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

In the Matter of the Accusation Against:

**NOE SALVADOR SEPULVEDA
4727 Redland Drive
San Diego, CA 92115

Land Surveyor License No. L 9069**

Respondent.

Case No. 1258-A

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 14, 2021, Complainant Richard B. Moore, PLS, in his official capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, filed Accusation No. 1258-A against Noe Salvador Sepulveda (Respondent) before the Board for Professional Engineers, Land Surveyors, and Geologists. (Accusation attached as Exhibit A.)
2. On or about December 18, 2013, the Board for Professional Engineers, Land Surveyors, and Geologists (Board) issued Land Surveyor License No. L 9069 to Respondent.

1 The Land Surveyor License was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 1258-A and will expire on March 31, 2022.

3 3. On or about December 14, 2021, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 1258-A, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
7 section 136, is required to be reported and maintained with the Board. Respondent's address of
8 record was and is: 4727 Redland Drive, San Diego, California 92115. Respondent was also
9 served by Certified and First Class Mail copies of the Accusation No. 1258-A, Statement to
10 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
11 Code sections 11507.5, 11507.6, and 11507.7) at 2165 San Diego Avenue, Suite 206, San Diego,
12 California 92110 and 8252 Station Village Lane, Apt. 2313, San Diego, California 92108.

13 4. Service of the Accusation was effective as a matter of law under the provisions of
14 Government Code section 11505(c) and/or Business and Professions Code section 124.

15 5. Government Code section 11506(c) states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense . . . and the notice shall be deemed a specific denial of all
18 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
19 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
20 discretion may nevertheless grant a hearing.

21 6. The Board takes official notice of its records and the fact that Respondent failed to
22 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
23 waived his right to a hearing on the merits of Accusation No. 1258-A.

24 7. California Government Code section 11520(a) states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense . . . or to appear at
26 the hearing, the agency may take action based upon the respondent's express
27 admissions or upon other evidence and affidavits may be used as evidence without
28 any notice to respondent

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1 8. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
4 as well as taking official notice of all the investigatory reports, exhibits and statements contained
5 therein on file at the Board's offices regarding the allegations contained in Accusation No. 1258-
6 A, finds that the charges and allegations in Accusation No. 1258-A, are separately and severally,
7 found to be true and correct by clear and convincing evidence.

8 9. The Board finds that the actual costs for Investigation and Enforcement are \$6,336.25
9 as of January 19, 2022.

DETERMINATION OF ISSUES

11 1. Based on the foregoing findings of fact, Respondent Noe Salvador Sepulveda has
12 subjected his Land Surveyor License No. L 9069 to discipline.

13 2. The agency has jurisdiction to adjudicate this case by default.

14 3. The Board for Professional Engineers, Land Surveyors, and Geologists is authorized
15 to revoke Respondent's Land Surveyor License based upon the following violations alleged in the
16 Accusation which are supported by the evidence contained in the Default Decision Investigatory
17 Evidence Packet in this case:

18 a. On or about November 12, 2019, Respondent entered into a contract to perform a
19 boundary survey for the Owner of three lots located on Tenth Street in Imperial Beach, California
20 (Subject Property). Pursuant to the Contract, Respondent was also to complete and file a Corner
21 Record with the office of the San Diego County Surveyor. Respondent signed a Declaration that
22 he surveyed the boundaries of the Subject Property and that a Corner Record would be filed in the
23 office of the San Diego County Surveyor. Respondent misrepresented the facts in his practice of
24 land surveying regarding the boundary survey and Corner Record for the Subject Property, in
25 violation of Code section 8780, subdivision (a). The boundary survey was never completed and
26 the Corner Record was not filed in the office of the San Diego County Surveyor. Respondent was
27 negligent and incompetent regarding the boundary survey and Corner Record for the Subject
28 Property, in violation of Code section 8780, subdivision (b). By failing to provide a full

1 boundary survey to his client or file a Corner Record for the Subject Property, Respondent
2 breached his contract with the Owner of the Subject Property, in violation of Code section 8780,
3 subdivision (g). Respondent also violated Code section 8759, subdivision (a)(5) by not providing
4 a description of the procedure to be used by both parties to terminate the contract.

5 b. On April 24, 2020, the Board received a Complaint from a property owner who
6 engaged Respondent to perform survey services that were required to obtain a permit from the
7 City of San Diego for improvements to his property on Jennings Street in San Diego. The
8 Complaint alleged that Respondent did not perform any work, yet Respondent handed the Owner
9 a completed Monument Preservation Certificate. The City of San Diego required corrections to
10 the Monument Preservation Certificate that Respondent filed, but the Owner was unable to get in
11 touch with Respondent to make the corrections. Despite the Board's multiple requests to
12 Respondent for information, Respondent failed to submit information about the Jennings Street
13 Project. Respondent violated Code section 8780, subdivision (a), by misrepresenting the facts in
14 his practice of inspecting the site and searching for monuments and misrepresenting the
15 completeness of professional documents submitted to a government agency. Respondent also
16 violated Code section 8780, subdivision (b), in that he was negligent and incompetent in his
17 practice of inspecting the site and searching for monuments, by not providing any documents
18 used or notes made for his survey, and by not providing a copy of any agreement that he had
19 submitted to the Owner or a copy of the Monument Certificate he had provided to the Owner.

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ORDER

IT IS SO ORDERED that Land Surveyor License No. L 9069, issued to Respondent Noe Salvador Sepulveda, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 7, 2022.

It is so ORDERED March 7, 2022

Original Signed

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

83218161.DOCX
DOJ Matter ID:SD2021303662

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 ERIN M. SUNSERI
Supervising Deputy Attorney General
3 AMIE J. FLYNN
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 1258-A

14 **NOE SALVADOR SEPULVEDA**
15 **4727 Redland Drive**
16 **San Diego, CA 92115**

ACCUSATION

17 **Land Surveyor License No. L 9069**

18 Respondent.

19
20 **PARTIES**

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

24 2. On or about December 18, 2013, the Board issued Land Surveyor License Number L
25 9069 to Noe Salvador Sepulveda (Respondent). The Land Surveyor License was in full force and
26 effect at all times relevant to the charges brought herein and will expire on March 31, 2022,
27 unless renewed.

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1 **JURISDICTION PROVISIONS**

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

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

10 [T]he board may publicly reprove, suspend for a period not to exceed two
11 years, or revoke the license or certificate of any licensed land surveyor or
12 registered civil engineer, respectively, licensed under this chapter or registered
under the provisions of Chapter 7 (commencing with Section 6700), who is legally
authorized to practice land surveying on any of the following grounds:

13 (a) Any fraud, deceit, or misrepresentation in his or her practice of land
14 surveying.

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

16

17 (g) A breach or violation of a contract to provide land surveying services.

18 **STATUTORY PROVISIONS**

19 6. Section 8759 of the Code states, in pertinent part:

20 (a) A licensed land surveyor or licensed civil engineer authorized to practice
21 land surveying shall use a written contract when contracting to provide
22 professional services to a client pursuant to this chapter. The written contract shall
23 be executed by the licensed land surveyor or licensed civil engineer and the client
24 or the client's representative prior to the licensed land surveyor or licensed civil
engineer commencing work, unless the client knowingly states in writing that
work may be commenced before the contract is executed. The written contract
shall include, but not be limited to, all of the following:

25 (1) A description of the services to be provided to the client by the licensed
26 land surveyor or licensed civil engineer.

27 (2) A description of any basis of compensation applicable to the contract,
28 and the method of payment agreed upon by the parties.

1 (3) The name, address, and license or certificate number of the licensed land
surveyor or licensed civil engineer, and the name and address of the client.

2 (4) A description of the procedure that the licensed land surveyor or licensed
3 civil engineer and the client will use to accommodate additional services.

4 (5) A description of the procedure to be used by both parties to terminate the
5 contract.

6

7 **REGULATORY PROVISIONS**

8 7. California Code of Regulations, Title 16, section 412 states:

9 Each person who is an applicant for or a holder of a certificate or license issued by
10 the Board shall file his or her address of record with the Board. Within thirty (30) days after
any change to his or her address of record, he or she shall notify the Board in writing of
such change.

11 **COST RECOVERY**

12 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
16 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
17 included in a stipulated settlement.

18 **TENTH STREET PROJECT IN IMPERIAL BEACH, CALIFORNIA**

19 9. On or about November 12, 2019, Respondent entered into a contract to perform a
20 boundary survey for the Owner of three lots located on Tenth Street in Imperial Beach, California
21 (Subject Property) for \$2,200.00. Pursuant to the Contract, Respondent was also to complete and
22 file a Corner Record with the office of the San Diego County Surveyor. The Contract did not
23 state a description of the procedure to be used by both parties to terminate the contract

24 10. On November 12, 2019, Respondent signed a Declaration that he surveyed the
25 boundaries of the Subject Property and that a Corner Record would be filed in the office of the
26 San Diego County Surveyor.

27 11. The Owner of the Subject Property confirmed with the San Diego County Surveyor
28 that the boundary survey was never completed and the Corner Record was not filed in the office

1 of the San Diego County Surveyor. To proceed with work on the project, the Owner had to hire
2 another surveyor to perform the survey at a cost of \$2,200.

3 12. During the investigation of this matter by the Board, Respondent was asked to file the
4 Corner Record. Despite repeated assurances from Respondent that he would file it, Respondent
5 failed to file the Corner Record.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Fraud, Deceit or Misrepresentation in the Practice of Land Surveying – Tenth St. Project)**

8 13. Respondent is subject to disciplinary action under Code section 8780, subdivision (a),
9 in that Respondent misrepresented the facts in his practice of land surveying regarding the
10 boundary survey and Corner Record for the Subject Property as set forth above in paragraph 11.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Negligence in the Practice of Land Surveying – Tenth St. Project)**

13 14. Respondent is subject to disciplinary action under Code section 8780, subdivision (b),
14 in that he was negligent in his practice of land surveying regarding the boundary survey and
15 Corner Record for the Subject Property as set forth in paragraphs 9 through 12 above.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Incompetence in the Practice of Land Surveying – Tenth St. Project)**

18 15. Respondent is subject to disciplinary action under Code section 8780, subdivision (b),
19 in that he was incompetent in his practice of land surveying regarding the he boundary survey and
20 Corner Record for the Subject Property as set forth in paragraphs 9 through 12 above.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Breach of Contract – Tenth St. Project)**

23 16. Respondent is subject to disciplinary action under Code section 8780, subdivision (g),
24 in that he breached his contract with his client, the Owner of the Subject Property, in that he
25 failed to provide a full boundary survey to his client or file a Corner Record for the Subject
26 Property as set forth in paragraphs 10 through 13 above, which are incorporated herein by
27 reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Required Terms of Contract – Tenth St. Project)**

3 17. Respondent is subject to disciplinary action under Code section 8759, subdivision, (a)
4 (5), in that Respondent’s written contract to his client did not provide a description of the
5 procedure to be used by both parties to terminate the contract as set forth above in paragraph 9.

6 **JENNINGS STREET PROJECT - SAN DIEGO, CALIFORNIA**

7 18. On April 24, 2020, the Board received a Complaint from a property owner who
8 engaged Respondent to perform survey services that were required to obtain a permit from the
9 City of San Diego for improvements to his property on Jennings Street in San Diego. The
10 Complaint alleged that Respondent did not perform any work, yet Respondent handed the Owner
11 a completed Monument Preservation Certificate. Despite the Owner’s requests, Respondent did
12 not allow the Owner to show him a monument that had previously been uncovered during utility
13 upgrades. The Owner alleged that Respondent stated it was not necessary and that the Monument
14 Preservation Certificate was all that was needed. The City of San Diego required corrections to
15 the Monument Preservation Certificate that respondent filed. Despite multiple attempts, the
16 Owner was unable to get in touch with Respondent to make the corrections.

17 19. From May to June 2020, the Board sent numerous communications to Respondent to
18 respond to Complainant’s allegations. Letters were returned by the United States Postal Service
19 with a sticker noting “Return to sender. Not deliverable as addressed. Unable to forward.”

20 20. On June 1, 2020, the Board sent an email message to Respondent advising that mail
21 sent to him was returned by the United States Postal Service and requested Respondent to provide
22 an address update. Respondent provided an updated address in response.

23 21. On August 13, 2020, the Board sent a letter to Respondent concerning his failure to
24 provide a response to the Board’s inquiries regarding the Jennings Street Project, despite the
25 Board’s numerous attempts to obtain information from him.

26 22. On August 27, 2020, the Board sent a letter to Respondent requesting an appropriate
27 response to the Board’s letter of June 3, 2020.

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1 23. On October 14, 2020, the Board sent a letter to Respondent via email, advising that
2 after multiple requests for information, Respondent had failed to submit information about the
3 Jennings Street Project that had been requested by the Enforcement Unit. Respondent was
4 instructed to submit the missing information no later than October 29, 2020.

5 24. On October 17, 2020, Respondent responded to the Board's October 14, 2020 email
6 message. Respondent indicated that all documents generated for the Jennings Street Project were
7 provided to the Owner, and that Respondent had no documentation other than email messages.
8 Respondent stated that according to Map 2471, a 1/2" iron pipe should be set as a monument at
9 every corner, but that in the field he found no monuments.

10 25. On October 21, 2020, the Assistant Director at the City of San Diego, Development
11 Services Department, provided a copy of Map 2471 to the Board.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Fraud, Deceit or Misrepresentation in the Practice of Land Surveying**

14 **– Jennings St. Project)**

15 26. Respondent is subject to disciplinary action under Code section 8780, subdivision (a),
16 in that Respondent misrepresented the facts in his practice of inspecting the site and searching for
17 monuments, Respondent's opinions did not have a basis in fact, and Respondent misrepresented
18 the completeness of professional documents submitted to a government agency as set forth in
19 paragraphs 18 through 25 above.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Negligence in the Practice of Land Surveying – Jennings St. Project)**

22 27. Respondent is subject to disciplinary action under Code section 8780, subdivision (b),
23 in that he was negligent in his practice of inspecting the site and searching for monuments, by not
24 providing any documents used or notes made for his survey, and by not providing a copy of any
25 agreement that he had submitted to the Owner or a copy of the Monument Certificate he had
26 provided to the Owner, as set forth in 18 through 25 above.

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EIGHTH CAUSE FOR DISCIPLINE

(Incompetence in the Practice of Land Surveying – Jennings St. Project)

28. Respondent is subject to disciplinary action under Code section 8780, subdivision (b), in that he was incompetent in his practice of inspecting the site and searching for monuments, by not providing any documents used or notes made for his survey, and by not providing a copy of any agreement that he had submitted to the Owner or a copy of the Monument Certificate he had provided to the Owner, as set forth in paragraphs 18 through 25 above.

NINTH CAUSE FOR DISCIPLINE

(Violation of Required Terms of Contract – Jennings St. Project)

29. Respondent is subject to disciplinary action under Code section 8759, subdivision (a), in that Respondent did not provide a written Contract to the Owner prior to commencing work, as set forth in paragraphs 18 and 24 above.

TENTH CAUSE FOR DISCIPLINE

(Failure to Notify Board of Address Change)

30. Respondent is subject to disciplinary action under California Code of Regulations, Title 16, section 412, in that Respondent failed to notify the Board of a change of address within 30 days of the change, as set forth in paragraphs 19 and 20.

OTHER MATTERS

31. In a disciplinary action titled *In the Matter of the Accusation of Noe Salvador Sepulveda*, Case No. 1194-A, the Board issued a Decision and Order effective December 27, 2019, which revoked Respondent's Land Surveyor License. However, the revocation was stayed and Respondent's Land Surveyor License was placed on probation for four years with certain terms and conditions.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Board for Professional Engineers, Land Surveyors, and Geologists issue a decision:

1. Revoking or suspending Land Surveyor License No. L 9069 issued to Noe Salvador Sepulveda;
2. Ordering Noe Salvador Sepulveda to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/10/21

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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