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

In the Matter of the Accusation against:	)	
	)	
PAUL HENRI DURAND, JR. 18966 Muirkirk Drive Northridge, CA 91326	)	Case No. 818-A
	)	
Civil Engineer License No. C 58364 Structural Engineer License No. S 4222,	)	
	)	
Respondent.	)	
	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter.

This Decision shall become effective on December 24, 2009.

IT IS SO ORDERED November 18, 2009.

Original Signed

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

EDMUND G. BROWN JR.
Attorney General of California
WILBERT E. BENNETT
Supervising Deputy Attorney General
DIANN SOKOLOFF
Deputy Attorney General
State Bar No. 161082
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2212
Facsimile: (510) 622-2270
E-mail: Diann.Sokoloff@doj.ca.gov

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: **PAUL HENRI DURAND, JR.** **18966 Muirkirk Drive** **Northridge, California 91326** **Civil Engineer License No. C58364** **Structural Engineer License No. S4222** Respondent.	Case No. 818-A **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Cindi Christenson, P.E. (Complainant) was the Executive Officer of the Board for Professional Engineers and Land Surveyors at the time of filing of the Accusation, which was filed in her official capacity. Her successor in interest is Joanne Arnold, the current Interim Executive Officer of the Board, who is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Diann Sokoloff, Deputy Attorney General.

2. Respondent Paul Henri Durand, Jr. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about May 11, 1998, the Board for Professional Engineers and Land Surveyors issued Civil Engineer License No. C58364 to Respondent. The Civil Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 818-A and will expire on September 30, 2009, unless renewed.

4. On or about May 9, 1998, the Board for Professional Engineers and Land Surveyors issued Structural Engineer License No. S4222 to Respondent. The Structural Engineer License was in full force and effect at all times relevant to the charges brought in Accusation No. 818-A and will expire on September 30, 2009, unless renewed.

JURISDICTION

5. Accusation No. 818-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 January 6, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 818-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. 818-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 denies each and every charge of negligence related to the geodesic dome residence at 18173 Fitzpatrick Lane, Occidental, California (paragraphs 10-19 of the Accusation), but respondent admits the truth of each and every charge and allegation related to the supplemental limited geotechnical investigation report and seismic evaluation study, (paragraphs 20, 22-25), in Accusation No. 818-A. With regard to paragraph 21 of the Accusation, respondent admits most of the allegations as written but he denies that he did not read the report prepared by Dia with a critical eye (line 13). Moreover, respondent asserts that he did not challenge or verify Dia's statements regarding his new license.

10. Respondent agrees that his Civil Engineer License, No. C58364, and his Structural Engineer License, No. S4222, are subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Paul Henri Durand, Jr. is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

12. 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.

13. 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.

14. 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. C58364, and Structural Engineer License No. S4222, issued to Respondent, Paul Henri Durand, Jr., are each 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.** Respondent shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.

2. **Submit Reports.** 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 Respondent is practicing exclusively outside the state of California. If, during the period of probation, Respondent practices exclusively outside the state of California, Respondent shall immediately notify the Board in writing.

4. **Violation of Probation.** If Respondent violates the probationary conditions in any respect, the Board, after giving 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 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, Respondent's licenses shall be

unconditionally restored.

6. **Cost Recovery.** Respondent is hereby ordered to reimburse the Board the amount of $4000 within 3 ½ years from the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Board's costs of 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, Respondent shall successfully complete and pass the California Laws and Board Rules examination, as administered by the Board.

8. **Ethics Course.** Within 3 years of the effective date of the decision, Respondent shall successfully complete and pass a course in professionalism and ethics for engineers, approved in advance by the Board or its designee.

9. **Notification.** Within 30 days of the effective date of the decision, Respondent shall provide the Board with evidence that he has provided all persons or entities with whom he has a contractual or employment relationship relating to professional engineering 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.

10. **Take And Pass Examination.** Within 3 ½ years of the effective date of the decision Respondent shall successfully complete and pass, with a grade of "C" or better, one 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.

///

///

///

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 9/22/09

Original Signed

PAUL HENRI DURAND, JR.
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: 10/8/09

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
WILBERT E. BENNETT
Supervising Deputy Attorney General

Original Signed

DIANN SOKOLOFF
Deputy Attorney General
Attorneys for Complainant

SF2008402134
90114217.doc

Exhibit A

Accusation No. 818-A

EDMUND G. BROWN JR., Attorney General
of the State of California
WILBERT E. BENNETT
Supervising Deputy Attorney General
DIANN SOKOLOFF, State Bar No. 161082
Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2212
Facsimile: (510) 622-2270

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: PAUL HENRI DURAND 18966 Muirkirk Drive Northridge, CA 91326 Civil Engineer License No. C 58364 Structural Engineer License No. S 4222 Respondent.	Case No. 818-A **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about October 15, 1971, the Board issued Civil Engineer License Number C 20920 to Paul Henri Durand (Respondent). On or about December 14, 1977, the Board issued Structural Engineer License Number S2136[illegible] to respondent.

3. Pursuant to the Board's Decision in Accusation No. 633-A against respondent, which became effective on May 11, 1998, the aforementioned licenses were ordered revoked, and new licenses were then immediately issued to respondent. Those new licenses, Civil Engineer License No. C 58364 and Structural Engineer License No. S 4222, were revoked,

however, the revocations were stayed and respondent was placed on probation for four years pursuant to certain terms and conditions. Upon completion of the probationary period, respondent's licenses were fully restored. These licenses will expire on September 30, 2009, 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:

. . .

"(b) Who has been found guilty by the board of any deceit, misrepresentation, or fraud in his or her practice.

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

. . .

"(f) Who aids or abets any person in the violation of any provision of this chapter.

6. 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.

OTHER PERTINENT LAWS/RULES

7. Section 104.2.8 of the California Building Code, Title 24, Part 2, California Code of Regulations provides, in pertinent part, that the provisions of the code are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by the code, provided any alternate has been approved and its use

authorized by the building official. The building official may approve the proposed design as long as he finds that the proposed design is satisfactory and complies with the provisions of the code and that the material, method or work meets suitability, strength, effectiveness, fire resistence, durability, safety and sanitation expectations. The building official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

8. Section 1605.2 of the California Building Code, Title 24, Part 2, California Code of Regulations provides, in pertinent part, that any system or method of construction to be used shall be based on a rational analysis in accordance with well-established principles of mechanics. The analysis shall result in a system that provides a complete load path capable of transferring all loads and forces from their point of origin to the load-resisting elements.

9. Section 404(w) of the Rules of the Board for Professional Engineers and Land Surveyors, Title 16, California Code of Regulations defines negligence, for the sole purpose of investigating complaints and making findings under Code section 6775 as the "failure of a licensee, in the practice of professional engineering or land surveying, to use the care ordinarily exercised in like cases by duly licensed professional engineers and land surveyors in good standing."

GEODESIC DOME HOME AT 18173 FITZPATRICK LANE, OCCIDENTAL, CA

10. Respondent prepared and submitted structural engineering design documents for a geodesic dome residential structure to be constructed in Sonoma County in a negligent manner. The circumstances are set forth below.

11. The subject property was a geodesic dome residential structure designed by respondent located at 18173 Fitzpatrick Lane in Occidental, California (Bartlett Residence). Respondent submitted to the Sonoma County Building Department a set of signed and stamped plans for the home.

12. The plans submitted by Respondent to the County depict a building comprising an interconnected cluster of three geodesic domes. The domes are described as built of an assembly of triangular panels of expanded bead polystyrene foam, each pre-fabricated with

an exterior layer of ferrocement and an interior layer of wall board. Literature provided by the manufacturer of the panels, describes the following construction method: 1) a temporary geodesic dome framework of struts and hubs, provided by the manufacturer, is erected on the foundation and/or riser walls previously constructed at the site for the purpose of supporting the dome structure; 2) the foam panels are set on the temporary framework; 3) the joints between the panels are reinforced and concreted; 4) when the concrete has cured, the temporary geodesic framework of struts and hubs is removed and returned to the manufacturer for re-use on another project; 5) the interior floor platforms, partition walls, utilities, fixtures and finishes are installed. When complete, the domes are apparently intended to be geodesic shell structures.

13. Respondent submitted computations to the County, signed and bearing his structural stamp, intending to substantiate the structural design. The calculations describe the design loading as applied to the surface of the dome, but also describe the load as applied to "each node according to the tributary areas assigned with the node." Respondent stated in his submission to the County that "Internal stresses are determined by finite element analysis. Edge struts are considered to be pinned at each node. This is very conservative as none of the strength of the skin is taken into account. Other computer runs have indicated that 80% of the dome loads can be carried by the skin." The calculations present what are assumed to be the output data from the computer program, listed as "strut loads" and "strut stresses."

14. The interior second floors of the domes are depicted in detail 6/S-6/B on the design drawings as hung from the shell structure. It is not clear whether the dead and live load from the suspended floors is included in the computer analysis of the dome.

15. Detail 8/S-6B on the design drawings depicts the suspended floor horizontally braced to the dome with cables and eye-bolts. The calculation contains no evaluation of seismic load from the suspended floors, and it is not clear whether the calculations show that the dome shell is capable of adequately supporting the lateral seismic load from the suspended floors. The cables are capable of transferring tension loads only; they are ineffective in transferring loads parallel to the surface of the dome and compression loads. The plans show the horizontal cable braces are oriented radially, and are located at eight or nine discreet locations

around the circumference of the suspended floors. Because of the circular plan of the floors, each brace is oriented in a different direction, resulting in several of the cable braces being ineffective in transferring lateral loads between the suspended floor and the dome shell from any particular direction of application.

16. Respondent has failed to supply the County with documentation of the computer analysis method, despite a request for such documentation. Respondent's statement in writing to the County, on page 2 of his calculations, suggests that the computer program used in the design of the domes is invalid in that the program assumes that the dome is made up of struts and nodes, but the actual structure instead acts as a continuous shell.

17. The County requested additional information from respondent in order to complete their plan check of the project. Respondent did not provide sufficient evidence substantiating his claim that the structural design he submitted complied with the California Building Code, in violation of section 104.2.8 of the California Building Code. In addition, the method (computations) respondent relied upon to substantiate his structural design was not based on a rational analysis in accordance with well-established principles of mechanics, in violation of section 1605.2 of the CBC. For those reasons, respondent failed to exercise two elements of care, responsibility and integrity, and, therefore, was negligent under section 404(w) of the Rules of the Board for Professional Engineers and Land Surveyors.

FIRST CAUSE FOR DISCIPLINE

(Negligence)

18. Paragraphs 11 through 17 are herein incorporated by reference as though fully set forth.

19. Respondent has subjected his licenses to discipline under Code section 6775, subdivision (c) in that he was negligent in the practice of professional civil and structural engineering on or about 2001, in regard to his interactions with the County plan check engineers for the geodesic dome design for the 18173 Fitzpatrick Lane residence in Occidental, California, as set forth in the above paragraphs.

///

SUPPLEMENTAL LIMITED GEOTECHNICAL INVESTIGATION REPORT AND SEISMIC EVALUATION STUDY

20. During the course of an investigation by the Department of Consumer Affairs (DCA) Division of Investigation into the unlicensed practice of professional engineering, a report surfaced that had been prepared and submitted by an unlicensed person (Adam Dia), and which had been signed and stamped by respondent. Respondent admitted that, in 2005, he signed and stamped a geotechnical engineering report for a project located in Riverside County that had been prepared by an unlicensed individual. The circumstances are set forth below.

21. Respondent, when interviewed by a DCA investigator, admitted that he worked with the unlicensed party (Dia) at Consolidated Geoscience/RMA Geoscience. Respondent reported that Dia told respondent that he was forming his own firm and that he had obtained his geology license. Respondent stated that he agreed to sign a report prepared by Dia, which required a professional engineer's signature, without reading it with a critical eye, without closely going over the figures and data, without questioning Dia as to how he came to prepare the calculations, figures, and data, and without personally performing or verifying the tests, analyses, or calculations that Dia put in the report.

SECOND CAUSE FOR DISCIPLINE

(Fraud and Deceit)

22. Paragraphs 20 and 21 are herein incorporated by reference as though fully set forth.

23. Respondent has subjected his licenses to discipline under Code section 6775, subdivision (b), in that he engaged in fraud and deceit in the practice of professional civil engineering in or about 2005, by virtue of the conduct alleged in paragraphs 20 and 21 above.

THIRD CAUSE FOR DISCIPLINE

(Aiding and Abetting Unlicensed Practice)

24. Paragraphs 20 and 21 are herein incorporated by reference as though fully set forth.

25. Respondent has subjected his licenses to discipline under Code section

6775, subdivision (f), in that he aided and abetted the unlicensed practice of professional civil engineering in or about 2005, by virtue of the conduct alleged in paragraphs 19 and 20 above.

DISCIPLINE CONSIDERATIONS

26. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about May 11, 1998, in a prior disciplinary action entitled In the Matter of the Accusation Against Paul Henri Durand before the Board for Professional Engineers and Land Surveyors, in Case Number 633-A, respondent's licenses were ordered revoked, and new licenses were then immediately issued to respondent. Those new licenses, Civil Engineer License No. C 58364 and Structural Engineer License No. S 4222, were revoked, however the revocations were stayed and respondent was placed on probation for four years pursuant to certain terms and conditions. Upon completion of the probationary period, respondent's licenses were fully restored. That decision is now final and is incorporated by reference as if fully set forth. (A copy of that Decision is attached hereto as Exhibit A.)

///

///

///

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 Number C 58364, issued to Paul Henri Durand.

2. Revoking or suspending Structural Engineer Number S 4222, issued to Paul Henri Durand.

3. Ordering Paul Henri Durand 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: 12/11/08

Original Signed

CINDI CHRISTENSON, P.E.
Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California

Complainant

SF2008402134

Exhibit A

DANIEL E. LUNGREN, Attorney General
of the State of California
JOEL S. PRIMES, State Bar No. 42568
Supervising Deputy Attorney General
STEVEN M. KAHN, State Bar No. 53846
Deputy Attorney General
1300 I Street, Suite 125
P. O. Box 944255
Sacramento, California 94244-2550
Telephone: (916) 324-5338

Attorneys for Complainant

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

In the Matter of the Accusation Against: PAUL HENRI DURAND, JR. P.O. Box 3691 Newport Beach, California 92659 Civil Engineer Registration No. C20920 Structural Engineer Registration No. S2136 Respondent.	NO. 633-A STIPULATION, DECISION AND ORDER

IT IS HEREBY STIPULATED as follows:

1. On or about October 15, 1971, respondent Paul Henri Durand, Jr., (hereinafter "respondent"), was issued Registration No. C20920 by the Board of Registration for Professional Engineers and Land Surveyors of the State of California (hereinafter "Board") as a civil engineer. On or about December 14, 1977, respondent was issued Registration No. S2136 by the Board as a structural engineer. At all times herein mentioned, the registrations were in full force and effect.

2. On or about October 9, 1997, an accusation bearing number 633-A was filed by Cindi Christenson, Executive Officer of the Board, in her official capacity as such. The accusation alleged causes for disciplinary action against respondent, and the accusation is

incorporated herein by reference as though fully set forth at this point. Respondent was duly and properly served with the accusation, and respondent timely requested a hearing on the charges contained therein.

3. Respondent has retained as his counsel the Law Offices of David A. Pines. Respondent has fully discussed with his counsel the allegations of violations of the California Business and Professions Code alleged in the accusation and has been fully advised of his rights under the Administrative Procedure Act of the State of California, including his right to a formal hearing and opportunity to defend against the charges contained therein and reconsideration and appeal of any adverse decision that might be rendered following said hearing. Respondent knowingly and intelligently waives his right to a hearing, reconsideration, appeal, and to any and all other rights which may be accorded him pursuant to the Administrative Procedure Act regarding the charges contained in the accusation subject, however, to the provisions of paragraphs five and six herein.

4. Respondent admits that the following is true:

ARIZONA DISCIPLINARY ACTION

I. Respondent's registrations are subject to disciplinary action pursuant to section 141 of the California Business and Professions Code (hereinafter "Code"), in that he has been disciplined by the State of Arizona for acts substantially related to his practice as a civil engineer, a practice regulated in California by the Board, an agency under the jurisdiction of the Department of Consumer Affairs, as more particularly alleged hereinafter:

A. On or about December 5, 1996, in a proceeding before the Arizona State Board of Technical Registration entitled "In the Matter of: Paul D. Durand, P.E. (civil) Registration No. 27642, case numbers C-95-135, C-96-084, C-96-107 and C-97-008", disciplinary action was taken against respondent in that terms and conditions were imposed on respondent including his payment of an administrative penalty of $1,000.00 and a requirement that he discontinue from engaging in the practice of land surveying until he took and passed the requisite examinations.

B. The Arizona Board found that on or about February 23, 1995, and on or about October 19, 1995, respondent misrepresented himself by certifying on an American Land Title Association (hereinafter "ALTA") survey that he was an Arizona registered land surveyor when he was not so registered, he accepted engagements to perform ALTA surveys which were outside his category of registration as a civil engineer in Arizona, and he prepared drawings which contained conflicting information.

C. Respondent neither admitted nor denied the Arizona Board's allegations. He did waive findings of fact and conclusions of law and consented to the Arizona Board's findings and decision.

SONORA PLAZA PROJECT

II. Respondent's registrations are subject to discipline pursuant to section 8780 of the Code in that he is guilty of negligence in the practice of land surveying, in violation of section 8780(a) of the Code as more particular alleged hereinafter:

A. In or about September 1995, respondent performed land surveying services on property known as Sonora Plaza, Sonora, California, and purported to do an ALTA/ACSM (American Congress on Surveying and Mapping) survey.

B. On or about September 25, 1995, respondent signed and stamped documents certifying that he had surveyed the Sonora Plaza property.

C. Respondent was guilty of negligence in the practice of land surveying on the Sonora Plaza property in that:

1. He located only two monuments when additional monuments were easily located.

2. He failed to locate and show evidence of another easement, a drainage or water ditch, which was in close proximity to the westerly boundary of the surveyed property.

///

///

PINE STREET PROPERTY

III. Respondent's registrations are further subject to disciplinary action pursuant to section 8780 of the Code in that he is guilty of negligence in the practice of land surveying in violation of section 8780(a) of the Code as more particularly alleged hereinafter:

A. In or about June 1995, respondent purported to do an ALTA/ACSM land title survey for Alltel Corporation regarding property at 18619 Pine Street, Tuolomne, California. Subsequently respondent stamped the survey.

B. Respondent was guilty of negligence in the performance of land surveying on the Pine Street property in that:

1. He failed to correctly record and describe the monuments found or set on the property.

2. Even though respondent did not accept the positions of monuments set by the original survey, respondent failed to file a record of survey.

3. In lieu of filing a record of survey setting forth any material discrepancies, respondent failed to file a corner record even though all but one of the monuments shown on respondent's plat were different monuments from those shown on the original plat.

COLORADO DISCIPLINARY ACTION

IV. Respondent's registrations are subject to disciplinary action pursuant to section 141 of the Code in that he has been disciplined by the State of Colorado for acts substantially related to his practice as a civil engineer, a practice regulated in California by the Board, an agency under the jurisdiction of the Department of Consumer Affairs, as more particularly alleged hereinafter:

A. On or about July 11, 1997 in a proceeding before the State Board of Registration for professional Engineers and Professional Land Surveyors, State of Colorado, entitled "In the Matter of Disciplinary Action Against the License and Certification to Practice As a Professional Engineer of Paul H. Durand, PE No. 29245,

Respondent", disciplinary action was taken against respondent's license as a professional engineer in the State of Colorado.

B. The circumstances of said disciplinary action were based on the disciplinary action taken against respondent by the State of Arizona as set forth in paragraphs 4I.A, 4I.B, and 4I.C hereinabove and which are incorporated herein by reference as though fully set forth at this point.

5. In the event that this stipulation, decision and order is not accepted and adopted by the Board of Registration for Professional Engineers and Land Surveyors in its entirety, the admissions and characterizations of law and fact made by all parties herein shall be null, void and inadmissible in any proceeding involving the parties to it.

6. Respondent understands that he will not be permitted to withdraw from this stipulation unless it is rejected by the Board of Registration for Professional Engineers and Land Surveyors, or if the Board seeks to change any of the terms set forth herein.

WHEREFORE, it is stipulated that the Board of Registration for Professional Engineers and Land Surveyors may issue the following decision and order:

A. Civil engineer registration number C20920 and structural engineer registration number S2136 shall be revoked. A new civil engineer registration shall be issued which does not authorize the respondent to practice professional land surveying, and a new structural engineer registration shall be issued upon issuance of the new civil engineer registration.

B. Before being permitted to practice professional land surveying, the respondent shall complete and comply with all of the legal requirements for licensure as professional land surveyor, including but not limited to supplying the appropriate application documents and fees and taking and passing the entire second-division examination in professional land surveying. If he completes and complies with all legal requirements for licensure nothing in this stipulation shall prevent him from becoming licensed as a professional land surveyor.

C. Immediately upon issuance, the new civil engineer and structural engineer registrations shall be revoked, the revocations shall each be stayed, and the registrations shall be placed upon probation for four (4) years upon the following terms and conditions.

1. Both the civil engineer and structural engineer registrations shall be concurrently suspended for fourteen (14) days beginning on the effective date of the decision.

2. Within two years, respondent shall reimburse the Board, Eight Thousand and Eight Hundred Dollars ($8,800.00) dollars for its investigation and prosecution costs. Payments shall commence on the effective date of the decision and shall be no less than $370.00 per month. Probation shall not terminate until full payment has been made.

3. The respondent shall obey all laws and regulation related to the practices of professional engineering and professional land surveying.

4. The respondent shall submit such special reports as the Board may require.

5. The period of probation shall be tolled during the time the respondent is practices exclusively outside the State of California. If, during the period of probation, the respondent shall immediately notify the Board in writing.

6. 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.

///

///

///

7. Upon successful completion of all the probationary conditions and the expiration of the period of probation, the respondent's licenses shall be unconditionally restored.

Dated: March 23, 1998

DANIEL E. LUNGREN, Attorney General
of the State of California
STEVEN M. KAHN
Deputy Attorney General

Original Signed

STEVEN M. KAHN
Deputy Attorney General
Attorneys for Complainant

Dated: 3-17-98

LAW OFFICES OF DAVID A. PINES

Original Signed

DAVID A. PINES, ESQ.
Attorneys for Respondent

I HAVE READ the stipulation, decision and order. I understand I have the right to a hearing on the charges contained in the accusation, including the right to cross-

examine witnesses and the right to introduce evidence in mitigation. I have discussed this stipulation and the charges contained in the accusation with my counsel and my rights to a hearing and defense. I knowingly, voluntarily and intelligently waive all of these rights, and understand that by signing this stipulation, I am permitting the Board of Registration for Professional Engineers and Land Surveyors to impose discipline against my registrations as a civil and structural engineer. I understand the terms and ramifications of the stipulation, decision and order and agree to be bound by its terms and conditions.

DATED: 3-17-98

Original Signed

PAUL HENRI DURAND, JR.
Respondent

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

DECISION AND ORDER

The foregoing is adopted as the Decision of the Board of Registration for Professional Engineers and Land Surveyors of the State of California in this matter and shall become effective on the 11th day of May 1998.

IT IS SO ORDERED this 10th day of April 1998.

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

By Original Signed

EXHIBIT A

DANIEL E. LUNGREN, Attorney General
of the State of California
JOEL S. PRIMES, State Bar No. 42568
Supervising Deputy Attorney General
STEVEN M. KAHN, State Bar No. 53846
Deputy Attorney General
1300 I Street, Suite 1101
P.O. Box 944255
Sacramento, California 94244-2550
Telephone: (916) 324-5338

Attorneys for Complainant

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

In the Matter of the Accusation Against:	No. 633-A
PAUL HENRI DURAND, JR. P.O. Box 3691 Newport Beach, CA 92659	ACCUSATION
Civil Engineer Registration No. C20920 Structural Engineer Registration No. S2136	

Cindi Christenson, P.E., the complainant herein, alleges as follows:

1. She is the Executive Officer of the Board of Registration for Professional Engineers and Land Surveyors of the State of California (hereinafter "Board) and makes and files this accusation in her official capacity as such and not otherwise.

2. On or about October 15, 1971, respondent Paul Henri Durand, Jr., (hereinafter "respondent"), was issued Registration No. C20920 as a civil engineer under the provisions of Business and Professions Code section 6700 et seq. On or about December 14, 1977, respondent was issued Registration No.

S2136 as a structural engineer. At all times herein mentioned, the registrations were in full force and effect.

3. Section 141 of the Business and Professions Code (hereinafter "Code") provides, in pertinent part, that for any licensee holding a license issued by a Board under the jurisdiction of the Department of Consumer Affairs, a disciplinary action taken by another state for any act substantially related to the practice regulated by the California license may be grounds for disciplinary action by the respective state licensing board.

ARIZONA DISCIPLINARY ACTION

4. Respondent's registrations are subject to disciplinary action pursuant to section 141 of the Code in that he has been disciplined by the State of Arizona for acts substantially related to his practice as a civil engineer, a practice regulated in California by the Board, an agency under the jurisdiction of the Department of Consumer Affairs, as more particularly alleged hereinafter:

A. On or about December 5, 1996, in a proceeding before the Arizona State Board of Technical Registration entitled "In the Matter of: Paul D. Durand, P.E. (civil) Registration No. 27642, case numbers C-95-135, C-96-084, C-96-107 and C-97-008," disciplinary action was taken against respondent in that terms and conditions were imposed on respondent including his payment of an administrative penalty of $1,000.00 and a requirement that he discontinue from engaging in the practice of land surveying until he took and passed the requisite examinations.

B. The circumstances of said disciplinary action

against respondent are that on or about February 23, 1995, and on or about October 19, 1995, respondent misrepresented himself by certifying on an American Land Title Association (hereinafter "ALTA") survey that he was an Arizona registered land surveyor when he was not so registered, he accepted engagements to perform ALTA surveys which were outside his category of registration as a civil engineer in Arizona, and he prepared drawings which contained conflicting information.

5. Section 8780 of the Code provides, in pertinent part, that the Board may suspend or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under Chapter 15 (§8700, et seq.) or registered under the provisions of Chapter 7 (commencing with section 6700) of Division 3 of the Code for the grounds set forth in section 8780.

6. Section 8780(a) of the Code provides, in pertinent part, that the Board may suspend or revoke a registration of a registered civil engineer if the licensee is found guilty of negligence or incompetence in the practice of land surveying.

SONORA PLAZA PROJECT

7. Respondent's registrations are subject to discipline pursuant to section 8780 of the Code in that he is guilty of negligence in the practice of land surveying in violation of section 8780(a) of the Code as more particular alleged hereinafter:

A. In or about September 1995, respondent performed land surveying services on property known as Sonora Plaza, Sonora, California and purported to do an ALTA/ACSM

(American Congress on Surveying and Mapping) survey.

B. On or about September 25, 1995, respondent signed and stamped documents certifying that he had surveyed the Sonora Plaza property.

C. Respondent was guilty of negligence in the practice of land surveying on the Sonora Plaza property in that:

1. He located only two monuments when additional monuments were easily located.

2. He failed to show Parcel 1, a record parcel, on his survey map.

3. He failed to fully plot a 7.5 foot wide PG&E water pipeline easement.

4. He failed to locate and show a private easement created by volume 382 of official records at page 475.

5. He failed to locate and show evidence of another easement, a drainage or water ditch, which was in close proximity to the westerly boundary of the surveyed property.

8. Respondent's registrations are subject to disciplinary action pursuant to section 8780 of the Code in that he is guilty of incompetence in the practice of land surveying in violation of section 8780(a) of the Code as more particularly alleged hereafter:

A. Paragraphs 7A and 7B hereinabove are incorporated herein by reference as though fully set forth at this point.

B. Respondent was guilty of incompetence in the practice of land surveying on the Sonora Plaza project in that:

1. He failed to show and locate a ten foot

wide drainage easement called out in the title report.

2. He established a final boundary based solely on two monuments when it appeared of record that there were many more available monuments and other monuments could have easily been found.

9. Section 8762(b) of the Code provides that within 90 days of after the establishment of points and lines, the licensed land surveyor or registered civil engineer shall file with the county surveyor in the county in which the survey was made, a record of the survey relating to land boundaries or property lines which disclose a material discrepancy with the record.

10. Respondent's registrations are subject to discipline pursuant to section 8780 in that he violated a provision of the chapter pertaining to the practice of land surveying, in particular section 8762(b), in that he failed to file a record of survey within 90 days after the establishment of points and lines which disclosed a material discrepancy with the record as more particularly alleged hereinafter:

A. Paragraphs 7A and 7B hereinabove are incorporated herein by reference as though fully set forth at this point.

B. Respondent noted a material discrepancy in Detail "A" on sheet 2 of his survey, but he failed to file a record of survey as required by section 8762(b) of the Code.

PINE STREET PROPERTY

11. Respondent's registrations are further subject to disciplinary action pursuant to section 8780 of the Code in that

he is guilty of negligence in the practice of land surveying in violation of section 8780(a) of the Code as more particularly alleged hereinafter:

A. In or about June 1995, respondent purported to do an ALTA/ACSM land title survey for Alltel Corporation regarding property at 18619 Pine Street, Tuolumne, California. Subsequently respondent stamped the survey.

B. Respondent was guilty of negligence in the performance of land surveying on the Pine Street property in that:

1. He failed to correctly record and describe the monuments found or set on the property.

2. Even though respondent did not accept the positions of monuments set by the original survey, respondent failed to file a record of survey.

3. In lieu of filing a record of survey setting forth any material discrepancies, respondent failed to file a corner record even though all but one of the monuments shown on respondent's plat were different monuments from those shown on the original plat.

12. Respondent's registrations are further subject to disciplinary action pursuant to section 8780 of the Code in that he is guilty of incompetence in the practice of land surveying in violation of section 8780(a) of the Code as more particularly alleged hereinafter:

A. Paragraph 11A hereinabove is incorporated herein by reference as though fully set forth at this point.

B. Respondent was guilty of incompetence in the

practice of land surveying on the Pine Street property in that he failed to recover all of the existing monuments on the property when the monuments were in place and easily accessible.

13. Respondent's registrations are further subject to discipline pursuant to section 8780 in that he violated a provision of the chapter pertaining to the practice of land surveying, in particular section 8762(b), in that he failed to file a record of survey within 90 days after the establishment of points and lines which disclosed a material discrepancy with the record as more particularly alleged hereinafter:

A. Paragraphs 11A and 11B(2) hereinabove are incorporated herein by reference as though fully set forth at this point.

B. Respondent's survey disputed the location of a majority of the found original monuments. However respondent failed to file a record of survey to reflect these material discrepancies.

COLORADO DISCIPLINARY ACTION

14. Respondent's registrations are subject to disciplinary action pursuant to section 141 of the Code in that he has been disciplined by the State of Colorado for acts substantially related to his practice as a civil engineer, a practice regulated in California by the Board, an agency under the jurisdiction of the Department of Consumer Affairs, as more particularly alleged hereinafter:

A. On or about July 11, 1997 in a proceeding before the State Board of Registration For Professional Engineers and Professional Land Surveyors, State of Colorado, entitled "In

the Matter of Disciplinary Action Against the License and Certification to Practice As A Professional Engineer of Paul H. Durand, PE No. 29245, Respondent" disciplinary action was taken against respondent's license as a professional engineer in the State of Colorado.

B. The circumstances of said disciplinary action were based on the disciplinary action taken against respondent by the State of Arizona as set forth in paragraphs 4A and 4B hereinabove and which are incorporated herein by reference as though fully set forth at this point.

15. Section 125.3 of the Code provides that in any situation where a licensee is found to have committed a violation or violations of the license act, a Board may request the Administrative Law Judge to order the licensee to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

16. Notice is hereby given to respondent that pursuant to the provisions of section 125.3 of the Code, the Board seeks recovery for costs of the investigation and enforcement of this case.

WHEREFORE, complainant prays that the Board of Registration for Professional Engineers and Land Surveyors hold a hearing on the matters alleged herein and following said hearing issue a decision:

1. Suspending or revoking the registration as a civil engineer issued to respondent Paul Durand;

2. Suspending or revoking the registration as a structural engineer issued to respondent Paul Durand;

3. Requiring respondent to pay costs to the Board pursuant to Business and Professions Code section 125.3; and

4. Taking such other and further action as may be proper.

DATED: October 9, 1997

Original Signed

CINDI CHRISTENSON
Executive Officer
Board of Registration for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

I:\All\Kahn\Durand.Acc