

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

In the Matter of the Petition to Revoke Probation)	
against:)	
)	
VINCENT JANUSZEWSKI)	Case No. 1169-A
678 Rue Avallon)	
Chula Vista, CA 91913)	OAH No. 2021070914
)	
Land Surveyor License, No. L 9214,)	
)	
Respondent.)	
_____)	

DECISION

Pursuant to Government Code section 11517, the Board for Professional Engineers, Land Surveyors, and Geologists of the State of California hereby adopts the attached Proposed Decision of the Administrative Law Judge as its Decision in the above-entitled matter.

In adopting this Proposed Decision as its Decision, the Board for Professional Engineers, Land Surveyors, and Geologists has made the following technical or other minor changes pursuant to Government Code section 11517(c)(2)(C):

“Threated” on Page 6, Paragraph 1 is corrected to “threatened.”

This Decision shall become effective on February 10, 2022 .

IT IS SO ORDERED January 11, 2022 .

Original Signed

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

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

In the Matter of the Petition to Revoke Probation of:

VINCENT JANUSZEWSKI, Respondent

Agency Case No. 1169-A

OAH No. 2021070914

PROPOSED DECISION

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter via the Microsoft Teams application on November 10, 2021.

Alan Macina, Deputy Attorney General, represented complainant, Richard B. Moore, PLS, Executive Officer, Board for Professional Engineers, Land Surveyors, and Geologists (board).

Vincent Januszewski, respondent, represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on November 10, 2021.

FACTUAL FINDINGS

1. On May 28, 2015, the board issued Land Surveyor License Number L 9214 to respondent. Respondent's license expired on September 30, 2019, and has not been renewed.

2. On October 8, 2018, complainant filed a First Amended Accusation against respondent alleging 24 causes for discipline involving seven projects. The causes for discipline cited multiple violations of the Business and Professions Code¹, including: failure of a cited person to abate a violation (§ 8780, subd. (d)); breach of contract (§ 8780, subd. (g)); failure to include a description of procedure to be used for additional services (§ 8759, subd. (a)(4)); failure to include a description of the procedure to be used for contract termination (§ 8759, subd. (a)(5)); failure to respond to board investigation (§ 8780.2, subd. (a)); not providing a written contract to a client (§ 8759, subd. (a)); negligence or incompetence in surveying practice (§ 8780, subd. (b)); fraud, deceit, or misrepresentation in surveying practice (*Ibid.*).

3. Respondent signed a Stipulated Settlement on June 18, 2019, agreeing to the truth of the allegations and accepting discipline for the allegations contained in the First Amended Accusation.

¹ All further statutory references are to the Business and Professions Code unless otherwise noted.

4. By Decision and Order effective September 13, 2019, the board revoked petitioner's license, stayed the revocation for a period of three years, and imposed terms and conditions on the license. The relevant terms and conditions are as follows:

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

[¶] . . . [¶]

7. **Examination.** Within sixty (60) days from the effective date of the decision, Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

8. **Ethics Course.** Within one (1) year from the effective date of the decision, Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee.

9. **Notification.** Within thirty (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 relating to professional civil engineering or land surveying services 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, the Respondent may be required to provide the same notification of each new person or entity with whom he has a contractual or employment relationship relating to professional civil engineering or land surveying services and shall report to the Board the name and address of each person or entity so notified.

10. **Restitution.** Within one (1) year from the effective date of the decision, Respondent shall provide the board with verifiable proof that he has paid restitution in the following amounts to the following individuals identified by their initials and their corresponding projects below. Payment shall be made directly to these consumers:

a. \$1,500.00 to M.J., in re Plaza Boulevard project;

b. In re Redwood & India Streets project:

(1) \$996.43 to J.S.; &

(2) \$553.57 to T.T.;

c. \$1,050.00 to F.F., in re Robledo project;

d. \$2,500.00 to T.R., in re "J" and 42nd Streets project, less any garnishment or payments that have occurred.

e. \$650.00 to M.A.A., in re East Lane project; &

f. \$650.00 to P.C.-T., in re "J" & 41st Streets project

5. To date, despite being fully aware of each and every condition of probation, respondent has not complied with Condition Nos. 7, 8, 9, or 10.

6. On January 5, 2021, complainant filed a Petition to Revoke Probation (Petition) against respondent, alleging the failure to comply with Condition Nos. 7, 8, 9, and 10 as four separate causes to revoke respondent's probation. Respondent failed to respond to the Petition.

7. The board entered a Default Decision and Order against respondent concerning the Petition, effective May 6, 2021. Respondent submitted a Petition for Reconsideration pursuant to Government Code section 11521. The board found good cause to set aside the Default Decision and Order and the matter was set for hearing.

8. Respondent did not submit any exhibits in this matter.

9. Respondent's testimony is summarized as follows: Respondent believed that the board was generous by placing him on probation to begin with, and he has not had any clients since being placed on probation. He has been working for a private contractor on the California High Speed Rail project, and does not need to be individually licensed to do the job he is doing (party chief), although, he would like to

keep his license because he feels if he did not have a license he would be terminated. Respondent has had personal situations going on in his life since being placed on probation involving his nephew and brother. Specifically, he is raising his nephew and trying to stay away from his brother, who is a felon, and who has threatened great bodily injury against him. His brother has been trying to track him down throughout the state. Because respondent has moved out of San Diego, where he lived when the discipline occurred, he did receive some communications from the board. Nonetheless, he admits that he was aware of the probationary conditions. He sought relief from default because he wants to have his wages garnished to pay the owed restitution, as he no longer has any contact information for his former clients. As far as the ethics course, he was not sure how to proceed, but he has recently contacted the board to figure out how to proceed. Respondent did not provide any further information, other than to say he has been preoccupied with his personal situation and not the conditions of probation.

LEGAL CONCLUSIONS

1. The burden of proof for all of the allegations made in the Petition rests upon the board and requires the Board to prove the allegations by a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1442; Evid. Code, § 115; 500.)

2. Cause exists to revoke respondent's probation. Respondent is in violation of Condition Nos. 7, 8, 9, and 10. He did not take the required examination within 60 days of the effective date of the underlying decision and order, did not take the required ethics course within one year of the of the effective date of the underlying

decision and order, did not comply with the notification provisions, and did not make restitution to four individuals as required.

3. While respondent's situation in his personal life may have made it difficult for him to focus on his responsibilities as a licensee on probation, respondent has been on probation since September 13, 2019. Respondent has had two years to not only comply with the applicable conditions, but he could have contacted the board and communicated what difficulties, if any, he had with compliance. The board places errant licensees on probation in order to not only protect the public but also to monitor the licensee's activities to ensure compliance. Probation is, in essence, a second chance for a licensee to prove to the board that continued licensure is appropriate. Respondent has not lived up to his end of the stipulated settlement. Accordingly, this leaves the board with no choice but to revoke probation.

ORDER

The Petition to Revoke Probation is granted. Land Surveyor License No. L 9214, issued to respondent Vincent Januszewski, is revoked. As a condition precedent to reinstatement of respondent's license, should he ever petition for reinstatement, he shall ensure he pays all costs to the board as well as all restitution to the four clients stated in the board's September 19, 2019, Decision and Order. If respondent does not have the contact information for those to whom he owes restitution at the time he seeks reinstatement, the board shall provide the most recent contact information for each person to whom restitution is owed and provide it to respondent so that he is able to make restitution. If respondent makes a good faith effort to make restitution, but is unable to obtain the contact information from the board (or otherwise find the

individuals himself), the failure to make restitution shall not be a sole basis to deny reinstatement.

DATE: November 24, 2021

Original Signed

KIMBERLY J. BELVEDERE

Administrative Law Judge

Office of Administrative Hearings

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Attorneys for Complainant
8

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

14 In the Matter of the Petition to Revoke
Probation Against:

Case No. 1169-A

15 **VINCENT JANUSZEWSKI**
16 **678 Rue Avallon**
Chula Vista, CA 91913

PETITION TO REVOKE PROBATION

17 **Land Surveyor License No. L 9214**

18 Respondent.

19
20 **PARTIES**

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

24 **License History**

25 2. On or about May 28, 2015, the Board issued Land Surveyor License Number L 9214
26 to Vincent Januszewski (Respondent). The Land Surveyor License expired on September 30,
27 2019 and has not been renewed.

28 ///

1 **Prior Discipline**

2 3. In a disciplinary action titled *In the Matter of the First Amended Accusation Against:*
3 *Vincent Januszewski*, Case No. 1169-A, the Board issued a Decision, effective September 13,
4 2019, wherein Respondent’s Land Surveyor License No. L 9214 was revoked. The revocation
5 was stayed, however, and Respondent’s license was placed on probation for a period of three (3)
6 years under certain terms and conditions. A copy of that decision is attached as Exhibit A and is
7 incorporated herein by reference.

8 **JURISDICTION**

9 4. This Petition to Revoke Probation is brought before the Board under Probation Term
10 and Condition Number 4 of the Decision in *In the Matter of the First Amended Accusation*
11 *Against: Vincent Januszewski*, Case No. 1169-A, referenced in paragraph 3, above. That
12 condition states:

13 **Violation of Probation.** If Respondent violates the probationary conditions in
14 any respect, the Board, after giving the Respondent notice and the opportunity to be
15 heard, may vacate the stay and reinstate the disciplinary order which was stayed. If,
16 during the period of probation, an Accusation or Petition to Vacate Stay is filed
17 against the Respondent, or if the matter has been submitted to the Office of the
 Attorney General for the filing of such, the Board shall have continuing jurisdiction
 until all matters are final, and the period of probation shall be extended until all
 matters are final.

18 5. On or about December 4, 2019, Respondent was notified of his failure to comply with
19 the requirements of his probation and that pursuant to Condition 4, a violation of any of the
20 probationary conditions is cause for the Board to pursue action to revoke Respondent’s probation
21 and impose the revocation of his license which was stayed. Grounds exist to revoke
22 Respondent’s probation because he violated the conditions of his probation as set forth below.
23 The matter was submitted to the Office of the Attorney General on or about September 29, 2020.

24 **FIRST CAUSE TO REVOKE PROBATION**

25 **(Examination)**

26 6. At all times after the effective date of Respondent’s probation, Condition 7 stated:

27 **Examination.** Within sixty (60) days from the effective date of the decision,
28 Respondent shall successfully complete and pass the California Laws and Board
 Rules examination, as administered by the Board.

1 7. Respondent’s probation is subject to revocation because he failed to comply with
2 Probation Condition 7, referenced above, in that Respondent failed to submit proof of successful
3 completion of the examination entitled “California Laws and Board Rules” by November 12,
4 2019, as required.

5 **SECOND CAUSE TO REVOKE PROBATION**

6 **(Ethics Course)**

7 8. At all times after the effective date of Respondent’s probation, Condition 8 stated:

8 **Ethics Course.** Within one (1) year from the effective date of the decision,
9 Respondent shall successfully complete and pass a course in professional ethics,
approved in advance by the Board or its designee.

10 9. Respondent’s probation is subject to revocation because he failed to comply with
11 Probation Condition 8, referenced above, in that Respondent failed to submit proof of successful
12 completion of a Board approved ethics course by September 13, 2020, as required.

13 **THIRD CAUSE TO REVOKE PROBATION**

14 **(Notification)**

15 10. At all times after the effective date of Respondent’s probation, Condition 9 stated:

16 **Notification.** Within thirty (30) days of the effective date of the decision,
17 Respondent shall provide the Board with evidence that he has provided all persons or
18 entities with whom he has a contractual or employment relationship relating to
19 professional civil engineering or land surveying services with a copy of the decision
and order of the Board and shall provide the Board with the name and business
20 address of each person or entity required to be so notified. During the period of
21 probation, the Respondent may be required to provide the same notification of each
new person or entity with whom he has a contractual or employment relationship
relating to professional civil engineering or land surveying services and shall report to
the Board the name and address of each person or entity so notified.

22 11. Respondent’s probation is subject to revocation because he failed to comply with
23 Probation Condition 9, referenced above, in that Respondent failed to provide the Board with the
24 name and business address of each person or entity that he has a contractual or employment
25 relationship with, and proof that he provided these individuals with a copy of the Board’s
26 decision and order by October 13, 2019, as required.

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1 **FOURTH CAUSE TO REVOKE PROBATION**

2 **(Restitution)**

3 12. At all times after the effective date of Respondent’s probation, Condition 10 stated:

4 **Restitution.** Within one (1) year from the effective date of the decision,
5 Respondent shall provide the Board with verifiable proof that he has paid restitution
6 in the following amounts to the following individuals identified by their initials and
7 their corresponding projects below. Payment shall be made directly to these
8 consumers:

9 a. \$1,500.00 to M.J., in re Plaza Boulevard project;

10 b. In re Redwood & India Streets project:

11 (1) \$996.43 to J.S.; &

12 (2) \$553.57 to T.T.;

13 c. \$1,050.00 to F.F., in re Robledo project;

14 d. \$2,500.00 to T.R., in re “J” & 42nd Streets project, less any garnishment or
15 payments that have occurred.

16 e. \$650.00 to M.A.A., in re East Lane project; &

17 f. \$650.00 to P.C.-T., in re “J” & 41st Streets project.

18 13. Respondent’s probation is subject to revocation because he failed to comply with
19 Probation Condition 10, referenced above, in that Respondent failed to provide the Board with
20 proof of paid restitution by September 13, 2020, as required.

21 **PRAYER**

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

25 1. Revoking the probation that was granted by the Board for Professional Engineers,
26 Land Surveyors, and Geologists in Case No. 1169-A and imposing the disciplinary order that was
27 stayed, thereby revoking Land Surveyor License No. L 9214 issued to Respondent Vincent
28 Januszewski;

2. Revoking or suspending Land Surveyor License No. L 9214, issued to Respondent
Vincent Januszewski; and

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

DATED: 01/05/2021

Original Signed

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

SD2020801384
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Exhibit A

Decision and Order in Case No. 1169-A

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:)	
)	
VINCENT JANUSZEWSKI)	Case No. 1169-A
678 Rue Avallon)	
Chula Vista, CA 91913)	
)	
Land Surveyor License, No. L 9214,)	
)	
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 September 13, 2019.

IT IS SO ORDERED August 8, 2019.

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 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 ALAN MACINA
Deputy Attorney General
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6 San Diego, CA 92186-5266
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E-mail: Alan.Macina@doj.ca.gov
8 *Attorneys for Complainant*

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

13
14 In the Matter of the First Amended Accusation
15 Against:

16 **VINCENT JANUSZEWSKI**
17 **678 Rue Avallon**
Chula Vista, CA 91913

18 **Land Surveyor License No. L 9214**

19 Respondent.

Case No. 1169-A

OAH No. 2018120379

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 Geologists (Board). He brought this action solely in
25 his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the
26 State of California, by Alan Macina, Deputy Attorney General.

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

1 3. On or about May 28, 2015, the Board issued Land Surveyor License No. L 9214 to
2 Vincent Januszewski (Respondent). The Land Surveyor License was in full force and effect at all
3 times relevant to the charges brought in First Amended Accusation No. 1169-A, and will expire
4 on September 30, 2019, unless renewed.

5 JURISDICTION

6 4. First Amended Accusation No. 1169-A was filed before the Board and is currently
7 pending against Respondent. The First Amended Accusation and all other statutorily required
8 documents were properly served on Respondent on October 17, 2018. Respondent timely filed
9 his Notice of Defense contesting the First Amended First Amended Accusation.

10 5. A copy of First Amended Accusation No. 1169-A is attached as Exhibit A and
11 incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, and understands the charges and allegations in First
14 Amended Accusation No. 1169-A. Respondent has also carefully read, and understands the
15 effects of this Stipulated Settlement and Disciplinary Order.

16 7. 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 First Amended Accusation; the right to be
18 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
19 against him; the right to present evidence and to testify on his own behalf; the right to the
20 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
21 the right to reconsideration and court review of an adverse decision; and all other rights accorded
22 by the California Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 9. Respondent admits the truth of each and every charge and allegation in First
27 Amended Accusation No. 1169-A.

28 ///

DISCIPLINARY ORDER

1
2 IT IS HEREBY ORDERED that Land Surveyor License No. L 9214 issued to Respondent
3 Vincent Januszewski is revoked. However, the revocation is stayed and Respondent is placed on
4 probation for three (3) years on the following terms and conditions:

5 1. **Obey All Laws.** Respondent shall obey all federal, state, and local laws and
6 regulations related to the practices of professional engineering and land surveying.

7 2. **Submit Reports.** Respondent shall submit such special reports as the Board may
8 require.

9 3. **Tolling of Probation.** The period of probation shall be tolled during the time the
10 Respondent is practicing exclusively outside the state of California. If, during the period of
11 probation, Respondent practices exclusively outside the state of California, the Respondent shall
12 immediately notify the Board in writing.

13 4. **Violation of Probation.** If Respondent violates the probationary conditions in any
14 respect, the Board, after giving the Respondent notice and the opportunity to be heard, may
15 vacate the stay and reinstate the disciplinary order which was stayed. If, during the period of
16 probation, an Accusation or Petition to Vacate Stay is filed against the Respondent, or if the
17 matter has been submitted to the Office of the Attorney General for the filing of such, the Board
18 shall have continuing jurisdiction until all matters are final, and the period of probation shall be
19 extended until all matters are final.

20 5. **Completion of Probation.** Upon successful completion of all of the probationary
21 conditions and the expiration of the period of probation, Respondent's Land Surveyor License
22 No. L 9214 shall be unconditionally restored.

23 6. **Cost Recovery.** Within two and one-half (2½) years from the effective date of the
24 decision, Respondent shall reimburse the Board for its investigative and enforcement costs in this
25 matter in the amount charged by the Office of the Attorney General up to the date of this
26 settlement offer (\$22,817.50). Payment may be made in installments.

27 7. **Examination.** Within sixty (60) days from the effective date of the decision,
28 Respondent shall successfully complete and pass the California Laws and Board Rules

1 examination, as administered by the Board.

2 8. **Ethics Course.** Within one (1) year from the effective date of the decision,
3 Respondent shall successfully complete and pass a course in professional ethics, approved in
4 advance by the Board or its designee.

5 9. **Notification.** Within thirty (30) days of the effective date of the decision,
6 Respondent shall provide the Board with evidence that he has provided all persons or entities with
7 whom he has a contractual or employment relationship relating to professional civil engineering
8 or land surveying services with a copy of the decision and order of the Board and shall provide
9 the Board with the name and business address of each person or entity required to be so notified.
10 During the period of probation, the Respondent may be required to provide the same notification
11 of each new person or entity with whom he has a contractual or employment relationship relating
12 to professional civil engineering or land surveying services and shall report to the Board the name
13 and address of each person or entity so notified.

14 10. **Restitution.** Within one (1) year from the effective date of the decision, Respondent
15 shall provide the Board with verifiable proof that he has paid restitution in the following amounts
16 to the following individuals identified by their initials and their corresponding projects below.
17 Payment shall be made directly to these consumers:

- 18 a. \$1,500.00 to M.J., in re Plaza Boulevard project;
- 19 b. In re Redwood & India Streets project:
 - 20 (1) \$996.43 to J.S.; &
 - 21 (2) \$553.57 to T.T.;
- 22 c. \$1,050.00 to F.F., in re Robledo project;
- 23 d. \$2,500.00 to T.R., in re "J" & 42nd Streets project, less any garnishment or payments
24 that have occurred.
- 25 e. \$650.00 to M.A.A., in re East Lane project; &
- 26 f. \$650.00 to P.C.-T., in re "J" & 41st Streets project.

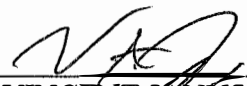
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ACCEPTANCE

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 I agree to be bound by the Decision and Order of the Board for Professional Engineers, Land Surveyors, and Geologists.

DATED: 6/10/19 
VINCENT JANUSZEWSKI
Respondent

ENDORSEMENT

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

Dated: June 18, 2019

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
Original Signed
ALAN MACINA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 1169-A

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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 1169-A

14 **VINCENT JANUSZEWSKI**
15 **678 Rue Avallon**
Chula Vista, CA 91913
16
17 **Land Surveyor License No. L 9214**

FIRST AMENDED
ACCUSATION

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about May 28, 2015, the Board issued Land Surveyor License Number L 9214
25 to Vincent Januszewski (Respondent). The Land Surveyor License was in full force and effect at
26 all times relevant to the charges brought herein and will expire on September 30, 2019 unless
27 renewed.

28 ///

1 **JURISDICTION**

2 3. This First Amended Accusation is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code (Code) unless
4 otherwise 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/Registrar/Director of
7 jurisdiction to proceed with a disciplinary action during the period within which the license may
8 be renewed, restored, reissued or reinstated.

9 **STATUTORY PROVISIONS**

10 5. Section 8759 of the Code states, in part:

11 (a) A licensed land surveyor or licensed civil engineer authorized to
12 practice land surveying shall use a written contract when contracting to provide
13 professional services to a client pursuant to this chapter. The written contract
14 shall be executed by the licensed land surveyor or licensed civil engineer and the
15 client or the client’s representative prior to the licensed land surveyor or licensed
16 civil engineer commencing work, unless the client knowingly states in writing
17 that work may be commenced before the contract is executed. The written
18 contract shall include, but not be limited to, all of the following:

16 . . .

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

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

19 . . .

20 (c) “Written contract” as used in this section includes a contract that is in
21 electronic form.

22 6. Section 8762 of the Code states:

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

26 (b) Notwithstanding subdivision (a), after making a field survey in
27 conformity with the practice of land surveying, the licensed land surveyor or
28 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

1 not appear on any subdivision map, official map, or record of survey previously
2 recorded or properly filed in the office of the county recorder or county surveying
3 department, or map or survey record maintained by the Bureau of Land
4 Management of the United States.

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

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

16 (4) The location, relocation, establishment, reestablishment, or
17 of one or more points or lines not shown on any subdivision map,
18 official map, or record of survey, the positions of which are not ascertainable
19 from an inspection of the subdivision map, official map, or record of survey.

20 (5) The points or lines set during the performance of a field survey of any
21 parcel described in any deed or other instrument of title recorded in the county
22 recorder’s office are not shown on any subdivision map, official map, or record of
23 survey.

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

28 (d)(1) If the 90-day time limit contained in subdivision (c) cannot be
complied with for reasons beyond the control of the licensed land surveyor or
licensed civil engineer, the 90-day time period shall be extended until the time at
which the reasons for delay are eliminated. If the licensed land surveyor or
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 8780 of the Code states, in part:

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

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

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

8 . . .

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

10

11 8. Section 8780.2, subdivision (a), of the Code states, in part:

12 (a) The failure of, or refusal by, a licensee or a certificate holder to respond
13 to a written request from a representative of the board to cooperate in the
14 investigation of a complaint against that licensee or certificate holder constitutes a
cause for disciplinary action under Section 8780 or 8780.1.

15 **REGULATORY PROVISIONS**

16 9. Section of 416 of Title 16 of the Code of Regulations section 416 states, in part:

17 For the purpose of denial, suspension, or revocation of the license of a
18 professional engineer or a land surveyor pursuant to Division 1.5 (commencing
19 with Section 475) of the Business and Professions Code, a crime or act shall be
20 considered substantially related to the qualifications, functions, and duties of a
21 professional engineer or land surveyor if, to a substantial degree, it evidences
present or potential unfitness of a professional engineer or land surveyor to
perform the functions authorized by his or her license in a manner consistent with
the public health, safety, or welfare. Such crimes or acts shall include, but not be
limited to, those involving the following:

22 (a) For professional engineers, any violations of the provisions of the
23 Professional Engineers Act or aiding and abetting any person in such a violation;

24 (b) For land surveyors, any violations of the provisions of the
25 Professional Land Surveyors Act or aiding and abetting any person in such a
violation;

26

27 10. Section 473.3, subdivision (b), of Title 16 of the Code of Regulations states:

28 (a) If a cited person who has been issued an order of abatement is unable

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

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

9 (c) If the cited person fails to pay all of the assessed fine within the time
10 allowed, the balance due for the fine shall be added to the renewal fee for the
11 license, and the license shall not be renewed until the fine is paid in full.

12 (d) If a hearing as provided in Section 473.2(a) is not requested, payment
13 of the fine shall not constitute an admission of the violation charged.

14 (e) Payment of the fine shall be represented as satisfactory resolution of
15 the matter for purposes of public disclosure.

16 **COST & RESTITUTION RECOVERY**

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

21 12. Government Code section 11519.1 allows any decision rendered against a licensee to
22 include an order of restitution for any financial loss or damage found to have been suffered by a
23 person in the case.

24 **I.**

25 **PLAZA BOULEVARD PROJECT, CITY OF NATIONAL CITY**

26 13. Respondent, a licensed land surveyor, entered into a written contract in February
27 2016 with the landowner to survey the landowner's property located at 1700 E. Plaza Boulevard,
28 National City, California. Respondent agreed to perform the following: field surveying, setting
property corner monuments, topographic map preparation, and filing of the Record of Survey.
The contract did not include the name and address of the client; a description of the procedure to
be used to accommodate additional services; or a description of the procedure to be used for both
parties to terminate the contract. Respondent had set property corners at the site by May 2016,
but Respondent never filed a Record of Survey for the work he performed on Plaza Boulevard.

1 14. On January 5, 2017, the Board issued Citation Order 10454-L, citing Respondent for:
2 the deficiencies in his contract for survey under section 8759, subdivision (a)(3), (4), and (5); his
3 failure to file a Record of Survey for the property within ninety days of completion of the field
4 survey or setting of monuments (whichever occurs first) under section 8762, subdivision (c); and
5 for his breach of contract for not completing the work he contracted for, under section 8780,
6 subdivision (g). The Board also ordered Respondent abate the contract deficiencies, to file the
7 Record of Survey, and to pay an administrative fine of \$2,500.00. Respondent paid the fine in
8 August 2017. Respondent did not appeal the Citation and it became a final order. As of October
9 17, 2017, Respondent has not filed the Record of Survey.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Failure of Cited Person to Abate the Violation)**

12 15. Respondent has subjected his license to disciplinary action under section 8780,
13 subdivision (d), for violation of section 473.3, subdivision (b) of title 16 of the Code of
14 Regulations, in that he was cited and failed to abate the violation by filing the Record of Survey
15 as ordered as set forth in paragraphs 13 and 14 above, which is incorporated by reference and
16 alleged as if fully set forth herein.

17 **II.**

18 **REDWOOD STREET & INDIA STREET PROJECT, CITY OF SAN DIEGO**

19 16. Respondent provided a proposal in March 2017 to another landowner to survey and to
20 prepare topographical maps of three parcels located at the easterly corner of Redwood and India
21 Streets in San Diego, California, parcel numbers 451-631-01, -02, and -10. The proposal
22 specified the payment plan and deposit amount. Via two payments in May and June, 2017, the
23 landowner paid the deposit amount of \$1,550.00 by two checks to Respondent. The landowner
24 signed the proposal on June 2, 2017 and personally gave it to Respondent at a meeting that day, at
25 which Respondent said the work would take approximately two to three weeks to complete.

26 17. The signed proposal did not include a description of the procedure that the surveyor
27 and the client would use to accommodate additional services. Also, the signed proposal did not
28 include a description of the procedure that the parties would use to terminate the contract.

1 18. Since approximately July 1, 2017 (about one month after the proposal was signed and
2 the deposit was paid) and through approximately October 14, 2017, Respondent has not
3 responded to any of the landowner's many calls, texts, or e-mails. As of October 14, 2017,
4 Respondent has not delivered any survey or map. In October 2017, the landowner contacted the
5 Board about his complaint against Respondent. The landowner continued to attempt to reach
6 Respondent but, as of April 5, 2018, had received no response from him.

7 19. The Board contacted Respondent by letter sent to Respondent's address-of-record
8 with the Board on December 4, 2017 and described the landowner's complaint. The Board
9 requested a written response by January 5, 2018.

10 20. By March 2018, the Board had not received a response from Respondent. The Board
11 then contacted Respondent by a letter titled "Final Request" sent by regular mail and by certified
12 mail to Respondent's address-of-record with the Board on March 12, 2018 and again described
13 the landowner's complaint. The Board requested a written response by April 2, 2018. As of
14 April 6, 2018, Respondent had not contacted the Board. The March 12, 2018 certified letter from
15 the Board was returned to the Board as "unclaimed" on or about April 3, 2018.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Breach of Contract to Provide Land Surveying Services)**

18 21. Respondent has subjected his license to disciplinary action under section 8780,
19 subdivision (g), in that he breached a contract to provide land surveying services as set forth in
20 paragraphs 16 through 20 above, which is incorporated by reference and alleged as if fully set
21 forth herein.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Failure to Include a Description of the Procedure to be Used for Additional Services)**

24 22. Respondent has subjected his license to disciplinary action under section 8759,
25 subdivision (a)(4), in that he failed to describe in his written contract the procedure that the
26 surveyor and the client would use to accommodate additional services, as set forth in paragraphs
27 16 through 20 above, which is incorporated by reference and alleged as if fully set forth herein.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Include a Description of the Procedure to be Used for Contract Termination)**

3 23. Respondent has subjected his license to disciplinary action under section 8759,
4 subdivision (a)(5), in that he failed to describe in his written contract the procedure that the
5 surveyor and the client would use to terminate the contract, as set forth in paragraphs 16 through
6 20 above, which is incorporated by reference and alleged as if fully set forth herein.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure or Refusal to Respond to an Investigation)**

9 24. Respondent has subjected his license to disciplinary action under section 8780.2,
10 subdivision (a), in that he failed or refused to respond to a written request from a representative of
11 the Board in the investigation of a complaint against him as a licensee as set forth in paragraphs
12 16 through 20 above, which is incorporated by reference and alleged as if fully set forth herein.

13 **III.**

14 **ROBLEDO PROJECT, CITY OF MISSION VIEJO**

15 25. On or about November 27, 2017, through e-mail, Respondent agreed with a client to
16 establish property lines, set corner points, and produce a topographical report and drawings and
17 file the survey with the county for the client’s home in Mission Viejo. Respondent agreed to a
18 price of \$1,300.00.

19 26. Respondent first arrived at the property on or about November 29, 2017 and began
20 the work without a written contract. That day, the client made a partial payment of \$650.00.
21 Respondent returned on or about December 5, 2017 to continue the work. That day, the client
22 paid him \$400.00. Respondent said that only one corner point remained to be set and that he
23 would return in two to three days to complete the work and deliver the promised documents and
24 then file the survey with the county. The client offered to pay the balance of \$250.00 when those
25 final tasks were complete.

26 27. Respondent did not return in two to three days as promised. The client called and e-
27 mailed but Respondent did not answer. On or about January 24, 2018, the client complained to
28 the Board and said that he had not heard back from Respondent since Respondent e-mailed the

1 client on or about December 27, 2017 to say that he had been ill and was behind in his work. As
2 of October 2018, no record of a survey had been filed with the county.

3 28. In an April 10, 2018 letter to Respondent's address-of-record, the Board informed
4 Respondent of the complaint and circumstances and requested a response by May 10, 2018.
5 Respondent did not respond. The letter was not returned as undeliverable.

6 29. In a May 24, 2018 certified mail letter to Respondent's address-of-record, the Board
7 again informed Respondent of the complaint and circumstances and requested a response by June
8 14, 2018. Respondent did not respond. The certified letter from the Board was returned to the
9 Board as "unclaimed" on or about July 10, 2018.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(No Written Contract)**

12 30. Respondent has subjected his license to disciplinary action under section 8759,
13 subdivision (a), in that he breached a contract to provide land surveying services as set forth in
14 paragraphs 25 through 29 above, which is incorporated by reference and alleged as if fully set
15 forth herein.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Include a Description of the Procedure to be Used for Additional Services)**

18 31. Respondent has subjected his license to disciplinary action under section 8759,
19 subdivision (a)(4), in that he failed to describe in his written contract the procedure that the
20 surveyor and the client would use to accommodate additional services, as set forth in paragraphs
21 25 through 29 above, which is incorporated by reference and alleged as if fully set forth herein.

22 **EIGHTH CAUSE FOR DISCIPLINE**

23 **(Failure to Include a Description of the Procedure to be Used for Contract Termination)**

24 32. Respondent has subjected his license to disciplinary action under section 8759,
25 subdivision (a)(5), in that he failed to describe in his written contract the procedure that the
26 surveyor and the client would use to terminate the contract, as set forth in paragraphs 25 through
27 29 above, which is incorporated by reference and alleged as if fully set forth herein.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Breach of Contract to Provide Land Surveying Services)**

3 33. Respondent has subjected his license to disciplinary action under section 8780,
4 subdivision (g), in that he breached a contract to provide land surveying services as set forth in
5 paragraphs 25 through 29 above, which is incorporated by reference and alleged as if fully set
6 forth herein.

7 **TENTH CAUSE FOR DISCIPLINE**

8 **(Failure or Refusal to Respond to an Investigation)**

9 34. Respondent has subjected his license to disciplinary action under section 8780.2,
10 subdivision (a), in that he failed or refused to respond to a written request from a representative of
11 the Board in the investigation of a complaint against him as a licensee as set forth in paragraphs
12 25 through 29 above, which is incorporated by reference and alleged as if fully set forth herein.

13 **IV**

14 **“J” STREET & 42nd STREET PROJECT, CITY OF SAN DIEGO**

15 35. On or about November 24, 2017, Respondent delivered a contract to the developer of
16 a property at “J” Street and 42nd Avenue in San Diego to conduct a field survey of the project site
17 to locate the site boundaries and produce a topographic survey map. On or about December 5,
18 2017, the developer agreed to pay \$5,600.00 for the surveying and mapping and paid a deposit
19 required by the contract of \$2,500.00 to Respondent.

20 36. On or about December 7, 2017, Respondent told the developer that he had started the
21 survey and needed a copy of the title report. From that date through December 31, 2017, the
22 developer requested updates from Respondent. Once during December Respondent assured the
23 developer that he would complete the work immediately.

24 37. Over January and February of 2018, the developer had his architect contact
25 Respondent to no avail. Eventually the three (the developer, the architect, and Respondent) held
26 a conference call, but Respondent delivered no work product.

27 38. The developer complained to the Board in March 2018 that Respondent’s inaction
28 delayed development of the property and, in turn, caused lost profits on the project. The

1 developer also retained counsel to pursue a civil suit to recover the deposit amount.

2 39. In an April 10, 2018 letter to Respondent's address-of-record, the Board informed
3 Respondent of the complaint and circumstances and requested a response by May 10, 2018.
4 Respondent did not respond. The letter was not returned as undeliverable.

5 40. In a May 24, 2018 certified mail letter to Respondent's address-of-record, the Board
6 again informed Respondent of the complaint and circumstances and requested a response by June
7 14, 2018. Respondent did not respond. The certified letter from the Board was returned to the
8 Board as "unclaimed" on or about July 10, 2018.

9 **ELEVENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Include a Description of the Procedure to be Used for Additional Services)**

11 41. Respondent has subjected his license to disciplinary action under section 8759,
12 subdivision (a)(4), in that he failed to describe in his written contract the procedure that the
13 surveyor and the client would use to accommodate additional services, as set forth in paragraphs
14 35 through 40 above, which is incorporated by reference and alleged as if fully set forth herein.

15 **TWELFTH CAUSE FOR DISCIPLINE**

16 **(Failure to Include a Description of the Procedure to be Used for Contract Termination)**

17 42. Respondent has subjected his license to disciplinary action under section 8759,
18 subdivision (a)(5), in that he failed to describe in his written contract the procedure that the
19 surveyor and the client would use to terminate the contract, as set forth in paragraphs 35 through
20 40 above, which is incorporated by reference and alleged as if fully set forth herein.

21 **THIRTEENTH CAUSE FOR DISCIPLINE**

22 **(Breach of Contract to Provide Land Surveying Services)**

23 43. Respondent has subjected his license to disciplinary action under section 8780,
24 subdivision (g), in that he breached a contract to provide land surveying services as set forth in
25 paragraphs 35 through 40 above, which is incorporated by reference and alleged as if fully set
26 forth herein.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure or Refusal to Respond to an Investigation)**

3 44. Respondent has subjected his license to disciplinary action under section 8780.2,
4 subdivision (a), in that he failed or refused to respond to a written request from a representative of
5 the Board in the investigation of a complaint against him as a licensee as set forth in paragraphs
6 35 through 40 above, which is incorporated by reference and alleged as if fully set forth herein.

7 **V.**

8 **EAST LANE PROJECT, CITY OF IMPERIAL BEACH**

9 45. Respondent met with the East Lane property owner in Imperial Beach or about
10 December 21, 2017 to assess the surveying project. Respondent walked the property and
11 provided a proposal for surveying and mapping services at a total price of \$1,300.00. The owner
12 agreed and paid Respondent a \$650.00 deposit. Respondent said the work would be completed
13 within two weeks.

14 46. About a week later, Respondent informed the owner that the work would take longer
15 than stated. As time went on, the owner tried to reach Respondent by phone and e-mail but
16 Respondent did not respond. On or about March 21, 2018, Respondent complained to the Board.
17 As of October 2018, no record of a survey had been filed with the county.

18 47. In an April 20, 2018 letter to Respondent’s address-of-record, the Board informed
19 Respondent of the complaint and circumstances and requested a response by May 21, 2018.
20 Respondent did not respond. The letter was not returned as undeliverable.

21 48. In a May 24, 2018 certified mail letter to Respondent’s address-of-record, the Board
22 again informed Respondent of the complaint and circumstances and requested a response by June
23 14, 2018. Respondent did not respond. The certified letter from the Board was returned to the
24 Board as “unclaimed” on or about July 10, 2018.

25 **FIFTEENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Include a Description of the Procedure to be Used for Additional Services)**

27 49. Respondent has subjected his license to disciplinary action under section 8759,
28 subdivision (a)(4), in that he failed to describe in his written contract the procedure that the

1 surveyor and the client would use to accommodate additional services, as set forth in paragraphs
2 45 through 48 above, which is incorporated by reference and alleged as if fully set forth herein.

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Include a Description of the Procedure to be Used for Contract Termination)**

5 50. Respondent has subjected his license to disciplinary action under section 8759,
6 subdivision (a)(5), in that he failed to describe in his written contract the procedure that the
7 surveyor and the client would use to terminate the contract, as set forth in paragraphs 45 through
8 48 above, which is incorporated by reference and alleged as if fully set forth herein.

9 **SEVENTEENTH CAUSE FOR DISCIPLINE**

10 **(Breach of Contract to Provide Land Surveying Services)**

11 51. Respondent has subjected his license to disciplinary action under section 8780,
12 subdivision (g), in that he breached a contract to provide land surveying services as set forth in
13 paragraphs 45 through 48 above, which is incorporated by reference and alleged as if fully set
14 forth herein.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure or Refusal to Respond to an Investigation)**

17 52. Respondent has subjected his license to disciplinary action under section 8780.2,
18 subdivision (a), in that he failed or refused to respond to a written request from a representative of
19 the Board in the investigation of a complaint against him as a licensee as set forth in paragraphs
20 45 through 48 above, which is incorporated by reference and alleged as if fully set forth herein.

21 **VI.**

22 **“J” STREET & 41st STREET PROJECT, CITY OF SAN DIEGO**

23 53. In November 2017, the owner of a property on “J” Street in San Diego contracted
24 with Respondent for surveying and topography of the property for a total price of \$2,700.00. In
25 December 2017, the owner paid Respondent the \$1,000.00 deposit called for in the contract.

26 54. In one instance, Respondent appeared at the property with his equipment and told the
27 owner that the project would take one week to complete. Thereafter the owner could not reach
28 Respondent by phone and Respondent did not answer the owner’s e-mails.

1 55. About three months later, in March 2018, Respondent e-mailed the owner and said
2 that he had been hospitalized but intended to complete the project. Some two months later he had
3 not completed the job. The owner complained to the Board on or about June 14, 2018.

4 56. In a June 27, 2018 certified mail letter to Respondent's address-of-record, the Board
5 again informed Respondent of the complaint and circumstances and requested a response by June
6 14, 2018. Also on June 27, 2018, the Board delivered the same letter to Respondent via e-mail.
7 The letter was not returned to the Board as undeliverable. Respondent did not contact the Board.

8 **NINETEENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Include a Description of the Procedure to be Used for Additional Services)**

10 57. Respondent has subjected his license to disciplinary action under section 8759,
11 subdivision (a)(4), in that he failed to describe in his written contract the procedure that the
12 surveyor and the client would use to accommodate additional services, as set forth in paragraphs
13 53 through 56 above, which is incorporated by reference and alleged as if fully set forth herein.

14 **TWENTIETH CAUSE FOR DISCIPLINE**

15 **(Failure to Include a Description of the Procedure to be Used for Contract Termination)**

16 58. Respondent has subjected his license to disciplinary action under section 8759,
17 subdivision (a)(5), in that he failed to describe in his written contract the procedure that the
18 surveyor and the client would use to terminate the contract, as set forth in paragraphs 53 through
19 56 above, which is incorporated by reference and alleged as if fully set forth herein.

20 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

21 **(Breach of Contract to Provide Land Surveying Services)**

22 59. Respondent has subjected his license to disciplinary action under section 8780,
23 subdivision (g), in that he breached a contract to provide land surveying services as set forth in
24 paragraphs 53 through 56 above, which is incorporated by reference and alleged as if fully set
25 forth herein.

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1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

2 **(Failure or Refusal to Respond to an Investigation)**

3 60. Respondent has subjected his license to disciplinary action under section 8780.2,
4 subdivision (a), in that he failed or refused to respond to a written request from a representative of
5 the Board in the investigation of a complaint against him as a licensee as set forth in paragraphs
6 53 through 56 above, which is incorporated by reference and alleged as if fully set forth herein.

7 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

8 **(Negligence or Incompetence in Surveying Practice)**

9 61. Respondent has subjected his license to disciplinary action under section 8780,
10 subdivision (b), in that he acted negligently or incompetently in his practice of land surveying, as
11 set forth in paragraphs 16 through 20, 25 through 29, 35 through 40, 45 through 49, and 53
12 through 56 above, which are incorporated by reference and alleged as if fully set forth herein.

13 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

14 **(Fraud, Deceit, or Misrepresentation in Surveying Practice)**

15 62. Respondent has subjected his license to disciplinary action under section 8780,
16 subdivision (b), in that he committed fraud, deceit, or misrepresentation in his practice of land
17 surveying, as set forth in paragraphs 16 through 20, 25 through 29, 35 through 40, 45 through 49,
18 and 53 through 56 above, which are incorporated by reference and alleged as if fully set forth
19 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, Land Surveyors, and
23 Geologists issue a decision:

24 1. Revoking or suspending Land Surveyor License Number L 9214, issued to Vincent
25 Januszewski;

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

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

DATED: 10/8/18

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

SD2017802351
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