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

In the Matter of the Accusation against:	)	
	)	
FIRAS A. JANDALI 930 Dwight Way, Suite 10A Berkeley, CA 94710-2560	)	Case No. 909-A
	)	
Civil Engineer License No. C 38284 Structural Engineer License No. S 3031,	)	
	)	
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 March 4, 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

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **FIRAS A. JANDALI** 930 Dwight Way, Suite 10A Berkeley, CA 94710-2560, **Civil Engineer License No. C 38284,** **Structural Engineer License No. S 3031,** Respondent.	Case No. 909-A OAH No. 2010071071 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board for Professional Engineers and Land Surveyors of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Joanne Arnold (Complainant) is the Interium Executive Officer of the Board for Professional Engineers and Land Surveyors. Former Executive Officer David E. Brown brought this action solely in his official capacity. Complainant is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Michael B. Franklin, Deputy Attorney General.

2. Respondent Firas A. Jandali (Respondent) is represented in this proceeding by attorney Jeff Feinberg, whose address is: 2000 Broadway Street, Redwood City, California, 94063.

3. On or about September 5, 1984, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C 38284 to Firas A. Jandali (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 909-A and will expire on March 31, 2011, unless renewed.

4. On or about February 26, 1988, the Board for Professional Engineers and Land Surveyors issued Structural Engineer License No. S 3031 to Firas A. Jandali (Respondent). The Structural Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 909-A and will expire on March 31, 2011, unless renewed.

JURISDICTION

5. Accusation No. 909-A was filed before the Board for Professional Engineers and Land Surveyors (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 14, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 909-A is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 909-A. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and

court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 909-A, if proven at a hearing, constitute cause for imposing discipline upon his Civil Engineer License as well as for his Structural Engineer License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges. Respondent, however, disputes the charges, but is willing to resolve this Accusation to avoid the cost and uncertainty of a hearing.

11. Respondent agrees that his Civil Engineer License and his Structural Engineer License are subject to discipline and he agrees to be bound by the Board for Professional Engineers and Land Surveyors (Board)'s probationary terms as set forth in the Disciplinary Order below.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board for Professional Engineers and Land Surveyors or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board for Professional Engineers and Land Surveyors. Respondent understands and agrees that counsel for Complainant and the staff of the Board for Professional Engineers and Land Surveyors 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.

14. 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.

15. 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.

16. 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:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Civil Engineer License No. C 38284, and Structural Engineer License No. S 3031, issued to Respondent Firas A. Jandali (Respondent) are revoked. However, the revocations are stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

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

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

3. **Tolling of Probation.** The period of probation shall be tolled during the time the Respondent is practicing exclusively outside the state of California. If, during the period of

probation, the Respondent practices exclusively outside the state of California, the Respondent shall immediately notify the Board in writing.

4. **Violation of Probation.** If the Respondent violates the 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 all matters are final.

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

6. **Cost Recovery.** The Respondent is hereby ordered to reimburse the Board the amount of $7,192.15 within three and one-half (3 1/2) years from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship.

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

8. **Ethics Course.** Within three and one-half years (3 1/2) of 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. The probationary condition shall include a time period in which this course shall be successfully completed which time period shall be at least 60 days less than the time period ordered for the period of probation.

9. **Notification.** Within 30 days of the effective date of the decision, the 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 engineering and/or 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, 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 such that the relationship is in the area of practice of professional engineering in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

10. **Take And Pass Examinations.** Within three and one-half (3 1/2) years of the effective date of the decision, Respondent shall successfully complete and pass, with a grade of "C" or better, one (1) college-level course, approved in advance by the Board or its designee. Such course shall be specifically related to the area of violation. For purposes of this subdivision, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; "college-level course" does not include seminars. Respondent shall provide the Board with official proof of completion of the requisite course.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeff Feinberg. I understand the stipulation and the effect it will have on my Civil Engineer License, and Structural Engineer 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: _____

_____
FIRAS A. JANDALI
Respondent

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///

///

professional engineering and/or 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, 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 such that the relationship is in the area of practice of professional engineering in which the violation occurred and shall report to the Board the name and address of each person or entity so notified.

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I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeff Feinberg. I understand the stipulation and the effect it will have on my Civil Engineer License, and Structural Engineer 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: 12-21-10

Original Signed

FARAS A. JANDALI
Respondent

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I have read and fully discussed with Respondent Firas A. Jandali the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12-21-10 Original Signed

Jeff Feinberg
Attorney for 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: _____

Respectfully Submitted.

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

MICHAEL B. FRANKLIN
Deputy Attorney General
Attorneys for Complainant

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I have read and fully discussed with Respondent Firas A. Jandali the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

_____
Jeff Feinberg
Attorney for 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: 12/21/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

MICHAEL B. FRANKLIN
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **FIRAS A. JANDALI** 930 Dwight Way, Suite 10A Berkeley, CA 94710-2560 Civil Engineer License No. C 38284 Structural Engineer License No. S 3031 Respondent.	Case No. 909-A **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about September 5, 1984, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License Number C 38284 to Firas A. Jandali (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

3. On or about February 26, 1988, the Board for Professional Engineers and Land Surveyors issued Structural Engineer License Number S 3031 to Firas A. Jandali (Respondent). The Structural Engineer License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

JURISDICTION

4. 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.

5. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

. . .

(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

(d) Who has been found guilty by the board of any breach or violation of a contract to provide professional engineering services.

. . .

"(h) Who violates any provision of this chapter."

6. Section 6749 of the Code states:

"(a) A professional engineer shall use a written contract when contracting to provide professional engineering services to a client pursuant to this chapter. The written contract shall be executed by the professional engineer and the client, or his or her representative, prior to the professional 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:

(1) A description of the services to be provided to the client by the professional engineer.

. . .

(3) The name, address, and license or certificate number of the professional engineer, and the name and address of the client.

(4) A description of the procedure that the professional engineer and the client will use to accommodate additional services.

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(5) A description of the procedure to be used by any party to terminate the contract.

. . . "

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

DELAWARE STREET PROJECT

8. Respondent prepared a drawing, S1.0, dated April 16, 2003, and a site plan, A1.0, dated April 16, 2003, for submittal to the City of Berkeley for new foundations and basement remodeling at 1187 Delaware Street, Berkeley California ("Delaware Street project"). Site Plan, Sheet A1.0 indicated that the side yard set backs, to the structure at 1187 Delaware Street, were 3 feet and 5 feet, with the rear lot dimension shown as 27 feet, six inches. These dimensions were incorrect according to existing record documents and were verified to be incorrect following a survey of the property performed on or about March 30, 2004. Respondent failed to consider that the Assessor's Parcel Map for APN 058-2130 indicated the width of the property was 25 feet and incorrectly assumed that the existing house was within the lot's property line.

FIRST CAUSE FOR DISCIPLINE

(Negligence)

9. Respondent is subject to disciplinary action under section 6775(c) in that Respondent did not use the care ordinarily exercised in like cases by duly licensed professional engineers in good standing in that the property line dimensions shown on the plans prepared for the Delaware Street project, as signed and sealed by Respondent, were inaccurate and erroneous according to the existing site conditions and record information as more fully described in paragraph 8 above.

SPARROW PROJECT

10. On or about May 5, 2005, Respondent, as principal for JEDCO Consulting Engineers, Inc., entered a contact with Robert and Arlene Sparrow and to provide architectural drawings for

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a four (4) unit residential project located at 7250 Dairy Avenue, Newark, California ("Sparrow project"). Respondent agreed to perform the following services:

- Complete the Submittal Plans for the Residences
- Complete the Civil Engineering Plans for the Residences.
- Coordinate with the City/County to Obtain the Construction Permit.

Between May 2005 and December 2005, Respondent prepared drafts of Architectural Plan Sheets, Electrical Plan Sheets and Structural Plan Sheets for the Sparrow project. On or about January 26, 2006, Respondent wrote to the Sparrows that drawings prepared by Respondent on December 28, 2005, were "complete."

SECOND CAUSE FOR DISCIPLINE

(Negligence and/or Incompetence)

11. Respondent is subject to disciplinary action under section 6775(c) in that Respondent did not use the care ordinarily exercised in like cases by duly licensed professional engineers in good standing, in that Respondent was negligent and/or incompetent in providing services to the Sparrows because Respondent's drawings lacked the proper effort, care, technical content and coordination required to obtain a public agency permit for the contemplated work. Specifically, Respondent's drawings dated December 28, 2005, lacked the following:

a. Existing water, sanitary sewer, storm drainage, electrical, telephone and cable TV utilities were not shown within the public right-of-way on Dairy Avenue.

b. Proposed on-site utilities were not shown on the drawings for providing service to the new four (4) residential units.

c. There was no evidence or notations on the civil and structural drawings that plumbing and mechanical facilities were coordinated with the civil drawings.

d. Existing elevations at the property lines and proposed design grades for on and off-site civil improvements were not shown on the drawings.

e. Respondent failed to address several items outlined in the City of Newark's letter dated August 11, 2004 (preliminary plan review) on the civil and structural drawings.

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f. Respondent failed to address several items outlined in the City of Newark's letter dated August 17, 2005 (third review) on the civil and structural drawings. In addition, comments and requirements outlined by the City's Engineering Division related to the site plan were not entirely addressed.

g. The drawings contained Respondent's engineer seal, but were not signed.

THIRD CAUSE FOR DISCIPLINE

(Breach of Contract)

12. Respondent is subject to disciplinary action under section 6775(d), in that Respondent breached his contract with the Sparrows by failing to provide the services under the contract by his negligent and/or incompetent conduct as described in paragraphs 10 and 11 above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

13. Respondent is subject to disciplinary action under section 6775(d) and/or (h), in that Respondent failed to comply with sections 6749(a)(1), (3), (4) and (5) in his contract with Ronald W. Sparrow and Arlene Bell-Sparrow, dated April 30, 2005, and accepted and signed by the Sparrows on May 5, 2005, as follows:

a. Respondent failed to properly define the scope of work to be performed, in violation of 6749(a)(1).

b. Respondent failed to include his license number on the written contract in violation of 6749(a)(3).

c. Respondent failed to include in the written contract a description of the procedure to be used to accommodate additional services, in violation of 6749(a)(4).

d. Respondent's written contract failed to describe the procedure to be used by the parties to terminate the contract, in violation of 6749(a)(5).

PRAYER

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

1. Revoking or suspending Civil Engineer License Number C 38284, issued to Firas A. Jandali;

2. Revoking or suspending Structural Engineer License Number S 3031, issued to Firas A. Jandali;

3. Ordering Firas A. Jandali to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 7/8/10

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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