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

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In the Matter of the Accusation against: GARY D. SCHNAKENBERG P.O. Box 18971 South Lake Tahoe, CA 96151 Land Surveyor License, No. L 5728, Respondent.

Case No. 1238-A

## **DECISION**

The attached Stipulated Surrender of License and Order is hereby adopted by the

Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the aboveentitled matter.

This Decision shall become effective on \_\_\_\_\_\_ January 14, 2021

IT IS SO ORDERED *December 10, 2020* 

Original Signed

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

1	XAVIER BECERRA	
2	Attorney General of California KENT D. HARRIS	
3	Supervising Deputy Attorney General STEPHANIE ALAMO-LATIF	
4	Deputy Attorney General State Bar No. 283580	
5	1300 I Street, Suite 125 P.O. Box 944255	
6	Sacramento, CA 94244-2550 Telephone: (916) 210-6112	
7	Facsimile: (916) 327-8643 E-mail: Stephanie.AlamoLatif@doj.ca.gov	
8	Attorneys for Complainant	
9	BEFOR	
10	BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS	
11	DEPARTMENT OF CO STATE OF C	
12		
13	In the Matter of the Accusation Against:	Case No. 1238-A
14	GARY D. SCHNAKENBERG PO Box 18971	
15	South Lake Tahoe, CA 96151	STIPULATED SURRENDER OF LICENSE AND ORDER
16	Land Surveyor License No. L 5728	
17	Respondent.	
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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 Geo	logists (Board), Department of Consumer
25	Affairs. He brought this action solely in his offici	al capacity and is represented in this matter by
26	Xavier Becerra, Attorney General of the State of California, by Stephanie Alamo-Latif, Deputy	
20	Xavier Becerra, Attorney General of the State of G	Camorina, by Stephanie Alanio-Latit, Deputy
27	Xavier Becerra, Attorney General of the State of C Attorney General.	Camorina, by Stephanie Alamo-Latit, Deputy
		Camorina, by Stephanie Alanio-Latit, Deputy
27	Attorney General.	1

1	2. Gary D. Schnakenberg (Respondent) is representing himself in this proceeding and
2	has chosen not to exercise his right to be represented by counsel.
3	3. On or about April 10, 1987, the Board issued Land Surveyor License No. L 5728 to
4	Respondent. The Land Surveyor License expired on December 31, 2019, and has not been
5	renewed. This lapse in licensure, however, according to Business and Professions Code section
6	118, subdivision (b), does not deprive the Board of its authority to institute or continue this
7	disciplinary proceeding
8	JURISDICTION
9	4. Accusation No. 1238-A was filed before the Board, and is currently pending against
10	Respondent. The Accusation and all other statutorily required documents were properly served
11	on Respondent on August 4, 2020. Respondent timely filed his Notice of Defense contesting the
12	Accusation. A copy of Accusation No. 1238-A is attached as Exhibit A and incorporated by
13	reference.
14	ADVISEMENT AND WAIVERS
15	5. Respondent has carefully read, and understands the charges and allegations in
16	Accusation No. 1238-A. Respondent also has carefully read, and understands the effects of this
17	Stipulated Surrender of License and Order.
18	6. Respondent is fully aware of his legal rights in this matter, including the right to a
19	hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
20	his own expense; the right to confront and cross-examine the witnesses against him; the right to
21	present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
22	the attendance of witnesses and the production of documents; the right to reconsideration and
23	court review of an adverse decision; and all other rights accorded by the California
24	Administrative Procedure Act and other applicable laws.
25	7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
26	every right set forth above.
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1	<u>CULPABILITY</u>
2	8. Respondent admits the truth of each and every charge and allegation in Accusation
3	No. 1238-A, agrees that cause exists for discipline and hereby surrenders his Land Surveyor
4	License No. L 5728 for the Board's formal acceptance.
5	9. Respondent understands that by signing this stipulation he enables the Board to issue
6	an order accepting the surrender of his Land Surveyor License without further process.
7	<u>CONTINGENCY</u>
8	10. This stipulation shall be subject to approval by the Board. Respondent understands
9	and agrees that counsel for Complainant and the staff of the Board may communicate directly
10	with the Board regarding this stipulation and surrender, without notice to or participation by
11	Respondent. By signing the stipulation, Respondent understands and agrees that he may not
12	withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
13	and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
14	Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
15	paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
16	be disqualified from further action by having considered this matter.
17	11. The parties understand and agree that Portable Document Format (PDF), facsimile
18	and/or electronic copies of this Stipulated Surrender of License and Order, including PDF,
19	facsimile and/or electronic signatures thereto, shall have the same force and effect as the
20	originals.
21	12. This Stipulated Surrender of License and Order is intended by the parties to be an
22	integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23	It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24	negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
25	may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
26	executed by an authorized representative of each of the parties.
27	13. In consideration of the foregoing admissions and stipulations, the parties agree that
28	the Board may, without further notice or formal proceeding, issue and enter the following Order:

1	<u>ORDER</u>
2	IT IS HEREBY ORDERED that Land Surveyor License No. L 5728, issued to Respondent
3	Gary D. Schnakenberg, is surrendered and accepted by the Board.
4	1. The surrender of Respondent's Land Surveyor License and the acceptance of the
5	surrendered license by the Board shall constitute the imposition of discipline against Respondent.
6	This stipulation constitutes a record of the discipline and shall become a part of Respondent's
7	license history with the Board.
8	2. Respondent shall lose all rights and privileges as a Land Surveyor in California as of
9	the effective date of the Board's Decision and Order.
10	3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
11	issued, his wall certificate on or before the effective date of the Decision and Order.
12	4. Respondent agrees not to petition for reinstatement of the surrendered license.
13	Respondent agrees not to apply for any license issued by the Board for three years from the
14	effective date of this surrender. Respondent understands and agrees that if he ever applies for any
15	license issued by the Board, the Board shall treat it as a new application for licensure.
16	Respondent must comply with all the laws, regulations, and procedures for licensure in effect at
17	the time the application is filed, including but not limited to, submitting a completed application
18	and the requisite fee and taking and passing the required examination(s), and all of the charges
19	and allegations contained in Accusation No. 1238-A shall be deemed to be true, correct, and
20	admitted by Respondent when the licensing agency determines whether to grant to deny the
21	application.
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	Stinulated Surrender of License (Case No. 1238 A)

Stipulated Surrender of License (Case No. 1238-A)

1	ACCEPTANCE	
2	I have carefully read the Stipulated Surrender of License and Order. I understand the	
3	stipulation and the effect it will have on my Land Surveyor License. I enter into this Stipulated	
4	Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound	
5	by the Decision and Order of the Board for Professional Engineers, Land Surveyors, and	
6	Geologists.	
7		
8	DATED: 10/6/2020 Original Signed	
9	GARY D. SCHNAKENBERG Respondent	
10		
11	<b>ENDORSEMENT</b>	
12	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted	
13	for consideration by the Board for Professional Engineers, Land Surveyors, and Geologists of the	
14	Department of Consumer Affairs.	
15	DATED: <u>10/6/2020</u> Respectfully submitted,	
16	XAVIER BECERRA	
17	Attorney General of California KENT D. HARRIS	
18	Supervising Deputy Attorney General	
19	Orígínal Sígned	
20	STEPHANIE ALAMO-LATIF Deputy Attorney General	
21	Attorneys for Complainant	
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	5	
I	Stipulated Surrender of License (Case No. 1238-A)	

## Exhibit A

Accusation No. 1238-A

1	XAVIER BECERRA		
2	Attorney General of California KENT D. HARRIS		
3	Supervising Deputy Attorney General STEPHANIE ALAMO-LATIF		
4	Deputy Attorney General State Bar No. 283580		
5	1300 I Street, Suite 125 P.O. Box 944255		
6	Sacramento, CA 94244-2550 Telephone: (916) 210-6112		
7	Facsimile: (916) 327-8643 E-mail: Stephanie.AlamoLatif@doj.ca.gov		
8	Attorneys for Complainant		
9	BEFOR	Е ТНЕ	
10		BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS	
11	DEPARTMENT OF C STATE OF C		
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14	In the Matter of the Accusation Against:	Case No. 1238-A	
15	GARY D. SCHNAKENBERG PO Box 18971	Case 110. 1250-A	
16	South Lake Tahoe, CA 96151	ACCUSATION	
17	Land Surveyor License No. L 5728		
18	Respondent.		
19			
20			
21	PAR	<u>ries</u>	
22	1. Richard B. Moore, PLS (Complainan	t) brings this Accusation solely in his official	
23	capacity as the Executive Officer of the Board for	Professional Engineers, Land Surveyors, and	
24	Geologists (Board), Department of Consumer Aff	airs.	
25	2. On or about April 10, 1987, the Board	l issued Land Surveyor License Number L 5728	
26	to Gary D. Schnakenberg (Respondent). The Lan	d Surveyor License expired on December 31,	
27	2019, and has not been renewed.		
28			
		(GARY D. SCHNAKENBERG) ACCUSATION	

<sup>(</sup>GARY D. SCHNAKENBERG) ACCUSATION

1	JURISDICTION
2	3. This Accusation is brought before the Board under the authority of the following
3	laws. All section references are to the Business and Professions Code (Code) unless otherwise
4	indicated.
5	4. Section 8710 of the code states, in pertinent part:
6	(a) The Board for Professional Engineers, Land Surveyors, and Geologists is vested with
7	power to administer the provisions and requirements of this chapter, and may make and enforce
8	rules and regulations that are reasonably necessary to carry out its provisions.
9	(b) The board may adopt rules and regulations of professional conduct that are not
10	inconsistent with state and federal law. The rules and regulations may include definitions of
11	incompetence and negligence. Every person who holds a license or certificate issued by the board
12	pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7
13	(commencing with Section 6700), shall be governed by these rules and regulations.
14	5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
15	surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
16	disciplinary action during the period within which the license may be renewed, restored, reissued
17	or reinstated.
18	STATUTORY PROVISIONS
19	6. Section 6775 of the Code states, in pertinent part, that:
20	[T]he board may publicly reprove, suspend for a period not to exceed two
21	years, or revoke the certificate of any professional engineer licensed under this chapter on any of the following grounds:
22	
23	(h) A violation of any provision of this chapter or any other law relating to or
24	involving the practice of professional engineering. <u>REGULATORY PROVISIONS</u>
25	
26	7. California Code of Regulations (CCR), title 16, section 473, subdivision (a) states
27	that the Executive Officer or his or her designee may issue a citation for any violation of any
28	provision of law enforced by the Board to any person who holds a license issued by the Board.
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	(GARY D. SCHNAKENBERG) ACCUSATION

1	8. CCR, title 16, section 473.3 states, in pertinent part:	
2	(a) If a cited person who has been issued an order of abatement is unable to complete the	
3	correction within the time set forth in the citation because of conditions beyond his or her control	
4	after the exercise of reasonable diligence, then he or she may request from the Executive Officer	
5	an extension of time within which to complete the correction. Such a request shall be in writing	
6	and shall be made within the time set forth for abatement.	
7	(b) Failure of the cited person to abate the violation or to pay all of the assessed fine within	
8	the time allowed is grounds for suspension or revocation of the cited person's license.	
9	COST RECOVERY	
10	9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the	
11	administrative law judge to direct a licentiate found to have committed a violation or violations of	
12	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
13	enforcement of the case.	
14	CAUSE FOR DISCIPLINE	
15	(Failure to Comply with Citation)	
16	10. Respondent is subject to disciplinary action under CCR, title 16, section 473.3,	
17	subdivision (b), in that Respondent failed to comply with Citation No. 10791-L by failing to	
	subdivision (0), in that Respondent fance to comply with Chatton No. 10791-L by failing to	
18	comply with the order of abatement and failing to pay the administrative fine in the amount of	
18 19	comply with the order of abatement and failing to pay the administrative fine in the amount of	
18	comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows:	
18 19 20	<ul> <li>comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows:</li> <li>11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent.</li> </ul>	
18 19 20 21	<ul> <li>comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows:</li> <li>11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent.</li> <li>Citation No. 10791-L contained and order of abatement requiring Respondent to ensure that he</li> </ul>	
18 19 20 21 22	<ul> <li>comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows:</li> <li>11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent.</li> <li>Citation No. 10791-L contained and order of abatement requiring Respondent to ensure that he does not violate Code section 8780.2, subdivision (a), in the future. Respondent was further</li> </ul>	
18 19 20 21 22 23	<ul> <li>comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows:</li> <li>11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent.</li> <li>Citation No. 10791-L contained and order of abatement requiring Respondent to ensure that he does not violate Code section 8780.2, subdivision (a), in the future. Respondent was further ordered to submit a written response to the Board's Enforcement Unit's inquiry regarding the</li> </ul>	
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	<ul> <li>comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows:</li> <li>11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent.</li> <li>Citation No. 10791-L contained and order of abatement requiring Respondent to ensure that he does not violate Code section 8780.2, subdivision (a), in the future. Respondent was further ordered to submit a written response to the Board's Enforcement Unit's inquiry regarding the complaint filed against him in Case No. 2018-05-160. Citation No. 10791-L also ordered</li> </ul>	
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ol>	comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows: 11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent. Citation No. 10791-L contained and order of abatement requiring Respondent to ensure that he does not violate Code section 8780.2, subdivision (a), in the future. Respondent was further ordered to submit a written response to the Board's Enforcement Unit's inquiry regarding the complaint filed against him in Case No. 2018-05-160. Citation No. 10791-L also ordered Respondent to pay an administrative fine in the amount of \$5,000.00 within thirty (30) days of the	
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ol>	comply with the order of abatement and failing to pay the administrative fine in the amount of \$5,000.00. The circumstances are as follows: 11. On or about October 24, 2019, the Board issued Citation No. 10791-L to Respondent. Citation No. 10791-L contained and order of abatement requiring Respondent to ensure that he does not violate Code section 8780.2, subdivision (a), in the future. Respondent was further ordered to submit a written response to the Board's Enforcement Unit's inquiry regarding the complaint filed against him in Case No. 2018-05-160. Citation No. 10791-L also ordered Respondent to pay an administrative fine in the amount of \$5,000.00 within thirty (30) days of the date the citation became final. Respondent did not appeal Citation No. 10791-L, and	

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(GARY D. SCHNAKENBERG) ACCUSATION

1	12. As of July 17, 2020, Respondent has failed to contact the Board, failed to make any	
2	payments toward the administrative fine due, and failed to comply with the order of abatement to	
3	submit a written response to the Board's Enforcement Unit's inquiry regarding the complaint	
4	filed against him in Case No. 2018-05-160.	
5	PRAYER	
6	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
7	and that following the hearing, the Board for Professional Engineers, Land Surveyors, and	
8	Geologists issue a decision:	
9	1. Revoking or suspending Land Surveyor License Number L 5728, issued to Gary D.	
10	Schnakenberg;	
11	2. Ordering Gary D. Schnakenberg to pay the Board for Professional Engineers, Land	
12	Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,	
13	pursuant to Business and Professions Code section 125.3; and,	
14	3. Taking such other and further action as deemed necessary and proper.	
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16		
17	DATED: 7/30/2020 Original Signed	
18	RICHARD B. MOORE, PLS Executive Officer	
19	Board for Professional Engineers, Land Surveyors, and Geologists	
20	Department of Consumer Affairs State of California	
21	Complainant	
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	4 (GARY D. SCHNAKENBERG) ACCUSATION	