CG 2008-27, if proven at a hearing, constitute cause for imposing
9 discipline upon his Professional Geologist License, his Certified Engineering Geologist
10 Certificate, and his Certified Hydrogeologist Certification License.

11 12. For the purpose of resolving the First Amended Accusation without the expense and
12 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
13 establish a factual basis for the charges in the First Amended Accusation, and that Respondent
14 hereby gives up his right to contest those charges.

15 13. Respondent agrees that his Professional Geologist License, his Certified Engineering
16 Geologist Certificate, and his Certified Hydrogeologist Certification License are subject to
17 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 CONTINGENCY

20 14. 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 Disciplinary Order shall be of
28 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between

1 the parties, and the Board shall not be disqualified from further action by having considered this
2 matter.

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

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

12 17. 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
14 Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Professional Geologist License No. 3356, Certified
17 Engineering Geologist Certificate No. 966, and Certified Hydrogeologist Certification No. 923
18 issued to Respondent Ron Barto are all revoked. However, the revocations are stayed and
19 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

22 2. **Submit Reports.** Respondent shall submit such special reports as the Board may
23 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 Respondent practices exclusively outside the state of California, Respondent shall
27 immediately notify the Board of this in writing.

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1 4. **Violation of Probation.** If Respondent violates the probationary conditions in any
2 respect, the Board, after giving Respondent notice and the opportunity to be heard, may vacate
3 the stay and reinstate the disciplinary order which was stayed. If, during the period of probation,
4 an accusation or petition to revoke probation is filed against Respondent, or if the matter has been
5 submitted to the Office of the Attorney General for the filing of such, the Board shall have
6 continuing jurisdiction until all matters are final, and the period of probation shall be extended
7 until all matters are final.

8 5. **Completion of Probation.** Upon successful completion of all of the probationary
9 conditions and the expiration of the period of probation, Respondent's licenses shall be
10 unconditionally restored.

11 6. **Cost Recovery.** Within two and one-half (2 ½) years from the effective date of the
12 decision, Respondent shall reimburse the Board for its investigative and enforcement costs in this
13 matter in the amount of \$2,500.00. Said reimbursement may be paid in installments. Failure to
14 reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the
15 probation order.

16 7. **Ethics Course.** Within two and one-half (2 ½) years from the effective date of the
17 decision, Respondent must successfully complete and pass a course in professional ethics,
18 approved in advance by the Board or its designee. This course may be taken and completed
19 online.

20 8. **Take And Pass College-Level Course.** Within two and one-half (2 ½) years from
21 the effective date of the decision, Respondent shall successfully complete and pass one (1)
22 college-level geological course, which must be related to the area of violation alleged in the
23 Accusation. Said course shall be approved in advance by the Board or its designee. Respondent
24 shall provide the Board with official proof of completion of the requisite course. For purposes of
25 this condition, "college-level course" means a course offered by a community college or a four-
26 year university of three semester units or the equivalent; it does not include seminars. This course
27 may be taken and completed online.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Omar S. Anorga, Esq. I understand the stipulation and the effect it
4 will have on my Professional Geologist License, Certified Engineering Geologist Certificate, and
5 Certified Hydrogeologist Certification. I enter into this Stipulated Settlement and Disciplinary
6 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
7 of the Board for Professional Engineers, Land Surveyors, and Geologists.

8 DATED: 6-30-17

Original Signed

9 RON BARTO
Respondent

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

14 DATED: 6/30/2017

Original Signed

15 OMAR S. ANORGA, ESQ.
Attorney for Respondent

16
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Board for Professional Engineers, Land Surveyors, and
20 Geologists.

21 Dated: 7/5/17

Respectfully submitted,

22 XAVIER BECERRA
23 Attorney General of California
24 LINDA L. SUN
Supervising Deputy Attorney General

Original Signed

25 KEVIN J. KIGLEY
26 Deputy Attorney General
27 Attorneys for Complainant

28 LA201350863452530974

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6 Facsimile: (213) 897-2804

7 *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**

13 In the Matter of the Accusation Against:

Case No. CG 2008-27

14 **RON BARTO**
PO Box 6909
Big Bear Lake, CA 92315

FIRST AMENDED ACCUSATION

15 Professional Geologist License No. 3356
16 Certified Engineering Geologist
Certificate No. 966
17 Professional Hydrogeologist
Certificate No. 923

18 Respondent.

19
20
21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about January 21, 1977, the Board issued Professional Geologist License No.
27 3356 to Ron Barto (Respondent). The Professional Geologist License was in full force and effect
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1 at all times relevant to the charges brought herein and will expire on October 31, 2017, unless
2 renewed.

3 3. On or about January 21, 1977, the Board issued Certified Engineering Geologist
4 Certificate No. 1820 to Respondent. The Certified Engineering Geologist Certificate was in full
5 force and effect at all times relevant to the charges brought herein and will expire on October 31,
6 2017, unless renewed.

7 4. On or about January 31, 2009, the Board issued Professional Hydrogeologist
8 Certificate No. 923 to Respondent. The Professional Hydrogeologist Certificate was in full force
9 and effect at all times relevant to the charges brought herein and will expire on October 31, 2017,
10 unless renewed.

11 JURISDICTION

12 5. This First Amended Accusation is brought before the Board under the authority of the
13 following laws. All section references are to the Business and Professions Code unless otherwise
14 indicated.

15 STATUTORY PROVISIONS

16 6. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license
17 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period
18 within which the license may be renewed, restored, reissued, or reinstated.

19 7. Section 7833 provides:

20 "This chapter does not prohibit one or more geologists or geophysicists from practicing
21 through the entity of a sole proprietorship, partnership, or corporation. In a partnership or
22 corporation whose primary activity consists of geological services, at least one partner or officer
23 shall be a professional geologist. In a partnership or corporation whose primary activity consists
24 of geophysical services, at least one partner or officer shall be a professional geophysicist."

25 8. Section 7860 states, in pertinent part:

26 "(a) The board may, upon its own initiative or upon the receipt of a complaint, investigate
27 the actions of any professional geologist, geophysicist, or person granted temporary
28 authorizations pursuant to Sections 7848 and 7848.1, and make findings thereon.

1 "(b) By a majority vote, the board may publicly reprove, suspend for a period not to
2 exceed two years, or revoke the certificate of any geologist or geophysicist registered hereunder,
3 or may publicly reprove or revoke the temporary authorization granted to any person pursuant to
4 Section 7848 or 7848.1, on any of the following grounds:

5

6 (2) Misrepresentation, fraud, or deceit by a geologist or geophysicist in his or her
7 practice.

8

9 "(c) By a majority vote, the board may publicly reprove, suspend for a period not to
10 exceed two years, or may revoke the certificate of any geologist or geophysicist registered under
11 this chapter, or may publicly reprove or revoke the temporary authorization granted to any person
12 pursuant to Section 7848 or 7848.1, for unprofessional conduct. Unprofessional conduct
13 includes, but is not limited to, any of the following:

14 (1) Aiding or abetting any person in a violation of this chapter or any regulation
15 adopted by the board pursuant to this chapter.

16 (2) Violating this chapter or any regulation adopted by the board pursuant to this
17 chapter."

18 9. Section 7839.1 provides:

19 "This chapter shall not empower a geologist registered under this chapter to practice or
20 offer to practice geophysics for others in this state except as such geophysical work is related to
21 his practice of geology.

22 10. Section 7872 provides:

23 "Every person is guilty of a misdemeanor and for each offense of which he or she is
24 convicted is punishable by a fine of not more than one thousand dollars (\$1,000) or by
25 imprisonment not to exceed three months, or by both fine and imprisonment:

26 (a) Who, unless he or she is exempt from registration under this chapter, practices or offers
27 to practice geology or geophysics for others in this state according to the provisions of this
28 chapter without legal authorization."

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1 (5) A licensee shall only express professional opinions which have a basis in fact, are
2 within the scope of the licensee's own experience or knowledge, and are generally accepted
3 geologic or geophysical principles.

4 **COST RECOVERY**

5 12. Section 125.3 provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **BACKGROUND FACTS**

10 13. Respondent was contacted by First Industrial Realty-Trust to conduct a geophysical
11 exploration of the "First Industrial Realty-Trust: Day Street Project, Perris Area, California"
12 (Subject Property). First Industrial Realty-Trust wanted to drill new water well(s) on the Subject
13 Property. First Industrial Realty-Trust contacted Respondent to conduct a geophysical exploration
14 of the Subject Property to find places to drill new water wells. Respondent visited Subject
15 Property on October 3 and 4, 2008 to conduct geophysics as Ron Barto Water Consultant in
16 coordination with a second firm called Water Prospector. Respondent prepared a report entitled
17 "Conducting VLF Geophysical Survey of the First Industrial Realty-Trust: Day Street Project,
18 Perris, California," dated October 22, 2008. Respondent used or supervised geophysical
19 measuring equipment to monitor and record 18 transects across the combined site. The equipment
20 measured and recorded a magnetic field along the transects. An unnamed technician recorded
21 these electromagnetic fields generated from very low frequency (VLF) radio signals in the
22 frequency range of 15,000 to 30,000 cycles per second. These electromagnetic fields established
23 an electric field in underground soil and rock. The electric currents in turn generate a secondary
24 magnetic field, which is measured and recorded by the VLF receiver carried on a technician
25 walking on various transects across the site. The recorded VLF data was analyzed by WADI
26 instrumentation. The WADI VLF monitoring unit used at the site printed out colored cross-
27 sections. These cross-sections indicated the relative conductivity of the material beneath the site
28 in each of the eighteen transects. Respondent assumed that the highlighted subsurface materials

1 identified by the WADI instrumentation indicated subsurface fractures that may contain
2 groundwater.

3 In summary, Respondent failed to meet the standard of practice by a licensed geophysicist
4 in this situation by:

- 5 • Solely relying on the use of the WADI VLF geophysical equipment when an
6 authorized and qualified licensee would have employed several geophysical options to
7 confirm the findings.
- 8 • Not applying the technical knowledge and skill which is ordinarily practiced by an
9 authorized and qualified licensee. For example, there was a lack of preparation relative
10 to the oversight of existing fracture patterns. The fracture patterns are viable targets
11 for investigation, and they were overlooked in locating the lines of investigation. In
12 addition, the depth of the investigation employed by Respondent at this site was 100
13 feet below ground surface for the data profiles that were collected. Respondent,
14 however, describes the depth to groundwater as occurring at about 250 to 350 feet
15 below ground surface, which is outside the scope of the equipment and methodology
16 reported by Respondent.
- 17 • The report generated by Respondent failed to indicate that the data was interpreted or
18 presented using professional formats. Reports are normally expressed based on
19 professional opinion that have a basis in fact.

20 14. On or about June 1, 2005, Respondent entered into a Joint Venture/Partnership
21 Agreement with James and Gigi Sullivan dba National Well Surveying ("National Well
22 Surveying"). Through National Well Surveying, Respondent practiced and offered to practice
23 geophysics without a license by offering geophysical services, including surveying and providing
24 electroseismic sounding surveys for the purpose of sitting water wells.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Incompetence)**

27 15. Respondent is subject to discipline under Code section 7860, subdivision (c)(2), in
28 conjunction with California Code of Regulations, title 16, section 3065, subdivision (b)(1), for

1 performing or offering to perform work that Respondent was not qualified to perform.
2 Complainant refers to, and by this reference incorporates, the allegations set forth above in
3 paragraphs 13 and 14, as though set forth fully herein.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Misrepresentation)**

6 16. Respondent is subject to disciplinary action under section 7860, subdivision (c)(2), in
7 conjunction with California Code of Regulations, title 16, section 3065, subdivision (c)(1), for
8 misrepresenting or permitting misrepresentation of his professional qualification, affiliations, or
9 purposes, or those of the institutions, organizations, or other businesses with which he was
10 associated. Complainant refers to, and by this reference incorporates, the allegations set forth
11 above in paragraphs 13 and 14 as though set forth fully.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Advertising and Soliciting)**

14 17. Respondent is subject to disciplinary action under section 7860, subdivision (c)(2), in
15 conjunction with California Code of Regulations, title 16, section 3065, subdivision (c)(2), for
16 advertising or soliciting professional services for which the subject matter was not within his field
17 of competence. Complainant refers to, and by this reference incorporates, the allegations set forth
18 above in paragraphs 13 and 14 as though set forth fully.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Opinions)**

21 18. Respondent is subject to disciplinary action under section 7860, subdivision (c)(2), in
22 conjunction with California Code of Regulations, title 16, section 3065, subdivision (c)(5), for
23 expressing professional opinions which were not within the scope of Respondent's own
24 experience or knowledge, and the opinions were not generally accepted geologic or geophysical
25 principles. Complainant refers to, and by this reference incorporates, the allegations set forth
26 above in paragraph 13 as though set forth fully.

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28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Aiding or Abetting)**

3 19. Respondent is subject to discipline under Code section 7860, subdivision (c)(1), in
4 conjunction with California Code of Regulations, title 16, section 3065, subdivisions (b)(1) and
5 (c)(1)(2), for aiding or abetting the unlicensed practice of geophysics when he practiced and
6 offered to practice geophysics without a license through his joint venture with National Well
7 Surveying. Complainant refers to, and by this reference incorporates, the allegations set forth
8 above in paragraph 14, as though set forth fully herein.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Unlicensed Practice of Geophysics)**

11 20. Respondent is subject to discipline under Code sections 7872, subdivision (a) and
12 7833, in conjunction with California Code of Regulations, title 16, section 3065, subdivision (a)
13 the unlicensed practice of geophysics when he entered into a joint venture/partnership with
14 National Well Surveying and then practiced and offered to practice geophysics without a license
15 through National Well Surveying. Complainant refers to, and by this reference incorporates, the
16 allegations set forth above in paragraph 14, as though set forth fully herein.

17 **OTHER DISCIPLINARY CONSIDERATIONS**

18 16. In order to determine the degree of discipline, if any to be imposed on Respondent,
19 Complaint alleges as follows:

20 a. On September 18, 2007, Respondent agreed to conduct a soil percolation test for a
21 septic system design on a project site at APN 0330-101-24, in Cedar Glen, California. He
22 provided his customer with five reports for a total cost of \$1,300. The customer approved the
23 work on September 18, 2007, with the understanding that the work would be completed within a
24 reasonable period of time. The customer provided Respondent \$650 deposit. As of January 11,
25 2008, the work on the client's project site had not commenced. The Board issued Respondent a
26 Cease and Desist order for violating the California Code of Regulations, title 16, section 3065 (a).
27 The Board found Respondent did not finish the work he was paid for nor did he return the
28 customer's deposit when he failed to proceed with the project work in a timely manner.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Professional Geologist License No. 3356, issued to Ron Barto;
2. Revoking or suspending Certified Engineering Geologist Certificate No. 966, issued to Ron Barto;
3. Revoking or suspending Professional Hydrogeologist Certification No. 923, issued to Ron Barto;
4. Ordering Ron Barto to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
5. Taking such other and further action as deemed necessary and proper.

DATED: 11/12/16

Original Signed

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