

EXHIBIT 5



Board for Geologists and Geophysicists

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CITATION ORDER

Citation Number: CG 2007-52

Via Certified Mail

Date of Issuance: April 29, 2009

Respondent: William McCormick

Address: 1380 Windsor River Road
 Windsor, CA 95492

Pursuant to Title 16, California Code of Regulations section 3063, the Board for Geologists and Geophysicists (hereinafter referred to as the "Board") is authorized to issue citations containing an order of abatement or an administrative fine against a professional geologist, geophysicist, or certified specialist who has committed any act or omission which constitutes a violation of the Geologist and Geophysicist Act or regulations. An order of abatement requires the cited person to cease the violation. An administrative fine may be assessed which requires the cited person to pay a monetary fine of up to \$5,000 to the Board.

Citation

This citation is being issued to Mr. William McCormick in accordance with Business and Professions Code section 125.9 and section 3063 of Title 16 California Code of Regulations (CCR) for violation of Business and Professions Code section 7872(h) as described in the "Description of Violation." The Board hereby orders you to cease and desist from violating Business and Professions Code section 7860 and CCR, Title 16 section 3065, subdivision (b)(2), subdivision (c)(5) and subdivision (c)(9).

Administrative Fine

In compliance with Business and Professions Code section 125.9 and Title 16 CCR, sections 3063 and 3063.1, William McCormick is hereby ordered to pay an administrative fine in the amount of \$2,500 for violation of section 7860 of the Geologist and Geophysicists Act and section 3065, subdivision (b)(2), subdivision (c)(5) and subdivision (c)(9) of Title 16, CCR.

Description of Violation

Board records show that on or about April 24, 1991 the Board issued William McCormick Professional Geologist (PG) license number 5022 and on or about October 31, 1991, certified Engineering Geologist (CEG) license number 1673. Said licenses have at all times relevant been in full force and effect and will expire on November 30, 2010.

Protection of the public shall be the highest priority for the Board for Geologists and Geophysicists in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Business and Professions Code Section 7810.1)

May 14 2009 01:10PM P13

FRX NO. : 707 433 2147

FROM : James R Winston

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William McCormick signed and sealed a report entitled "GEOLOGIC AND GEOTECHNICAL INVESTIGATION SAGGIO HILLS, HEALSBURG, CALIFORNIA" (Report), dated October 29, 2004 as "William V. McCormick, C.E.G. 1673 Sr. Engineering Geologist/Geotechnical Mgr." for a proposed 254-acre development (Proposed Development) for 48 custom single-family homes and attendant driveways including approximately 14,000 lineal feet of proposed roadway improvements, 4,100 lineal feet of retaining walls, 21-acre resort and 2.6 acres identified for affordable housing in the City of Healdsburg, California.

Title 16 CCR section 3065 subdivision (b)(2)

According to Title 16 CCR section 3065 subdivision (b)(2) dealing with the competence of a professional geologist or professional geophysicist, "[w]hen practicing geology or geophysics, a licensee shall act with the competence and reasonable care, and shall apply the technical knowledge and skill which is ordinarily practice by licensees in good standing, practicing in this state under similar circumstances and conditions."

The standard of practice for a licensed PG and CEG practicing in California is to provide accurate and complete site geologic hazard evaluation (e.g., environmental, landsliding, and faulting hazards) services appropriate for the scope of the project for which the licensee is retained.

The above-referenced Report by Mr. McCormick failed to meet the standard of care of a PG and CEG practicing in California by failing to present basic geologic data to support proposed cut slope and building envelope recommendations, by presenting incomplete and inaccurate geologic cross-sections,¹ and by failing to fully characterize asbestos-containing material hazards at the Proposed Development. Mr. McCormick also failed to accurately identify faulting hazards, to provide recommendations for safety setbacks from potential faulting hazards, and to adequately search existing pertinent reports and documents; thereby failing to recognize and identify past and possible future landsliding at the Proposed Development.

Title 16 CCR section 3065 subdivision (c)(5)

According to Title 16 CCR section 3065 subdivision (c)(5) dealing with misrepresentation in professional services by a professional geologist or professional geophysicist under similar circumstances and conditions, "A licensee shall only express professional opinions which have a basis in fact, are within the scope of the licensee's own experience or knowledge, and are generally accepted geologic or geophysical principles."

The standard of practice for a licensed PG and CEG practicing in California is to provide factual, accurate and complete site geologic hazard evaluation (e.g., environmental, landsliding, and faulting hazards) services appropriate to address public safety concerns for the scope of the project for which the licensee is retained.

In providing professional geologic and certified engineering geologic services for the Proposed Development Mr. McCormick failed to meet the standard of care of a PG and CEG practicing in California by failing express professional opinions that are based in fact and are generally accepted geologic principles when he failed to present basic geologic data and geologic interpretations regarding public safety concerns and geologic hazards associated with slope stability, active faulting, and exposure to naturally-occurring asbestos materials.

¹ As with all geologic studies of this kind, geologic cross sections serve a basis for developing a geologic hazard model for the site and therefore are a central and fundamental hazard characterization tool central to large developments with existing earthquake faulting and/or landsliding hazards.

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Title 16 CCR section 3065 subdivision (c)(9)

According to Title 16 CCR section 3065 subdivision (c)(9) dealing with the competence of a professional geologist or professional geophysicist under similar circumstances and conditions. "A licensee shall not misrepresent data or its relative significance in any geologic or geophysical work product or oral conveyance of his or her professional opinion."

The standard of practice for a licensed PG and CEG practicing in California is to provide factual, accurate and complete site geologic hazard evaluation (e.g., environmental, landsliding, and faulting hazards) services based upon accurately represented geologic data to address public safety concerns within the scope of the project for which the licensee is retained.

Mr. McCormick misrepresented geologic data and its relative significance in his Report when he presented incomplete and inaccurate geologic data, geologic interpretations and failing to identify geologic hazards associated with slope stability, faulting, and exposure to naturally-occurring asbestos materials for the Proposed Development.

Title 16 CCR, section 3065, subdivision (b)(2), subdivision (c)(5) and subdivision (c)(9) makes it grounds for disciplinary action for any licensee to fail to act with competence and reasonable care while expressing opinions that have a basis in fact or experience in applying the technical knowledge and skill which is ordinarily applied by licensees of good standing and under similar circumstances and conditions.

Mr. McCormick committed acts of professional negligence, incompetence and/or misrepresentation constituting grounds for disciplinary action under Business and Professions Code section 7872(h) and section 7860 and for violation of section 7860 of the Geologist and Geophysicists Act and section 3065, subdivision (b)(2), subdivision (c)(5) and subdivision (c)(9) of Title 16 CCR.

Payment Information

This citation shall become a final order of the Board thirty (30) days after the date of issuance of this citation. Payment of the administrative fine is due thirty (30) days after the date of issuance of this citation unless appealed. Payment should be made payable to the Board for Geologists and Geophysicists, 1625 North Market Boulevard, N-324, Sacramento, California 95834. Please indicate your citation number on your check or money order.

Appeal

If you wish to appeal all or part of this citation, please complete the enclosed Notice of Appeal/Request for Informal Conference form and return it to the Board within thirty (30) days after the date of issuance of this citation.

Failure to return the Notice of Appeal - Request for Informal Conference form or submit other written request within the time indicated will waive your right to contest this citation.

If a hearing is not requested, the payment of any fine shall not constitute an admission of the violation charged. Where a fine is paid to satisfy an assessment based on the finding of violation, payment of the fine is publicly disclosed in forums such as the Board's website and newsletters and represented as satisfactory resolution of the matter [Business and Professions Code section 125.9(b)(4)].


George Dunfield
Assistant Executive Officer


Date