

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

In the Matter of the Accusation against:

WALTER FRED LUNDIN

P. O. Box 153190

Santa Rita, GU 96915

Land Surveyor License No. L 7707,

Respondent.

Case No. 948-A

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

June 17, 2011

IT IS SO ORDERED

January 28, 2011

Original Signed

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

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
4 State Bar No. 110639
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2025
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 948-A

12 **WALTER FRED LUNDIN**
13 **P.O. Box 153190**
14 **Santa Rita, Guam 96915**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Land Surveyor License No. L 7707**

16 Respondent.
17

18
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. David E. Brown (Complainant) is the Executive Officer of the Board for Professional
23 Engineers and Land Surveyors. He brought this action solely in his official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by David E. Hausfeld, Deputy Attorney General.

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

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1 3. On or about September 8, 2000, the Board for Professional Engineers and Land
2 Surveyors issued Land Surveyor License No. L 7707 to Walter Fred Lundin (Respondent). The
3 Land Surveyor License was in full force and effect at all times relevant to the charges brought in
4 Accusation No. 948-A and will expire on December 31, 2010, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 948-A was filed before the Board for Professional Engineers and
7 Land Surveyors (Board), Department of Consumer Affairs, and is currently pending against
8 Respondent. The Accusation and all other statutorily required documents were properly served
9 on Respondent on June 16, 2010. Respondent timely filed his Notice of Defense contesting the
10 Accusation. A copy of Accusation No. 948-A is attached as Exhibit A and incorporated herein by
11 reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 948-A. Respondent has also carefully read, and understands the effects of this
15 Stipulated Settlement and Disciplinary Order.

16 6. 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 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 948-A.

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9. Respondent agrees that his Land Surveyor 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

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board 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.

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

12. 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.

13. 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:

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8. **Notification.** Within 30 days of the effective date of the decision, Respondent shall provide the Board with evidence that he has provided all persons or entities with whom he has a contractual or employment relationship such that the relationship is in the area of practice of professional land surveying in which the violation occurred with a copy of the decision and order of the Board and shall provide the Board with the name and business address of each person or entity required to be so notified. During the period of probation, Respondent may be required to provide the same notification of each new person or entity with whom he has a contractual or employment relationship such that the relationship is in the area of practice of professional land surveying in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Land Surveyor 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 and Land Surveyors.

DATED: 10 NOV 2010

Original Signed

WALTER FRED LUNDIN
Respondent

ENDORSEMENT

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

Dated: 11/29/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Original Signed

DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 948-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
4 State Bar No. 110639
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 948-A

12 **WALTER FRED LUNDIN**
13 **P.O. Box 153190**
14 **Santa Rita, CA 96915**

A C C U S A T I O N

15 **Civil Engineer License No. C 44453**
16 **Land Surveyor License No. L 7707**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 8, 2000, the Board for Professional Engineers and Land
24 Surveyors issued Land Surveyor License Number L 7707 to Walter Fred Lundin (Respondent).
25 The Land Surveyor License was in full force and effect at all times relevant to the charges
26 brought herein and will expire on December 31, 2010, unless renewed.

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JURISDICTION

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

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 8780 of the Code states, in pertinent part:

[T]he board may reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700), whom it finds to be guilty of:

....

(b) Any negligence or incompetence in his or her practice of land surveying.

....

(d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.

....

(h) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board.

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

STATUTORY PROVISIONS

6. Section 8762 of the Code states:

(a) Except as provided in subdivision (b), after making a field survey in conformity with the practice of land surveying, the licensed surveyor or licensed civil engineer may file with the county surveyor in the county in which the field survey was made, a record of the survey.

(b) Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

(1) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record of survey previously recorded or properly filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

1 (2) A material discrepancy with the information contained in any subdivision
2 map, official map, or record of survey previously recorded or filed in the office of
3 the county recorder or the county surveying department, or any map or survey
4 record maintained by the Bureau of Land Management of the United States. For
5 purposes of this subdivision, a "material discrepancy" is limited to a material
6 discrepancy in the position of points or lines, or in dimensions.

7 (3) Evidence that, by reasonable analysis, might result in materially alternate
8 positions of lines or points, shown on any subdivision map, official map, or record
9 of survey previously recorded or filed in the office of the county recorder or the
10 county surveying department, or any map or survey record maintained by the
11 Bureau of Land Management of the United States.

12 (4) The establishment of one or more points or lines not shown on any
13 subdivision map, official map, or record of survey, the positions of which are not
14 ascertainable from an inspection of the subdivision map, official map, or record of
15 survey.

16 (5) The points or lines set during the performance of a field survey of any
17 parcel described in any deed or other instrument of title recorded in the county
18 recorder's office are not shown on any subdivision map, official map, or record of
19 survey.

20 (c) The record of survey required to be filed pursuant to this section shall be
21 filed within 90 days after the setting of boundary monuments during the
22 performance of a field survey or within 90 days after completion of a field survey,
23 whichever occurs first.

24 (d)(1) If the 90-day time limit contained in subdivision (c) cannot be
25 complied with for reasons beyond the control of the licensed land surveyor or
26 licensed civil engineer, the 90-day time period shall be extended until the time at
27 which the reasons for delay are eliminated. If the licensed land surveyor or
28 licensed civil engineer cannot comply with the 90-day time limit, he or she shall,
prior to the expiration of the 90-day time limit, provide the county surveyor with a
letter stating that he or she is unable to comply. The letter shall provide an estimate
of the date for completion of the record of survey, the reasons for the delay, and a
general statement as to the location of the survey, including the assessor's parcel
number or numbers.

(2) The licensed land surveyor or licensed civil engineer shall not initially be
required to provide specific details of the survey. However, if other surveys at the
same location are performed by others which may affect or be affected by the
survey, the licensed land surveyor or licensed civil engineer shall then provide
information requested by the county surveyor without unreasonable delay.

(e) Any record of survey filed with the county surveyor shall, after being
examined by him or her, be filed with the county recorder.

(f) If the preparer of the record of survey provides a postage-paid, self-
addressed envelope or postcard with the filing of the record of survey, the county
recorder shall return the postage-paid, self-addressed envelope or postcard to the
preparer of the record of survey with the filing data within 10 days of final filing.
For the purposes of this subdivision, "filing data" includes the date, the book or
volume, and the page at which the record of survey is filed with the county
recorder.

1 7. Section 8773 of the Code states:

2 (a) Except as provided in subdivision (b) of Section 8773.4, a person
3 authorized to practice land surveying in this state shall complete, sign, stamp with
4 his or her seal, and file with the county surveyor or engineer of the county where
5 the corners are situated, a written record of corner establishment or restoration to
6 be known as a "corner record" for every corner established by the Survey of the
7 Public Lands of the United States, except "lost corners," as defined by the Manual
8 of Instructions for the Survey of the Public Lands of the United States, and every
9 accessory to such corner which is found, set, reset, or used as control in any survey
10 by such authorized person.

11 (b) After the establishment of a lost corner, as defined by the Manual of
12 Instructions for the Survey of the Public Lands of the United States, a record of
13 survey shall be filed as set forth in Section 8764.

14 (c) Any person authorized to practice land surveying in this state may file
15 such corner record for any property corners, property controlling corners,
16 reference monuments, or accessories to a property corner.

17 8. Section 8773.2 of the Code states:

18 (a) A "corner record" submitted to the county surveyor or engineer shall be
19 examined by him or her for compliance with subdivision (d) of Section 8765 and
20 Sections 8773, 8773.1, and 8773.4, endorsed with a statement of his or her
21 examination, and filed with the county surveyor or returned to the submitting party
22 within 20 working days after receipt.

23 (b) In the event the submitted "corner record" fails to comply with the
24 examination criteria of subdivision (a), the county surveyor or engineer shall
25 return it to the person who submitted it together with a written statement of the
26 changes necessary to make it conform to the requirements of subdivision (a). The
27 licensed land surveyor or licensed civil engineer submitting the corner record may
28 then make the agreed changes in compliance with subdivision (a) and note those
matters that cannot be agreed upon in accordance with the provisions of
subdivision (c), and shall resubmit the corner record within 60 days, or within the
time as may be mutually agreed upon by the licensed land surveyor or licensed
civil engineer and the county surveyor, to the county surveyor for filing pursuant
to subdivision (c) . The county surveyor or engineer shall file the corner record
within 10 working days after receipt of the resubmission.

....

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, (CCR) section 464 states, in pertinent part:

“....

“(b) A corner record shall be filed for each public land survey corner which is found, reset,
or used as control in any survey by a land surveyor or a civil engineer. Exceptions to this rule are
identified in Section 8773.4 of the Code.

1 “(c) The corner record shall be filed within 90 days from the date a corner was found, set,
2 reset, or used as control in any survey. The provisions for extending the time limit shall be the
3 same as provided for a record of survey in Section 8762 of the Code.

4 “...”

5 **COST RECOVERY**

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

10 **COSTA MESA SURVEYS**

11 11. On or about August 27, 2004, Respondent conducted a survey and set street center
12 line intersection monuments in Costa Mesa, California (Costa Mesa Surveys). Respondent did
13 not submit the Corner Record to the Orange County Surveyor’s office in a timely fashion. The
14 County Surveyor’s office and the Joint Professional Practices Committee sent multiple letters to
15 Respondent requesting that he submit the Corner Record for this survey. Finally, on April 3,
16 2006 the Board sent a letter to Respondent requesting an explanation for his failure to file the
17 Corner Record. The Corner Record was then submitted to the Orange County Surveyor’s office
18 on April 7, 2006, over 20 months after the survey was conducted.

19 12. On the same date, April 7, 2006, that Respondent submitted to the County Surveyor
20 the Corner Record for the August 27, 2004 survey, he also submitted five additional Corner
21 Records for a survey he conducted and street center line intersection monuments he set in Costa
22 Mesa, California on November 1, 2004 (Costa Mesa Surveys). These corner records were
23 submitted by Respondent over 17 months after the survey was conducted.

24 13. On or about May 22, 2006 the County determined that the Corner Records submitted
25 for the Costa Mesa surveys were incomplete and contained errors, and requested Respondent to
26 re-submit the Corner Records. When Respondent failed to re-submit the Corner Records, the
27 County Surveyor’s office and the Joint Professional Practices Committee again sent multiple
28 letters to Respondent requesting that he re-submit the Corner Records for these surveys. Once

1 again, only after the Board sent a letter to Respondent did he re-submit the Corner Records to the
2 Orange County Surveyor's office on June 29, 2007, over 14 months after Respondent was
3 requested to make the corrections and re-submit.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Negligence in the Practice of Land Surveying)**

6 14. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
7 was negligent in his practice of land surveying regarding the Costa Mesa Surveys, as set forth in
8 paragraphs 11, 12 and 13 above, which are incorporated by reference herein.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Failure to File a Timely Corner Record)**

11 15. Respondent is subject to disciplinary action under Code section 8780 (d) and (h) in
12 conjunction with Code section 8762 and for violation of CCR, section 464 (c) in that he failed to
13 file the Corner Records of the Costa Mesa Surveys with the Orange County Surveyor's office,
14 within 90 days, as set forth in paragraphs 11, 12 and 13 above, which are incorporated by
15 reference herein.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Failure to Re-Submit a Timely Corner Record)**

18 16. Respondent is subject to disciplinary action under Code section 8780 (d) in
19 conjunction with Code section 8773.2 in that he failed to re-submit the Corner Records of the
20 Costa Mesa Surveys to the Orange County Surveyor's office, within 60 days after the Corner
21 Records were returned to him, as set forth in paragraphs 11, 12 and 13 above, which are
22 incorporated by reference herein.

23 **SEAL BEACH SURVEY**

24 17. On or about October 17, 2006, Respondent, conducted a survey and set street center
25 line intersection monuments in Seal Beach, California (Seal Beach Survey). Respondent did not
26 submit the Corner Records to the Orange County Surveyor's office until on or about October 1,
27 2007, 12 months after the survey was conducted.

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1 18. On or about October 25, 2007 the County determined that the Corner Records were
2 incomplete and contained errors, and requested Respondent to re-submit the Corner Records.
3 When Respondent failed to re-submit the Corner Records, the County Surveyor's office and the
4 Joint Professional Practices Committee sent multiple letters to Respondent requesting that he re-
5 submit the Corner Records for this survey. On July 16, 2008 the Board sent a letter to
6 Respondent requesting an explanation for his failure to re-submit the Corner Records. The
7 Corner Records were re-submitted to the Orange County Surveyor's office on December 30,
8 2008, over 14 months after Respondent was requested to make the corrections and re-submit.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Negligence in the Practice of Land Surveying)**

11 19. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
12 was negligent in his practice of land surveying regarding the Seal Beach Survey, as set forth in
13 paragraphs 17 and 18 above, which are incorporated by reference herein.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to File a Timely Corner Record)**

16 20. Respondent is subject to disciplinary action under Code section 8780 (d) and (h) in
17 conjunction with Code section 8762 and for violation of CCR, section 464 (c) in that he failed to
18 file the Corner Records of the Seal Beach Survey with the Orange County Surveyor's Office,
19 within 90 days, as set forth in paragraphs 17 and 18 above, which are incorporated by reference
20 herein.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Failure to Re-Submit a Timely Corner Record)**

23 21. Respondent is subject to disciplinary action under Code section 8780 (d) in
24 conjunction with Code section 8773.2 in that he failed to re-submit the Corner Records of the
25 Seal Beach Survey to the Orange County Surveyor's office, within 60 days after the Corner
26 Records were returned to him, as set forth in paragraphs 17 and 18 above, which are incorporated
27 by reference herein.

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1 Record to the Orange County Surveyor's office in a timely fashion. A monument placed by
2 Respondent at the time of the survey was discovered in March of 2008. The monument had never
3 been recorded. The Orange County Surveyor's Office and the Joint Professional Practices
4 Committee sent multiple letters to Respondent requesting that he submit the Corner Record for
5 this survey. On October 23, 2008 the Board sent a letter to Respondent requesting an explanation
6 for his failure to file the Corner Record. The Corner Record was then submitted to the Orange
7 County Surveyor's Office on December 31, 2008, over 54 months after the survey was
8 conducted.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Negligence in the Practice of Land Surveying)**

11 26. Respondent is subject to disciplinary action under Code section 8780 (b) in that he
12 was negligent in his practice of land surveying regarding the Stanton Survey, as set forth in
13 paragraph 25 above, which is incorporated by reference herein.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Failure to File a Timely Corner Record)**

16 27. Respondent is subject to disciplinary action under Code section 8780 (d) and (h) in
17 conjunction with Code section 8762 and for violation of CCR, section 464 (c) in that he failed to
18 file the Corner Record of the Stanton Survey with the Orange County Surveyor's Office, within
19 90 days, as set forth in paragraph 25 above, which is incorporated by reference herein.

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 and Land Surveyors issue a
23 decision:

24 1. Revoking or suspending Land Surveyor License Number L 7707, issued to Walter
25 Fred Lundin.

26 2. Ordering Walter Fred Lundin to pay the Board for Professional Engineers and Land
27 Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to
28 Business and Professions Code section 125.3;

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

DATED: 6/3/10

Original Signed

DAVID E. BROWN
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

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