

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

In the Matter of the Petition to Revoke Probation
Against:

Case No. 752-A

RICHARD THOMAS PRETZINGER, JR.
29915 Hook Creek Road
Box 432
Lake Arrowhead, CA 92352
Land Surveyor License No. L 7113

Respondent.

DECISION AND ORDER

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

This Decision shall become effective on December 19, 2008

It is so ORDERED November 20, 2008.

Original Signed

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

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
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7 Attorneys for Complainant

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

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

Case No. 752-A

11 RICHARD THOMAS PRETZINGER, JR.
12 29915 Hook Creek Road
Box 432
13 Lake Arrowhead, CA 92352
14 Land Surveyor License No. L 7113

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Cindi Christenson, P.E. (Complainant), brought this action solely in her
21 official capacity as the Executive Officer of the Board for Professional Engineers and Land
22 Surveyors. She is represented in this matter by Edmund G. Brown Jr., Attorney General of the
23 State of California, by Kimberley J. Baker-Guillemet, Deputy Attorney General.

24 2. Richard Thomas Pretzinger, Jr. (Respondent) is representing himself in
25 this proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about July 8, 1994, the Board for Professional Engineers and Land
27 Surveyors issued Land Surveyor License No. L 7113 to Richard Thomas Pretzinger, Jr.
28 (Respondent). The Land Surveyor License was in full force and effect at all times relevant to the

1 charges brought in Petition to Revoke Probation No. 752-A and will expire on December 31,
2 2008, unless renewed.

3 **JURISDICTION**

4 4. Petition to Revoke Probation No. 752-A was filed before the Board for
5 Professional Engineers and Land Surveyors, and is currently pending against Respondent. The
6 Petition to Revoke Probation and all other statutorily required documents were properly served
7 on Respondent on July 24, 2008. Respondent timely filed his Notice of Defense contesting the
8 Petition to Revoke Probation. A copy of Petition to Revoke Probation No. 752-A is attached as
9 exhibit A and incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Petition to Revoke Probation No. 752-A. Respondent has also carefully read, and understands
13 the effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to
16 be represented by counsel at his own expense; the right to confront and cross-examine the
17 witnesses against him; the right to present evidence and to testify on his own behalf; the right to
18 the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in
25 Petition to Revoke Probation No. 752-A.

26 9. Respondent agrees that his Land Surveyor License is subject to discipline
27 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
28 Order below.

1 four-year university of three semester units or the equivalent; the phrase "college-level course"
2 does not include seminars.

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

7 7. **Violation of Probation.** If the Respondent violates the probationary
8 conditions in any respect, the Board, after giving the Respondent notice and the opportunity to be
9 heard, may vacate the stay and reinstate the disciplinary order which was stayed. If, during the
10 period of probation, an accusation or petition to vacate stay is filed against the Respondent, or if
11 the matter has been submitted to the Office of the Attorney General for the filing of such, the
12 Board shall have continuing jurisdiction until all matters are final, and the period of probation
13 shall be extended until all matters are final.

14 8. **Records.** For any records of survey or corner records found not to have
15 been filed and recorded in the underlying matter, the Respondent shall file or record, as
16 appropriate, the required records with the appropriate governmental agency within 90 days of the
17 effective date of the decision. The Respondent shall provide the Board with verifiable proof that
18 the required records have been filed or recorded, as appropriate, by the governmental agency
19 within thirty (30) days of such filing or recordation. The Respondent shall bear all costs
20 associated with the filing and/or recordation of the required records.

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

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ENDORSEMENT

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

DATED: 10/29/08

EDMUND G. BROWN JR., Attorney General
of the State of California

GLORIA A. BARRIOS
Supervising Deputy Attorney General

Original Signed
KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2008600700
60327007.wpd

Exhibit A

Petition to Revoke Probation No. 752-A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KIMBERLEY J. BAKER, State Bar No. 242920
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
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7 Attorneys for Complainant

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

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

Case No. 752-A

12 RICHARD THOMAS PRETZINGER, JR.
13 ~~29915~~ Hook Creek Road
Box 432
14 Lake Arrowhead, CA 92352
Land Surveyor License No. L 7113
15

**PETITION TO REVOKE
PROBATION**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Cindi Christenson, P.E. (Complainant) brings this Petition to Revoke
20 Probation solely in her official capacity as the Executive Officer of the Board for Professional
21 Engineers and Land Surveyors.

22 2. On or about July 8, 1994, the Board for Professional Engineers and Land
23 Surveyors issued Land Surveyor License Number L 7113 to Richard Thomas Pretzinger, Jr.
24 (Respondent). The Land Surveyor License was in effect at all times relevant to the charges
25 brought herein and will expire on December 31, 2008, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation and Petition
27 to Revoke Probation Against Richard Thomas Pretzinger, Jr.", Case No. 752-A, the Board for
28 Professional Engineers and Land Surveyors, issued a decision ("Decision"), effective March 20,

1 2006, in which Respondent's Land Surveyor License was revoked. However, the revocation was
2 stayed and Respondent was placed on probation for a period of two (2) years with certain terms
3 and conditions, including, but not limited to Condition 7 of Probation:

4 “(7) If respondent violates the conditions of probation in any
5 respect, the Board, after giving Respondent notice and the opportunity to be heard,
6 may vacate the stay and reinstate the disciplinary order which was stayed. If
7 during the period of probation, an accusation or petition to vacate stay is filed
8 against respondent, or if the matter has been submitted to the Office of the
9 Attorney General for the filing of an Accusation, the Board shall have continuing
10 jurisdiction until all matters are final, and the period of probation shall be
11 extended until all matters are final.” A copy of that decision is attached as Exhibit
12 A and is incorporated by reference.

13 JURISDICTION

14 4. This Petition to Revoke Probation is brought before the Board for
15 Professional Engineers and Land Surveyors, under the authority of the following laws. All
16 section references are to the Business and Professions Code unless otherwise indicated.

17 5. The Professional Land Surveyors Act, as set forth in Business and
18 Professions Code section 8700 et seq., governs the regulations and practices of professional land
19 surveyors.

20 6. Section 8780 of the Code states, in pertinent part, that “[T]he board may
21 suspend for a period not to exceed two years, or revoke the license or certificate of any licensed
22 land surveyor . . . licensed under this chapter. . . whom it finds to be guilty of:

23

24 “(b) Any . . . negligence or incompetency in his or her practice of land
25 surveying.”

26

27 “(d) Any violation of any provision of this chapter or of any other law
28 relating to or involving the practice of land surveying.”

1
2 “(h) A violation in the course of the practice of land surveying of a rule or
3 regulation of unprofessional conduct adopted by the board.”

4 7. Section 118, subdivision (b) of the Code states:

5 “The suspension, expiration, or forfeiture by operation of law of a license
6 issued by a board in the department, or its suspension, forfeiture, or cancellation
7 by order of the board or by order of a court of law, or its surrender without the
8 written consent of the board, shall not, during any period in which it may be
9 renewed, restored, reissued, or reinstated, deprive the board of its authority to
10 institute or continue a disciplinary proceeding against the licensee upon any
11 ground provided by law or to enter an order suspending or revoking the license or
12 otherwise taking disciplinary action against the licensee on any such ground.”

13 **FIRST CAUSE TO REVOKE PROBATION**

14 (Failure to Pay Cost Recovery)

15 8. At all times after the effective date of Respondent’s probation, Condition 3
16 stated:

17 “Respondent shall pay to the Board its costs of investigation and
18 enforcement in the amount of \$11,117.50 at such time and in such manner as the
19 Board, in its discretion, may direct.” Pursuant to the Decision, Board specified
20 that Respondent was to pay the above-referenced costs within eighteen (18)
21 months of the effective date of the Decision.”

22 9. Respondent’s probation is subject to revocation because he failed to
23 comply with Probation Condition 3, referenced above. The facts and circumstances regarding
24 this violation are as follows:

25 Respondent failed or refused to pay the Board its costs of investigation and
26 enforcement in the amount of \$11,117.50.

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SECOND CAUSE TO REVOKE PROBATION

(Failure to Complete Professional Ethics Course)

10. At all times after the effective date of Respondent’s probation, Condition 4

stated:

”Respondent shall successfully complete and pass within one year of the effective date of the Decision a course in professional ethics. The course in ethics must be approved in advance by the Board or its designee.”

11. Respondent’s probation is subject to revocation because he failed to comply with Probation Condition 4, referenced above. The facts and circumstances regarding this violation are as follows:

Respondent failed or refused to complete and pass a Board-approved course in professional ethics.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Complete Land Surveying Course)

12. At all times after the effective date of Respondent’s probation, Condition 5

stated:

“Respondent shall successfully complete and pass, with a grade of ‘C’ or better, a minimum of one college-level course, approved in advance by the Board or its designee, specifically related to government regulation and administration. The course shall be completed within respondent’s first year of probation. For purposes of this condition, ‘college-level course’ shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; the phrase ‘college-level course’ does not include seminars.”

13. Respondent’s probation is subject to revocation because he failed to comply with Probation Condition 5, referenced above. The facts and circumstances regarding this violation are as follows:

///
///

1 Respondent failed or refused to complete and pass, with a grade of "C" or better,
2 one (1), Board-approved, college-level land surveying course specifically related to government
3 regulation and administration.

4 **FOURTH CAUSE TO REVOKE PROBATION**

5 (Failure to File and/or Record "Records of Survey or Corner Records")

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

8 "For any records of survey or corner records found not to have been filed
9 and recorded in this matter, Respondent shall file or record, as appropriate, the
10 required records with the proper governmental agency within ninety (90) days of
11 the effective date of this Decision. Respondent shall provide the board with
12 verifiable proof that the required records have been filed or recorded, as
13 appropriate, with the governmental agency within thirty (30) days of such filing or
14 recordation."

15 Pursuant to the Decision, Board specified that Respondent was to file and/or
16 record all outstanding Records of Survey or Corner Records with the San Bernardino County
17 Surveyor's Office within ninety (90) days of the effective date of the decision.

18 15. Respondent's probation is subject to revocation because he failed to
19 comply with Probation Condition 8, referenced above. The facts and circumstances regarding
20 this violation are as follows:

21 Respondent failed or refused to file and/or record all outstanding Records
22 of Survey or Corner Records with the San Bernardino County Surveyor's Office.

23 **DISCIPLINE CONSIDERATIONS**

24 (In Aggravation)

25 16. To determine the degree of discipline, if any, to be imposed on
26 Respondent, Complainant alleges that on or about January 18, 2000, in a prior disciplinary action
27 entitled "In the Matter of the Accusation Against Richard Thomas Pretzinger", Case No. 637-A,
28 the Board of Professional Engineers and Land Surveyors, issued a decision. By its Decision, the

1 Board disciplined Respondent's license pursuant to Code section 8762, subdivisions (a), (c),(d),
2 and (e) and 8762.5. Pursuant to the Decision, the Accusation was reduced to a Citation.
3 Accordingly, Citation No. 5036-L was issued to Respondent for violation of Code section 8780,
4 subdivision(c) and 8762. That decision is now final and is incorporated by reference as if fully
5 set forth.

6 **PRAYER**

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

10 1. Revoking the probation that was granted by the Board for Professional
11 Engineers and Land Surveyors in Case No. 752-A and imposing the disciplinary order that was
12 stayed thereby revoking Land Surveyor License No. L 7113 issued to Richard Thomas
13 Pretzinger, Jr.;

14 2. Revoking or suspending Land Surveyor License No. L 7113, issued to
15 Richard Thomas Pretzinger, Jr.;

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

17
18 DATED: 7/14/08

19
20 Original Signed
21 CINDI CHRISTENSON, P.E.
22 Executive Officer
23 Board for Professional Engineers and Land Surveyors
24 State of California
25 Complainant

25 KBG:lms
26 6/19/08
27 LA2008600700
28 60309288.wpd

Exhibit A

Decision and Order

Board for Professional Engineers and Land Surveyors Case No. 752-A

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

In the Matter of the Accusation:)	
)	Case No. 752-A
RICHARD THOMAS PRETZINGER, JR.)	
30017 Hook Creek Road, Box #432)	
Lake Arrowhead, CA 92352)	
)	
Land Surveyor License No. L 7113,)	
)	
Respondent.)	
_____)	

ORDER GRANTING STAY OF EXECUTION OF DECISION

A Decision in the above matter was issued by the Board for Professional Engineers and Land Surveyors on January 20, 2006, to become effective on February 17, 2006. Respondent has submitted a request for a stay of execution of the decision so that he may submit a Petition for Reconsideration pursuant to Government Code section 11521. Therefore, pursuant to the provisions of Government Code sections 11519 and 11521, a stay of execution of the decision in this matter is granted for the purpose of allowing respondent to submit a Petition for Reconsideration.

Execution of the Decision is stayed until March 20, 2006.

DATED: February 16, 2006

Original Signed

NANCY A. EISSLER
Enforcement Program Manager
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California

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

In the Matter of the Accusation against:)	
)	
RICHARD THOMAS PRETZINGER, JR.,)	Case No. 752-A
30017 Hook Creek Road, Box #432)	
Lake Arrowhead, CA 92352)	OAH No. L 2005040305
)	
Land Surveyor License No. L 7113,)	
)	
Respondent.)	
_____)	

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter, except that, pursuant to Government Code section 11517(c)(2)(B), the Proposed Decision is hereby modified for technical reasons for purposes for clarity to read as follows:

Findings of Fact Paragraph 1, on Page 1 of the Proposed Decision, is corrected to read as follows:

1. Cindi Christenson, P.E., made the Accusation in her official capacity as the Executive Officer of the Board for Professional Engineers and Land Surveyors (Board).

The name of the Professional Land Surveyor referenced in Findings of Fact Paragraph 13, on Page 4 of the Proposed Decision is corrected to read Paul Christopher Ehe.

The second sentence of Conclusions of Law Paragraph 4, on Page 7 of the Proposed Decision, is corrected to read as follows:

No evidence was presented from which it can be concluded that on any of the projects described in paragraph 14, Respondent's surveys found "material changes" to any corner monuments or any "material discrepancies" in the position of points, lines, or dimensions.

Probationary Condition (3) is clarified to read as follows:

- (3) Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$11,117.50 within

eighteen (18) months of the effective date of the Decision. Said amount may be paid in installments.

Probation Condition (5) is clarified to read as follows:

(5) 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, specifically related to government regulation and administration. The course shall be completed within respondent's first year of probation. For purposes of this condition, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; the phrase "college-level course" does not include seminars.

The remainder of the Proposed Decision, including the Findings of Facts, Conclusions of Law, and Order, of the Administrative Law Judge are not amended, modified, or otherwise altered.

This Decision shall become effective on February 17, 2006.

IT IS SO ORDERED this 20th day of January, 2006.

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

By Original Signed

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

In the Matter of the Accusation Against:

RICHARD THOMAS PRETZINGER, JR.,

Respondent.

Case No. 752-A

OAH No. L2005040305

PROPOSED DECISION

Ralph B. Dash, Administrative Law Judge, Office of Administrative Hearings, heard this matter on August 18, 2005, at Los Angeles, California.

Barry G. Thorpe, Deputy Attorney General, represented Complainant.

Richard J. Parker, Attorney at Law, represented Richard Thomas Pretzinger, Jr. (Respondent).

Evidence was received and the record left open to permit counsel to submit closing and reply briefs. The briefs were timely submitted and the Administrative Law Judge completed his review thereof on November 10, 2005. The matter was deemed submitted on that date.

The Administrative Law Judge makes the following Proposed Decision.

FINDINGS OF FACT

1. Cindi Christensen, P.E. made the Accusation in her official capacity as Executive Director of the Board for Professional Engineers and Land Surveyors (Board).
2. At all times pertinent hereto, Respondent was and now is licensed by the Board as a land surveyor, license number L 7113.
3. At the hearing, the parties stipulated to amend the Accusation as follows: the allegations at paragraphs 14(g), (n), and (cc) would be withdrawn; the allegation at paragraph 14(bb) would refer to "1 monument" instead of "2 monuments." The Administrative Law Judge incorporated the amendments, by interlineation, on the original Accusation which is part of Exhibit 1, the jurisdictional documents.

4. Attached hereto as Exhibit A, and by this reference made a part hereof, is a true and correct copy of paragraph 14 of the Accusation, as amended (paragraph 14). Paragraph 14 contains allegations that, on a total of 39 separate projects, each of which is described therein, Respondent failed to submit, resubmit, and/or record "corner records" or "records of survey." Paragraph 14 begins as follows:

Respondent failed to file a Record of Survey or Corner Record, within 90 days of setting monuments or finishing the surveying on . . . separate projects and failed to resubmit a Record of Survey or Corner Record to the County Surveyor, within 60 days of the survey being returned, . . .for correction On each occasion, subsequent surveyors discovered undocumented monuments bearing "LS 7113" signifying Respondent's license number. Each subsequent surveyor noted the monuments in his or her corner record or record of survey.

5. Respondent stipulated that he failed to act, as alleged in paragraph 14, save and except for the failure to act set forth in paragraph 14(v). Accordingly, it is found, pursuant to the stipulation, that Respondent failed to file either corner records or records of survey, on 38 separate projects. Respondent did not stipulate that his admitted failures to act were a violation of any of the laws, rules or regulations governing the conduct of professional land surveyors, nor did he stipulate that his failures to act should form the basis for discipline.

6. An example of the type of alleged failure to act is set forth in paragraph 14(v), the single allegation to which the stipulation set forth above did not apply:

Professional Land Surveyor Paul Christopher Ehe, filed a corner record under file no. 00-113, which indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a Record of Survey or Corner Record, as required by law.

7. When making a field survey, professional land surveyors are required to set a sufficient number of durable monuments to insure the perpetuation and easy recovery of any point or line of the survey. Every monument set to mark or reference a point on a property or land line is required to be permanently and visibly marked or tagged with the license number of the surveyor, or the name of the public agency, if any, conducting the survey. Upon completion of the survey, the surveyor is required to file either a corner record, or a record of survey, describing the monuments he or she had set during the survey.

8. Prior to conducting a survey on any particular plot, tract or section of land, the surveyor ordinarily reviews the records of prior surveys, to familiarize him/herself with the monuments and other markers he should expect to find. The surveyor may then determine from his own survey the correct boundaries for the particular lots or other portions of land being surveyed. It is not uncommon when conducting a survey that the surveyor will find that existing monuments have deteriorated (such as a wooden stake that has rotted), or

monuments shown in the records simply no longer exist.¹ In that case, the surveyor is required to reset or replace the damaged /missing monument.

9. A "corner record" is the most basic document a surveyor prepares and files after a survey. This is the appropriate document to prepare when, during a survey, property corners have been reestablished in their original position. An example is reestablishing the property corners of a parcel that was created in accordance with the California Subdivision Map Act, meaning sufficient survey monuments were set as part of the original subdivision, thereby allowing retracement based on original survey monuments. The corner record consists of a single 8 ½ x 11 inch two-sided page.

10. The "record of survey" is the most comprehensive document that the land surveyor files after the completion of the survey or following the setting of survey monuments. The laws and regulations governing land surveying include specific requirements concerning when a Record of Survey should be filed and for the format of the map. The record of survey is submitted for filing in the county where the property is located and is subject to a review by the county surveyor. In California counties there is a fee charged to review the map and for the cost of filing by the County Recorder.² The fees charged vary in amount among the different counties. In its basic form, the Record of Survey is a map 18" X 26" in size showing how the survey was performed in terms of what monuments were found that controlled the survey, and providing sufficient information to allow the survey to be retraced. If a record of survey is filed, there is no need to file a corner record.

11. One of Respondent's contentions is that he was not required to file a corner record for any of the projects described in paragraph 14, because his work was not done on "Public Lands," and the statutory provisions requiring the filing of corner records refer only to Public Lands. Simply stated "Public Lands" were once owned, and may still be owned, by the government, and are divided into one square-mile sections. According to the website of the National Archives of the United States, of which official notice is taken:

[T]he transfer of public land to private ownership has had a lengthy legislative history that can be traced back at least to the Ordinance of 1785. This act authorized the survey of public lands into rectangular sections one mile square and their sale, in lots of one section or more, to the highest bidder. The General Land Office (GLO) was established within the Department of the Treasury by an act of April 25, 1812, to administer all public land transactions except surveying and map work (which came under the supervision of the GLO in 1836). In 1849, the GLO was transferred to the Department of the Interior where it was

¹ There are any number of reasons a monument may not be found as the records would indicate; for example, a monument may be destroyed inadvertently during construction.

² One of the underlying themes in this matter was the ability of Respondent to "underbid the competition" by not having to charge his clients for the cost of preparing and filing a corner record or record of survey.

merged in 1946 to form the Bureau of Land Management (BLM). During the long period between the Ordinance of 1785 and the creation of the BLM, many laws provided for the disposal of the vast resources of federally-owned lands into private ownership, including various bounty-land acts, credit sales, preemption, homesteading, timber culture, desert land, mining claims, and others. The primary contact for the prospective land owner was the local land office which kept records. The records include tract books, which document individual land entries based on location; register books and abstracts that record entries by type; survey plats and location certificates; as well as correspondence and administrative records of the GLO and Surveyors General.

12. Generally, each section of land referred to above was marked at the corners with a monument of some type.³ Over the years, as land was sold, then subdivided and built upon, the corner markers often became lost. From time to time, it would be necessary for a surveyor to re-establish the corners of the original section and mark them. In addition, as the land was subdivided, the corners of each plot of land would be marked with a monument and a record of the survey, including the location and nature of the corner markers, would be filed with the appropriate county agency, usually the County Recorder. As plots of land within each section would change hands over the years, new surveys to establish true boundaries were often required. The surveyor would review the county records regarding the land to be surveyed and ascertain what markers he should expect to find to designate the boundaries of any given plot. Thereafter, if the surveyor found a corner marker to be out of place, destroyed or merely had to be reset, he or she would mark the corner properly, and on the monument itself, would place his or her license number. The surveyor would then file a record of this new corner marker (a "corner record"), for the benefit of future land purchasers and surveyors. If a formal record of survey needed to be filed, the surveyor had no need to file a separate corner record, as the record of survey would contain the information a corner record would provide.

13. The following was established by clear and convincing evidence presented at the hearing of this matter, with respect to the allegations made in paragraph 14(v): In June 2000, Professional Land Surveyor Paul Christopher was requested to conduct a survey to "monument the boundaries of a portion of" a tract of land located in San Bernardino County. A survey was conducted and presented to the County Surveyor. The survey specifically noted that, in lot 1002 of one of the tracts being surveyed, the surveyor found a 5/8 inch piece of rebar, set as a monument and bearing Respondent's license number LS 7113, for which no prior record existed. Respondent has never filed a corner record or record of survey to account for that monument.

³ In some cases a topographical reference might be used in lieu of a physical marker.

14. The Board reasonably incurred expenses, including charges for legal services provided by the Office of the Attorney General, in the sum of \$11,117.50, in connection with the investigation and prosecution of this matter.

* * * * *

CONCLUSIONS OF LAW

1. As noted above, it is Respondent's contention that he was not required to file a corner record for any of the projects set forth in Paragraph 14 because the law does not require such a filing for surveys not done on Public Lands. Respondent relies on the first paragraph of section 8773 of the Business and Professions Code, which reads as follows:

(a) Except as provided in subdivision (b) of Section 8773.4, a person authorized to practice land surveying in this state shall complete, sign, stamp with his or her seal, and file with the county surveyor or engineer of the county where the corners are situated, a written record of corner establishment or restoration to be known as a "corner record" for every corner established by the Survey of the Public Lands of the United States, except "lost corners," as defined by the Manual of Instructions for the Survey of the Public Lands of the United States, and every accessory to such corner which is found, set, reset, or used as control in any survey by such authorized person.

2. While Respondent is correct in stating that section 8773 uses the words "Public Lands," he fails to note the statute refers to the Survey of Public Lands, and not to land that is currently owned by the government. The properties which this Survey originally marked may very well now be in private hands. If the projects on which Respondent worked involved corners originally established by the Survey of Public Lands, even if that land is now privately held, he would have been required to file a corner record. However, if the lots, plots and tracts he surveyed did not involve corners originally established by the Survey of Public Lands, he would not be required to file corner records under this code section.

No evidence was presented from which a determination could be made that the projects referenced in paragraph 14 involved corners established by the Survey of Public Lands. Thus, Respondent cannot be held liable for violating the provisions of Business and Professions Code section 8773 based on the allegations contained in paragraph 14.

3. Respondent next contends that he was not required to file any records of survey for his projects, because his surveys never came within the ambit of Business and Professions Code section 8762, which sets forth the requirement for filing a record of survey. It provides, in relevant part:

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

(b) Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or 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 not appear on any subdivision map, official map, or record of survey previously recorded or properly filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

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

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

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

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

(c) The record of survey required to be filed pursuant to this section shall be filed within 90 days after the setting of boundary monuments

during the performance of a field survey or within 90 days after completion of a field survey, whichever occurs first.

4. Respondent argues that none of his surveys found any material changes in existing corner monuments or any “material discrepancy in the position of points or lines, or in dimensions” and thus he was not required to file a record of survey under subdivisions (b)(1) and (2). No evidence was presented from which it can be concluded that on any of the projects described in paragraph 14, Respondent’s surveys found “material changes” to any corner monuments or an “material discrepancies” in the position of points, lines or dimensions. Thus, Respondent cannot be held liable for violating the provisions of Business and Professions Code section 8762, as alleged in paragraph 14.

5. If the code sections set forth above were controlling, Respondent’s argument that he was not required to file either a corner record or record of survey for any of projects in question would be compelling. However, Respondent’s argument does not take into account Business and Professions Code section 8765, which provides:

A record of survey is not required of any survey:

(a) When it has been made by a public officer in his or her official capacity and a reproducible copy thereof, showing all data required by Section 8764, except the recorder's statement, has been filed with the county surveyor of the county in which the land is located. Any map so filed shall be indexed and kept available for public inspection.

(b) Made by the United States Bureau of Land Management.

(c) When a map is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act.

(d) When the survey is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with those records are found and sufficient monumentation is found to establish the precise location of property corners thereon, **provided that a corner record is filed for any property corners which are set or reset or found to be of a different character than indicated by prior records.** For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

(e) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or record of survey has been

previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code. (Emphasis added.)

6. Under the plain reading of this statute, Respondent would be justified in not filing a record of survey if two events occur--first, that no material discrepancies from prior surveys are found, and second, that a corner record is filed for any monument marking a corner which is "set or reset or found to be of a different character" than that shown in prior records. Thus, if prior records show a wooden stake marking a corner and a surveyor finds that stake in the correct location but replaces it with a piece of rebar, the surveyor must place his license number on the new monument, and record a corner record showing that the nature of the marker has been changed. Furthermore, even if the monument found is consistent with the prior records, but the surveyor removes the marker, then resets it, he or she must, nevertheless, file a corner record. Even if Respondent did not move the monument or reset it, the mere fact that he placed his license number on it makes that marker "of a different character" in the sense that the marker is now different from that on file with the county recorder, requiring Respondent to file a corner record showing the monument now bears his license number.

Accordingly, Respondent was required to file either a record of survey or a corner record after conducting each survey described in paragraph 14. In accord, see California Code of Regulations, title 16, section 464, subdivision (e), which provides:

(e) When conducting a survey which is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with these records are found and where sufficient monumentation is found to establish the precise location of property corners thereon, a corner record may be filed in lieu of a record of survey for any property corners which are set or reset or found to be of a different character than indicated by prior records. Such corner records may show one or more property corners, property controlling corners, reference monuments, or accessories to property corners on a single corner record document so long as it is legible, clear, and understandable.

7. Respondent has admitted the allegations set forth in Exhibit A hereto. Thus he has admitted that, on 38 occasions, surveys of properties done on dates after Respondent has surveyed the same property have found corner markers bearing Respondent's license number. Respondent either set or reset those markers, or caused them to become of different character, yet failed to file a corner record or record of survey. Thus, Respondent was required to file either a record of survey or a corner record for each project described in Exhibit A, including Paragraph 14(v), by reason of Findings 3 through 13 and Conclusions of Law 1 through 6

8. Business and Professions Code section 8780 provides as follows:

The board may receive and investigate complaints against licensed land surveyors and registered civil engineers, and make findings thereon. By a majority vote, the board may reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700) , whom it finds to be guilty of:

- (a) Any fraud, deceit, or misrepresentation in his or her practice of land surveying.
- (b) Any negligence or incompetence in his or her practice of land surveying.
- (c) Any fraud or deceit in obtaining his or her license.
- (d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.
- (e) Any conviction of a crime substantially related to the qualifications, functions, and duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.
- (f) Aiding or abetting any person in the violation of any provision of this chapter.
- (g) A breach or violation of a contract to provide land surveying services.
- (h) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board.

9. The Accusation alleges that Respondent was negligent and incompetent, a violation of subdivision (b) above. In *Pollak v. Kinder* (1978) 85 Cal.App.3d 833, 837-838, the court held:

The technical term “incompetency” is a relative one generally used in a variety of factual contexts to indicate an absence of qualification, ability or fitness to perform a prescribed duty or function. (Citations.) It is commonly defined to mean a general lack of present ability to perform a given duty as distinguished from inability to perform such duty as a result of mere neglect or omission. (Footnote omitted.) Such an interpretation is totally consistent with the declared legislative objective of public protection by requiring a minimum standard of professional conduct on

the part of those licensed to engage in regulated activities. (Citation.) . . . the terms negligence and incompetency are not synonymous; a licensee may be competent or capable of performing a given duty but negligent in performing that duty. This fundamental conceptual distinction has long been recognized in California law (Citations) and in other jurisdictions (Citations.) In defining a similar operative term in the context of an employer's liability for injury caused by an 'incompetent' employee, our state Supreme Court has emphasized that basic distinction in explaining that 'Incompetency connotes the converse of reliability . . .' (Citation) and that 'a single act of negligence . . . may be attributable to remissness in discharging known duties, rather than . . . incompetency respecting the proper performance.' (*Peters v. Southern Pacific Co., supra*, at p. 62.)⁴ The Legislature has consistently acknowledged that basic distinction in enacting and amending a number of regulatory statutes authorizing sanctions for either incompetence or negligence (Footnote omitted.) Thusly, to construe the one as merely synonymous with the other is inconsistent with general principles of construction requiring that meaning and effect be accorded to all of the statutory parts and that an interpretation of a statute be avoided which renders some of its words surplus. (Citations.)

10. As set forth in Conclusions of Law 6 and 7, Respondent violated the laws regulating the practice of land surveying. In the language of *Peters v. Southern Pacific Co., supra*, he was remiss in discharging known duties, but he was not negligent or incompetent. Accordingly, it is concluded that cause for discipline exists under the provisions of Business and Professions Code section 8780, subdivisions (d) and (h), but not under subdivision (b), based on Respondent's violations of Business and Professions Code section and 8765, and California Code of Regulations, title 16, section 464, subdivision (e) as set forth in Findings 3 through 12 and Conclusions of Law 6 and 7.

13. The Board is entitled to recover from Respondent the sum of \$11,117.50 as and for the cost of investigation and prosecution of this matter under the provisions of Business and Professions Code section 125.3, by reason of Finding 12.

* * * * *

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Land Surveyor License No. L 7113 issued to Respondent Richard Thomas Pretzinger, Jr. is revoked; provided, however, that the revocation is stayed and Respondent is placed on probation for two years on the following terms and conditions:

⁴ *Peters v. Southern Pacific Co.* (1911) 160 Cal. 48.

- (1) Respondent shall obey all laws and regulations related to the practices of professional engineering and professional land surveying.
- (2) Respondent shall submit such special reports to the Board as the Board may require.
- (3) Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$11,117.50 at such time and in such manner as the Board, in its discretion, may direct..
- (4) Respondent shall successfully complete and pass within one year of the effective date of the Decision a course in professional ethics. The course in ethics must be approved in advance by the Board or its designee.
- (5) Respondent shall successfully complete and pass, with a grade of "C" or better, a minimum of one college-level course, approved in advance by the Board or its designee, specifically related to government regulation and administration. The course shall be completed within respondent's first year of probation. For purposes of this condition, "college-level course" shall mean a course offered by a community college or a four-year university of three semester units or the equivalent; the phrase "college-level course" does not include seminars.
- (6) The period of probation shall be tolled during the time Respondent practices 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.
- (7) If respondent violates the conditions of probation 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 respondent, or if the matter has been submitted to the Office of the Attorney General for the filing of an Accusation, the Board shall have continuing jurisdiction until all matters are final, and the period of probation shall be extended until all matters are final.
- (8) For any records of survey or corner records found not to have been filed and recorded in this matter, Respondent shall file or record, as appropriate, the required records with the proper governmental agency within ninety (90) days of the effective date of this Decision. Respondent shall provide the Board with verifiable proof that the required records have been filed or recorded, as appropriate, with the governmental agency within thirty (30) days of such filing or recordation.

- (9) Upon the successful completion of all of the probation, respondent's license shall be unconditionally restored.

Date: 12-5-05

Original Signed

RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings

1 14. Respondent failed to file a Record of Survey or Corner Record, within 90
2 days of setting monuments or finishing the surveying on 42 separate projects and failed to
3 resubmit a Record of Survey or Corner Record to the County Surveyor, within 60 days of the
4 survey being returned, on 6 separate projects for correction set forth below. On each occasion,
5 subsequent surveyors discovered undocumented monuments bearing "LS 7113" signifying
6 Respondent's license number. Each subsequent surveyor noted the monuments in his or her
7 corner record or record of survey. These projects are described, as follows:

8 a. On or about September 1, 1997, Professional Land Surveyor Bradley L.
9 Brier, filed a corner record for Lot 21 of Arrowhead Woods, Tract 55, Map Book 22, Pages 5-6,
10 which indicates 5 monuments found with LS 7113 tag. Respondent failed to file the Record of
11 Survey or Corner Record, within 90 days of setting monuments or finishing the surveying and
12 failed, on three occasions, to resubmit a Record of Survey or Corner Record to the County
13 Surveyor within 60 days of the survey being returned for correction.

14 b. In or about January, 1999, Professional Land Surveyor Paul Christopher
15 Ehe, filed a corner record for lot 298, Tract 6397, Map Book 81, Pages 30-35, which indicates 1
16 monument found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
17 Record, within 90 days of setting monuments or finishing the surveying and failed to resubmit a
18 Record of Survey or Corner Record to the County Recorder within 60 day of the survey being
19 returned for correction.

20 c. On or about January 14, 1999, Professional Land Surveyor Bradley L.
21 Brier, filed a corner record for Lot 341, Tract 7201, Map Book 92, Pages 54-60, which indicates
22 2 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
23 Record, within 90 days of setting monuments or finishing the surveying.

24 d. In or about May, 1999, Professional Land Surveyor Paul Christopher Ehe,
25 filed a corner record for Lots A, B, C, D, Parcel 17, 18, 27; Lots B, D, Parcel 16; Lots A, B, C, D,
26 Parcel 36, lying north of Hollywood Drive; All in Block 9 of Smiley Park Country Club, as
27 Assessor's Map #10, recorded in Owner's Map Book 1, pages 16-19, which indicates 1
28 monument found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner

Exhibit A

1 Record, within 90 days of setting monuments or finishing the surveying.

2 e. On or about July 3, 1999, Professional Land Surveyor Bradley L. Brier,
3 filed a corner record for Lot 135, Tract 6489, Map Book 83, Pages 76-83, which indicates 4
4 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
5 Record, within 90 days of setting monuments or finishing the surveying.

6 f. On or about June 8, 1999, Professional Land Surveyor Bradley L. Brier,
7 filed a corner record for Lot 88, Tract 7933, Map Book 101, Pages 57-63, which indicates 3
8 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
9 Record, within 90 days of setting monuments or finishing the surveying and failed to resubmit a

10 Record of Survey Corner Record to the County Surveyor within 60 days of the survey being
11 returned for correction.

~~12 g. On or about July 16, 1999, Professional Land Surveyor Bradley L. Brier,
13 found 1 monument with LS 7113 tag. This monument was included on Respondent's Record of
14 Survey described in paragraph (a) above. Respondent failed to file the Record of Survey or
15 Corner Record, within 90 days of setting monuments or finishing the surveying and failed to
16 resubmit a Record of Survey Corner Record to the County Surveyor within 60 days of the survey
17 being returned for correction.~~

18 h. On or about October 11, 2000, Professional Land Surveyor Bradley L.
19 Brier, filed a corner record for a walk between Lots 26 & 27, Tract 2801, Map Book 39, Pages 1-
20 2, which indicates 3 monuments found with LS 7113 tag. Respondent failed to file the Record of
21 Survey or Corner Record, within 90 days of setting monuments or finishing the surveying and
22 failed to resubmit a Record of Survey Corner Record to the County Surveyor within 60 days of
23 the survey being returned for correction.

24 i. On or about August 3, 1998, Professional Land Surveyor Bradley L. Brier,
25 filed a corner record for Lot 46, Tract 7985, Map Book 108, Pages 24-31, which indicates 2
26 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
27 Record, within 90 days of setting monuments or finishing the surveying and failed to resubmit a
28 Record of Survey Corner Record to the County Surveyor within 60 days of the survey being

1 returned for correction.

2 j. On or about March 16, 2000, Professional Land Surveyor Bradley L. Brier,
3 filed a corner record for Lot 95, Tract 7513, Map Book 96, Pages 89-96, which indicates 1
4 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
5 Record of Survey or Corner Record, as required by law.

6 k. On or about August 20, 1999, Professional Land Surveyor Bradley L.
7 Brier, filed a corner record for Lot 114, Tract 8053, Map Book 106, Pages 74-91, which indicates
8 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
9 Record of Survey or Corner Record, as required by law.

10 l. On or about January 3, 2000, Professional Land Surveyor Bradley L. Brier,
11 filed a corner record for Lot 96, Tract 12783-2, Map Book 213, Pages 37-42, which indicates 1
12 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
13 Record of Survey or Corner Record, as required by law.

14 m. On or about December 12, 1999, Professional Land Surveyor Bradley L.
15 Brier, filed a corner record for Lots 68 & 69, Tract 7985, Map Book 108, Pages 24-31, which
16 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
17 submitted a Record of Survey or Corner Record, as required by law.

18 ~~n. On or about July 16, 1999, Professional Land Surveyor Bradley L. Brier,
19 filed a corner record for Arrowhead Woods, Tract 55, Line Between Lots 22 & 21A, Map Book
20 22, Pages 5-6, which indicates 1 monument found with LS 7113 tag. As of October 16, 2003,
21 Respondent had not submitted a Record of Survey or Corner Record, as required by law.~~

22 o. On or about May 19, 2000, Professional Land Surveyor Bradley L. Brier,
23 filed a corner record for Lot 58, Tract 4297, Map Book 56, Pages 32-34, which indicates 1
24 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
25 Record of Survey or Corner Record, as required by law.

26 p. Professional Land Surveyor Paul Christopher Ehe, filed a corner record
27 survey for Lots A, B, C, D, Parcel 20, Lots A, B, D, Parcel 19, Block 13, Lots C, D, Parcels 10-
28 11, Block 13, Lot D, Parcel 18, Block 12, and Lot B, Parcel 27, Block 12, all located within the

1 Smiley Park Country Club, as recorded in Assessors Map #10, in Owner's Map Book 1, Pages
2 16-19, which indicates 3 monuments found with LS 7113 tag. As of October 16, 2003,
3 Respondent had not submitted a Record of Survey or Corner Record, as required by law.

4 q. On or about June 22, 2000, Professional Land Surveyor Bradley L. Brier,
5 filed a corner record for Lot 192, Tract 7891, Map Book 101, Pages 20-26, which indicates 2
6 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
7 Record of Survey or Corner Record, as required by law.

8 r. On or about July 10, 2000, Professional Land Surveyor Bradley L. Brier,
9 filed a corner record for Lot 6, Arrowhead Woods, Tract 7, Map Book 22, Pages 17-19, which
10 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
11 submitted a Record of Survey or Corner Record, as required by law.

12 s. In or about July, 2000, Professional Land Surveyor Joseph R. Williard
13 filed a corner record for Lot 371, Tract 7417, Map Book 95, Pages 28-37, which indicates 1
14 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
15 Record of Survey or Corner Record, as required by law.

16 t. Professional Land Surveyor Michael A. Baine, filed a corner record for
17 Cedar Pines Park No. 4, Block 2, Lot 61, which indicates 1 monument found with LS 7113 tag.
18 As of October 16, 2003, Respondent had not submitted a Record of Survey or Corner Record, as
19 required by law.

20 u. Professional Land Surveyor Minor William Smith filed a corner record for
21 Lot 25-A, 26-A, and 27-A, Tract 1720, Map Book 27, Page 59, which indicates 5 monuments
22 found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a Record of
23 Survey or Corner Record, as required by law.

24 v. Professional Land Surveyor Paul Christopher Ehe, filed a corner record,
25 under file no. 00-113, which indicates 1 monument found with LS 7113 tag. As of October 16,
26 2003, Respondent had not submitted a Record of Survey or Corner Record, as required by law.

27 w. In or about September, 2000, Professional Land Surveyor Paul Christopher
28 Ehe, filed a corner record for Lot 73, Tract 3312, Map Book 45, Pages 92-99, which indicates 1

1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
2 Record of Survey or Corner Record, as required by law.

3 x. In or about September, 2000, Professional Land Surveyor Paul Christopher
4 Ehe, filed a corner record for West Line Lot 93, Block 9, Tract 1931, Map Book 29, Pages 45-47,
5 which indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had
6 not submitted a Record of Survey or Corner Record, as required by law.

7 y. On or about October 11, 2000, Professional Land Surveyor Bradley L.
8 Brier, filed a corner record for Lots 25 & 26, Tract 2801, Map Book 39, Pages 1-2, which
9 indicates 5 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not
10 submitted a Record of Survey or Corner Record, as required by law.

11 z. Professional Land Surveyor Bradley L. Brier, filed a corner record, under
12 file no. 00-1005; 216/042, which indicates 2 monuments found with LS 7113 tag. As of
13 October 16, 2003, Respondent had not submitted a Record of Survey or Corner Record, as
14 required by law.

15 aa. On or about March 22, 2001, Professional Land Surveyor Bradley L. Brier,
16 filed a corner record for Lots 130-132, Tract 5089, Map Book 75, Pages 44-54, which indicates 2
17 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
18 Record of Survey or Corner Record, as required by law.

19 bb. In or about May, 2001, Professional Land Surveyor Paul Christopher Ehe,
20 filed a corner record for Lots 7, 21-23, Block 4, Tract 2276, Map Book 33, Pages 42-43, which
21 indicates 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not
22 submitted a Record of Survey or Corner Record, as required by law.

23 ~~cc. On or about January 3, 2000, Professional Land Surveyor Bradley L. Brier,~~
24 ~~filed a corner record for Lot 96, Tract 12783-2, Map Book 213, Pages 37-42, which indicates 1~~
25 ~~monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a~~
26 ~~Record of Survey or Corner Record, as required by law.~~

27 dd. On or about July 23, 2001, Professional Land Surveyor Bradley L. Brier,
28 filed a corner record for Lot 119, Tract 7417, Map Book 95, Pages 28-37, which indicates 1

1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
2 Record of Survey or Corner Record, as required by law.

3 ee. On or about June 9, 2001, Professional Land Surveyor Bradley L. Brier,
4 filed a corner record for Lot 218, Tract 7513, Map Book 96, Pages 89-96, which indicates 1
5 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
6 Record of Survey or Corner Record, as required by law.

7 ff. On or about August 8, 2001 and July, 2002, Professional Land Surveyor
8 Paul Christopher Ehe, filed a corner record for Lots 72-76, Block 16, Tract 1847, Map Book 27,
9 Pages 38-39, which indicates 2 monuments found with LS 7113 tag. As of October 16, 2003,

10 Respondent had not submitted a Record of Survey or Corner Record, as required by law.

11 gg. On or about October 8, 2001, Professional Land Surveyor Michael A.
12 Baine filed a corner record for Lot 36, Arrowhead Woods, Tract 2, Map Book 22, Page 4, which
13 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
14 submitted a Record of Survey or Corner Record, as required by law.

15 hh. On or about May 22, 2001, Professional Land Surveyor Michael A. Baine
16 filed a corner record for Lot 21, Arrowhead Lakeview Forest, Tract 1847, Map Book 23, Page
17 65, which indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent
18 had not submitted a Record of Survey or Corner Record, as required by law.

19 ii. On or about November 2, 2001, Professional Land Surveyor Paul
20 Christopher Ehe, filed a corner record for Lot 3, Block 11, Tract 1931, Map Book 29, Pages 45-
21 47, which indicates 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent
22 had not submitted a Record of Survey or Corner Record, as required by law.

23 jj. On or about September 19, 2001, Professional Land Surveyor Daryl Roy
24 Jones filed a corner record for Lot 19/20, Monuments ties - Route 18, at Inspiration Drive, Map
25 Book 33, Pages 42-43, which indicates 1 monument found with LS 7113 tag. As of October 16,
26 2003, Respondent had not submitted a Record of Survey or Corner Record, as required by law.

27 kk. On or about June 15, 2002, Professional Land Surveyor Bradley L. Brier,
28 filed a corner record for Lot 290, Tract 7417, Map Book 95, Pages 28-37, which indicates 1

1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
2 Record of Survey or Corner Record, as required by law.

3 ii. On or about October 12, 2001, Professional Land Surveyor Michael A.
4 Baine filed a corner record for Lots 7-9, 63, and 64 Cedar Pines Park No. 12, Tract 2330, which
5 indicates 1 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not
6 submitted a Record of Survey or Corner Record, as required by law.

7 mm. On or about May 16, 2002, Professional Land Surveyor Bradley L. Brier,
8 filed a corner record for Lot 255, Tract 6782, Map Book 88, Pages 38-44, which indicates 2
9 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
10 Record of Survey or Corner Record, as required by law.

11 nn. On or about September 4, 2002, Professional Land Surveyor Bradley L.
12 Brier, filed a corner record for Lot 191, Tract 7776, Map Book 102, Pages 52-59, which indicates
13 1 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
14 Record of Survey or Corner Record, as required by law.

15 oo. On or about March 30, 2002, Professional Land Surveyor Paul
16 Christopher Ehe, filed a corner record for Lots 19-20, Block 7, Tract 2113, Map Book 30, Page
17 51, which indicates 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent
18 had not submitted a Record of Survey or Corner Record, as required by law.

19 pp. On or about December 13, 2002, Professional Land Surveyor Joseph R.
20 Williard, filed a corner record for Lot 146, Tract 2683, T2N, R4W, Sec 23, SBM, which
21 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
22 submitted a Record of Survey or Corner Record, as required by law.

1 BILL LOCKYER, Attorney General
of the State of California
2 GLYNDA B. GOMEZ, State Bar No. 143448
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6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation and Petition to
Revoke Against:

Case No. 752-A

12 RICHARD THOMAS PRETZINGER, JR.
30017 Hook Creek Road
13 Box 432
Lake Arrowhead, CA 92352
14
15 Land Surveyor License No. L 7113

ACCUSATION

16 Respondent.

17 Complainant alleges:

18 PARTIES

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

22 2. On or about July 8, 1994, the Board for Professional Engineers and Land
23 Surveyors issued Land Surveyor License No. L 7113 to Richard Thomas Pretzinger, Jr.
24 ("Respondent"). The Land Surveyor License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on December 31, 2006, unless renewed.

26 3. In a disciplinary action entitled *In the Matter of the Accusation Against*
27 *Richard Thomas Pretzinger*, Case No. 637-A, the Board for Professional Engineers and Land
28 Surveyors, issued a decision ("Decision"), effective January 18, 2000. Pursuant to the Decision,

1 the Accusation was reduced to a Citation. Accordingly, Citation No. 5036-L was issued to
2 Respondent on January 18, 2000. The citation was issued with a fine and is now final. A copy
3 of the Decision is attached as Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Accusation is brought before the Board for Professional Engineers
6 and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the
7 following laws. All section references are to the Business and Professions Code unless otherwise
8 indicated.

9 5. Section 8773 states:

10 "(a) Except as provided in subdivision (b) of Section 8773.4, a person authorized
11 to practice land surveying in this state shall complete, sign, stamp with his or her seal, and file
12 with the county surveyor or engineer of the county where the corners are situated, a written
13 record of corner establishment or restoration to be known as a "corner record" for every corner
14 established by the Survey of the Public Lands of the United States, except "lost corners," as
15 defined by the Manual of Instructions for the Survey of the Public Lands of the United States,
16 and every accessory to such corner which is found, set, reset, or used as control in any survey by
17 such authorized person.

18 "(b) After the establishment of a lost corner, as defined by the Manual of
19 Instructions for the Survey of the Public Lands of the United States, a record of survey shall be
20 filed as set forth in Section 8764.

21 "(c) Any person authorized to practice land surveying in this state may file such
22 corner record for any property corners, property controlling corners, reference monuments, or
23 accessories to a property corner."

24 6. Section 8780 states:

25 "The board may receive and investigate complaints against licensed land
26 surveyors and registered civil engineers, and make findings thereon.

27 "By a majority vote, the board may reprove, suspend for a period not to exceed
28 two years, or revoke the license or certificate of any licensed land surveyor or registered civil

1 engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7
2 (commencing with Section 6700), whom it finds to be guilty of:

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

4

5 "(d) Any violation of any provision of this chapter [chapter 15, commencing with
6 section 8700] or of any other law relating to or involving the practice of land surveying.

7

8 "(h) A violation in the course of the practice of land surveying of a rule or
9 regulation of unprofessional conduct adopted by the board."

10 7. Section 8762 states:

11 "(a) After making a field survey in conformity with the practice of land surveying,
12 the licensed surveyor or licensed civil engineer may file with the county surveyor in the county in
13 which the survey was made, a record of the survey.

14 "(b) After making a field survey in conformity with the practice of land surveying,
15 the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the
16 county in which the field survey was made a record of the survey relating to land boundaries or
17 property lines, if the field survey discloses any of the following:

18 "(1) Material evidence or physical change, which in whole or in part does not
19 appear on any subdivision map, official map, or record of survey previously recorded or properly
20 filed in the office of the county recorder or county surveying department, or map or survey record
21 maintained by the Bureau of Land Management of the United States.

22 "(2) A material discrepancy with the information contained in any subdivision
23 map, official map, or record of survey previously recorded or filed in the office of the county
24 recorder or the county surveying department, or any map or survey record maintained by the
25 Bureau of Land Management of the United States. For purposes of this subdivision, a "material
26 discrepancy" is limited to a material discrepancy in the position of points or lines, or in
27 dimensions.

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

6 "(4) The establishment of one or more points or lines not shown on any
7 subdivision map, official map, or record of survey, the positions of which are not ascertainable
8 from an inspection of the subdivision map, official map, or record of survey.

9 "(5) The points or lines set during the performance of a field survey of any parcel
10 described in any deed or other instrument of title recorded in the county recorder's office are not
11 shown on any subdivision map, official map, or record of survey.

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

15 "(d) If the 90-day time limit contained in this section cannot be complied with for
16 reasons beyond the control of the licensed land surveyor or licensed civil engineer, the 90-day
17 time period shall be extended until the time at which the reasons for delay are eliminated. If the
18 licensed land surveyor or licensed civil engineer cannot comply with the 90-day time limit, he or
19 she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a
20 letter stating that he or she is unable to comply. The letter shall provide an estimate of the date
21 for completion of the record of survey, the reasons for the delay, and a general statement as to the
22 location of the survey, including the assessor's parcel number or numbers.

23 "(e) The licensed land surveyor or licensed civil engineer shall not initially be
24 required to provide specific details of the survey. However, if other surveys at the same location
25 are performed by others which may affect or be affected by the survey, the licensed land surveyor
26 or licensed civil engineer shall then provide information requested by the county surveyor
27 without unreasonable delay.

28 ///

1 (f) Any record of survey filed with the county surveyor shall, after being
2 examined by him or her, be filed with the county recorder.

3 (g) If the preparer of the record of survey provides a postage-paid, self-addressed
4 envelope or postcard with the filing of the record of survey, the county recorder shall return the
5 postage-paid, self-addressed envelope or postcard to the preparer of the record of survey with the
6 filing data within 10 days of final filing. For the purposes of this subdivision, 'filing data'
7 includes the date, the book or volume, and the page at which the record of survey is filed by the
8 county surveyor."

9 8. Section 8765 states:

10 "A record of survey is not required of any survey:

11 "(a) When it has been made by a public officer in his or her official capacity and a
12 reproducible copy thereof, showing all data required by Section 8764, except the recorder's
13 statement, has been filed with the county surveyor of the county in which the land is located.
14 Any map so filed shall be indexed and kept available for public inspection.

15 "(b) Made by the United States Bureau of Land Management.

16 "(c) When a map is in preparation for recording or shall have been recorded under
17 the provisions of the Subdivision Map Act.

18 "(d) When the survey is a retracement of lines shown on a subdivision map,
19 official map, or a record of survey, where no material discrepancies with those records are found
20 and sufficient monumentation is found to establish the precise location of property corners
21 thereon, provided that a corner record is filed for any property corners which are set or reset or
22 found to be of a different character than indicated by prior records. For purposes of this
23 subdivision, a 'material discrepancy' is limited to a material discrepancy in the position of points
24 or lines, or in dimensions.

25 "(e) When the survey is a survey of a mobilehome park interior lot as defined in
26 Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or
27 record of survey has been previously filed for the interior lot or no conversion to residential
28 ownership has occurred pursuant to Section 66428.1 of the Government Code."

1 9. Section 8767 states:

2 "If the county surveyor finds that the record of survey complies with the
3 examination in Section 8766, the county surveyor shall endorse a statement on it of his or her
4 examination, and shall present it to the county recorder for filing. Otherwise the county
5 surveyor shall return it to the person who presented it, together with a written statement of the
6 changes necessary to make it conform to the requirements of Section 8766. The licensed land
7 surveyor or registered civil engineer submitting the record of survey may then make the agreed
8 changes and note those matters which cannot be agreed upon in accordance with the provisions
9 of Section 8768 and shall resubmit the record of survey within 60 days, or within the time as
10 may be mutually agreed upon by the licensed surveyor or registered engineer and the county
11 surveyor, to the county surveyor for filing pursuant to Section 8768."

12 10. Section 118, subdivision (b) states:

13 "The suspension, expiration, or forfeiture by operation of law of a license issued
14 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
15 by order of a court of law, or its surrender without the written consent of the board, shall not,
16 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
17 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
18 ground provided by law or to enter an order suspending or revoking the license or otherwise
19 taking disciplinary action against the licensee on any such ground."

20 11. Title 16, California Code of Regulations section 464, in pertinent part,
21 states:

22 ...

23 (a) The corner record required by Section 8773 of the Code for the
24 perpetuation of monuments shall contain the following information for each corner identified
25 therein:

- 26 (1) The county and, if applicable, city in which the corner is located.
27 (2) An identification of the corner type (example: government corner, control
28 corner, property owner, etc.).

1 (3) Identification of the corner type (example: government corner, control
2 corner, property owner, etc.).

3 (4) Description of the physical condition of

4 (A) the monument as found and

5 (B) any monuments set or reset.

6 (5) The date of the visit to the monument when the information for the corner
7 record was obtained.

8 (6) For Public Land Corners for which a corner record is required by Section
9 8773(a) of the Code, a sketch shall be made showing site recovery information that was used for
10 the corner. For other kinds of corners, a drawing shall be made which shows measurements that
11 relate the corner to other identifiable monuments.

12 (7) A reference to the California Coordinate System, is optional at the
13 discretion of the preparer of the record.

14 (8) The date of preparation of the corner record and, as prescribed by Sections
15 8773.4 of the Code, the signature and title of the chief of the survey party if the corner record is
16 prepared by a United States Government or California State agency or the signature and seal of
17 the land surveyor or civil engineer, as defined in Section 8731 of the Code, preparing the corner
18 record.

19 (9) The date the corner record was filed and the signature of the county
20 surveyor.

21 (10) A document or filing number.

22 ...

23 (b) A corner record shall be filed for each public land surveyor which
24 is found, reset, or used as control in any survey by a land surveyor or a civil engineer. Exceptions
25 to this rule are identified in section 8773.4 of the Code.

26 (c) The corner record shall be filed within 90 days from the date a
27 corner was found, reset, or used as control in any survey. The provisions for extending the time
28 limit shall be the same as provided for a record of survey in Section 8762 of the Code.

1 (d) A corner record may be filed for any property corner, property
2 controlling corner, reference monument, or accessory to a property corner, together with
3 reference to record information. Such corner record may show one or more property corners,
4 property controlling corners, reference monuments, or accessories to property corners on a single
5 corner document so long as it is legible, clear and understandable.

6 (e) When conducting a survey which is a retracement of lines shown
7 on a subdivision map, official map, or a record of survey, where no material discrepancies with
8 these records are found and where sufficient monumentation is found to establish the precise
9 location of property corners thereon, a corner record may be filed in lieu of a record of survey for
10 any property corners which are set or reset or found to be of a different character than indicated
11 by prior records. Such corner records may show one or more property corners, property
12 controlling corners, reference monuments, or accessories to property corners on a single corner
13 record document so long as it is legible, clear, and understandable.

14 12. Section 125.3, subdivision (a), states, in pertinent part:

15 "Except as otherwise provided by law, in any order issued in resolution of a
16 disciplinary proceeding before any board within the department . . . the board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations
18 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case."

20 FIRST CAUSE FOR DISCIPLINE

21 (Negligence or Incompetence)

22 13. Respondent is subject to disciplinary action under section 8780,
23 subdivision (b), for unprofessional conduct, as defined in sections 8762, 8765, 8767, and 8773 of
24 the Code, in that Respondent failed to file a Record of Survey or Corner Record, within 90 days
25 of setting monuments or finishing the surveying and failed to resubmit a Record of Survey or
26 Corner Record to the County Surveyor within 60 days of the survey being returned for
27 correction, as follows:

28 / / /

1 14. Respondent failed to file a Record of Survey or Corner Record, within 90
2 days of setting monuments or finishing the surveying on 42 separate projects and failed to
3 resubmit a Record of Survey or Corner Record to the County Surveyor, within 60 days of the
4 survey being returned, on 6 separate projects for correction set forth below. On each occasion,
5 subsequent surveyors discovered undocumented monuments bearing "LS 7113" signifying
6 Respondent's license number. Each subsequent surveyor noted the monuments in his or her
7 corner record or record of survey. These projects are described, as follows:

8 a. On or about September 1, 1997, Professional Land Surveyor Bradley L.
9 Brier, filed a corner record for Lot 21 of Arrowhead Woods, Tract 55, Map Book 22, Pages 5-6,
10 which indicates 5 monuments found with LS 7113 tag. Respondent failed to file the Record of
11 Survey or Corner Record, within 90 days of setting monuments or finishing the surveying and
12 failed, on three occasions, to resubmit a Record of Survey or Corner Record to the County
13 Surveyor within 60 days of the survey being returned for correction.

14 b. In or about January, 1999, Professional Land Surveyor Paul Christopher
15 Ehe, filed a corner record for lot 298, Tract 6397, Map Book 81, Pages 30-35, which indicates 1
16 monument found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
17 Record, within 90 days of setting monuments or finishing the surveying and failed to resubmit a
18 Record of Survey or Corner Record to the County Recorder within 60 day of the survey being
19 returned for correction.

20 c. On or about January 14, 1999, Professional Land Surveyor Bradley L.
21 Brier, filed a corner record for Lot 341, Tract 7201, Map Book 92, Pages 54-60, which indicates
22 2 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
23 Record, within 90 days of setting monuments or finishing the surveying.

24 d. In or about May, 1999, Professional Land Surveyor Paul Christopher Ehe,
25 filed a corner record for Lots A, B, C, D, Parcel 17, 18, 27; Lots B, D, Parcel 16; Lots A, B, C, D,
26 Parcel 36, lying north of Hollywood Drive; All in Block 9 of Smiley Park Country Club, as
27 Assessor's Map #10, recorded in Owner's Map Book 1, pages 16-19, which indicates 1
28 monument found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner

1 Record, within 90 days of setting monuments or finishing the surveying.

2 e. On or about July 3, 1999, Professional Land Surveyor Bradley L. Brier,
3 filed a corner record for Lot 135, Tract 6489, Map Book 83, Pages 76-83, which indicates 4
4 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
5 Record, within 90 days of setting monuments or finishing the surveying.

6 f. On or about June 8, 1999, Professional Land Surveyor Bradley L. Brier,
7 filed a corner record for Lot 88, Tract 7933, Map Book 101, Pages 57-63, which indicates 3
8 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
9 Record, within 90 days of setting monuments or finishing the surveying and failed to resubmit a
10 Record of Survey Corner Record to the County Surveyor within 60 days of the survey being
11 returned for correction.

12 g. On or about July 16, 1999, Professional Land Surveyor Bradley L. Brier,
13 found 1 monument with LS 7113 tag. This monument was included on Respondent's Record of
14 Survey described in paragraph (a) above. Respondent failed to file the Record of Survey or
15 Corner Record, within 90 days of setting monuments or finishing the surveying and failed to
16 resubmit a Record of Survey Corner Record to the County Surveyor within 60 days of the survey
17 being returned for correction.

18 h. On or about October 11, 2000, Professional Land Surveyor Bradley L.
19 Brier, filed a corner record for a walk between Lots 26 & 27, Tract 2801, Map Book 39, Pages 1-
20 2, which indicates 3 monuments found with LS 7113 tag. Respondent failed to file the Record of
21 Survey or Corner Record, within 90 days of setting monuments or finishing the surveying and
22 failed to resubmit a Record of Survey Corner Record to the County Surveyor within 60 days of
23 the survey being returned for correction.

24 i. On or about August 3, 1998, Professional Land Surveyor Bradley L. Brier,
25 filed a corner record for Lot 46, Tract 7985, Map Book 108, Pages 24-31, which indicates 2
26 monuments found with LS 7113 tag. Respondent failed to file the Record of Survey or Corner
27 Record, within 90 days of setting monuments or finishing the surveying and failed to resubmit a
28 Record of Survey Corner Record to the County Surveyor within 60 days of the survey being

1 returned for correction.

2 j. On or about March 16, 2000, Professional Land Surveyor Bradley L. Brier,
3 filed a corner record for Lot 95, Tract 7513, Map Book 96, Pages 89-96, which indicates 1
4 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
5 Record of Survey or Corner Record, as required by law.

6 k. On or about August 20, 1999, Professional Land Surveyor Bradley L.
7 Brier, filed a corner record for Lot 114, Tract 8053, Map Book 106, Pages 74-91, which indicates
8 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
9 Record of Survey or Corner Record, as required by law.

10 l. On or about January 3, 2000, Professional Land Surveyor Bradley L. Brier,
11 filed a corner record for Lot 96, Tract 12783-2, Map Book 213, Pages 37-42, which indicates 1
12 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
13 Record of Survey or Corner Record, as required by law.

14 m. On or about December 12, 1999, Professional Land Surveyor Bradley L.
15 Brier, filed a corner record for Lots 68 & 69, Tract 7985, Map Book 108, Pages 24-31, which
16 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
17 submitted a Record of Survey or Corner Record, as required by law.

18 n. On or about July 16, 1999, Professional Land Surveyor Bradley L. Brier,
19 filed a corner record for Arrowhead Woods, Tract 55, Line Between Lots 22 & 21A, Map Book
20 22, Pages 5-6, which indicates 1 monument found with LS 7113 tag. As of October 16, 2003,
21 Respondent had not submitted a Record of Survey or Corner Record, as required by law.

22 o. On or about May 19, 2000, Professional Land Surveyor Bradley L. Brier,
23 filed a corner record for Lot 58, Tract 4297, Map Book 56, Pages 32-34, which indicates 1
24 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
25 Record of Survey or Corner Record, as required by law.

26 p. Professional Land Surveyor Paul Christopher Ehe, filed a corner record
27 survey for Lots A, B, C, D, Parcel 20, Lots A, B, D, Parcel 19, Block 13, Lots C, D, Parcels 10-
28 11, Block 13, Lot D, Parcel 18, Block 12, and Lot B, Parcel 27, Block 12, all located within the

1 Smiley Park Country Club, as recorded in Assessors Map #10, in Owner's Map Book 1, Pages
2 16-19, which indicates 3 monuments found with LS 7113 tag. As of October 16, 2003,
3 Respondent had not submitted a Record of Survey or Corner Record, as required by law.

4 q. On or about June 22, 2000, Professional Land Surveyor Bradley L. Brier,
5 filed a corner record for Lot 192, Tract 7891, Map Book 101, Pages 20-26, which indicates 2
6 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
7 Record of Survey or Corner Record, as required by law.

8 r. On or about July 10, 2000, Professional Land Surveyor Bradley L. Brier,
9 filed a corner record for Lot 6, Arrowhead Woods, Tract 7, Map Book 22, Pages 17-19, which
10 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
11 submitted a Record of Survey or Corner Record, as required by law.

12 s. In or about July, 2000, Professional Land Surveyor Joseph R. Williard
13 filed a corner record for Lot 371, Tract 7417, Map Book 95, Pages 28-37, which indicates 1
14 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
15 Record of Survey or Corner Record, as required by law.

16 t. Professional Land Surveyor Michael A. Baine, filed a corner record for
17 Cedar Pines Park No. 4, Block 2, Lot 61, which indicates 1 monument found with LS 7113 tag.
18 As of October 16, 2003, Respondent had not submitted a Record of Survey or Corner Record, as
19 required by law.

20 u. Professional Land Surveyor Minor William Smith filed a corner record for
21 Lot 25-A, 26-A, and 27-A, Tract 1720, Map Book 27, Page 59, which indicates 5 monuments
22 found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a Record of
23 Survey or Corner Record, as required by law.

24 v. Professional Land Surveyor Paul Christopher Ehe, filed a corner record,
25 under file no. 00-113, which indicates 1 monument found with LS 7113 tag. As of October 16,
26 2003, Respondent had not submitted a Record of Survey or Corner Record, as required by law.

27 w. In or about September, 2000, Professional Land Surveyor Paul Christopher
28 Ehe, filed a corner record for Lot 73, Tract 3312, Map Book 45, Pages 92-99, which indicates 1

1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
2 Record of Survey or Corner Record, as required by law.

3 x. In or about September, 2000, Professional Land Surveyor Paul Christopher
4 Ehe, filed a corner record for West Line Lot 93, Block 9, Tract 1931, Map Book 29, Pages 45-47,
5 which indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had
6 not submitted a Record of Survey or Corner Record, as required by law.

7 y. On or about October 11, 2000, Professional Land Surveyor Bradley L.
8 Brier, filed a corner record for Lots 25 & 26, Tract 2801, Map Book 39, Pages 1-2, which
9 indicates 5 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not
10 submitted a Record of Survey or Corner Record, as required by law.

11 z. Professional Land Surveyor Bradley L. Brier, filed a corner record, under
12 file no. 00-1005; 216/042, which indicates 2 monuments found with LS 7113 tag. As of
13 October 16, 2003, Respondent had not submitted a Record of Survey or Corner Record, as
14 required by law.

15 aa. On or about March 22, 2001, Professional Land Surveyor Bradley L. Brier,
16 filed a corner record for Lots 130-132, Tract 5089, Map Book 75, Pages 44-54, which indicates 2
17 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
18 Record of Survey or Corner Record, as required by law.

19 bb. In or about May, 2001, Professional Land Surveyor Paul Christopher Ehe,
20 filed a corner record for Lots 7, 21-23, Block 4, Tract 2276, Map Book 33, Pages 42-43, which
21 indicates 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not
22 submitted a Record of Survey or Corner Record, as required by law.

23 cc. On or about January 3, 2000, Professional Land Surveyor Bradley L. Brier,
24 filed a corner record for Lot 96, Tract 12783-2, Map Book 213, Pages 37-42, which indicates 1
25 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
26 Record of Survey or Corner Record, as required by law.

27 dd. On or about July 23, 2001, Professional Land Surveyor Bradley L. Brier,
28 filed a corner record for Lot 119, Tract 7417, Map Book 95, Pages 28-37, which indicates 1

1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
2 Record of Survey or Corner Record, as required by law.

3 ee. On or about June 9, 2001, Professional Land Surveyor Bradley L. Brier,
4 filed a corner record for Lot 218, Tract 7513, Map Book 96, Pages 89-96, which indicates 1
5 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
6 Record of Survey or Corner Record, as required by law.

7 ff. On or about August 8, 2001 and July, 2002, Professional Land Surveyor
8 Paul Christopher Ehe, filed a corner record for Lots 72-76, Block 16, Tract 1847, Map Book 27,
9 Pages 38-39, which indicates 2 monuments found with LS 7113 tag. As of October 16, 2003,
10 Respondent had not submitted a Record of Survey or Corner Record, as required by law.

11 gg. On or about October 8, 2001, Professional Land Surveyor Michael A.
12 Baine filed a corner record for Lot 36, Arrowhead Woods, Tract 2, Map Book 22, Page 4, which
13 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
14 submitted a Record of Survey or Corner Record, as required by law.

15 hh. On or about May 22, 2001, Professional Land Surveyor Michael A. Baine
16 filed a corner record for Lot 21, Arrowhead Lakeview Forest, Tract 1847, Map Book 23, Page
17 65, which indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent
18 had not submitted a Record of Survey or Corner Record, as required by law.

19 ii. On or about November 2, 2001, Professional Land Surveyor Paul
20 Christopher Ehe, filed a corner record for Lot 3, Block 11, Tract 1931, Map Book 29, Pages 45-
21 47, which indicates 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent
22 had not submitted a Record of Survey or Corner Record, as required by law.

23 jj. On or about September 19, 2001, Professional Land Surveyor Daryl Roy
24 Jones filed a corner record for Lot 19/20, Monuments ties - Route 18, at Inspiration Drive, Map
25 Book 33, Pages 42-43, which indicates 1 monument found with LS 7113 tag. As of October 16,
26 2003, Respondent had not submitted a Record of Survey or Corner Record, as required by law.

27 kk. On or about June 15, 2002, Professional Land Surveyor Bradley L. Brier,
28 filed a corner record for Lot 290, Tract 7417, Map Book 95, Pages 28-37, which indicates 1

1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
2 Record of Survey or Corner Record, as required by law.

3 ll. On or about October 12, 2001, Professional Land Surveyor Michael A.
4 Baine filed a corner record for Lots 7-9, 63, and 64 Cedar Pines Park No. 12, Tract 2330, which
5 indicates 1 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not
6 submitted a Record of Survey or Corner Record, as required by law.

7 mm. On or about May 16, 2002, Professional Land Surveyor Bradley L. Brier,
8 filed a corner record for Lot 255, Tract 6782, Map Book 88, Pages 38-44, which indicates 2
9 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
10 Record of Survey or Corner Record, as required by law.

11 nn. On or about September 4, 2002, Professional Land Surveyor Bradley L.
12 Brier, filed a corner record for Lot 191, Tract 7776, Map Book 102, Pages 52-59, which indicates
13 1 monuments found with LS 7113 tag. As of October 16, 2003, Respondent had not submitted a
14 Record of Survey or Corner Record, as required by law.

15 oo. On or about March 30, 2002, Professional Land Surveyor Paul
16 Christopher Ehe, filed a corner record for Lots 19-20, Block 7, Tract 2113, Map Book 30, Page
17 51, which indicates 2 monuments found with LS 7113 tag. As of October 16, 2003, Respondent
18 had not submitted a Record of Survey or Corner Record, as required by law.

19 pp. On or about December 13, 2002, Professional Land Surveyor Joseph R.
20 Williard, filed a corner record for Lot 146, Tract 2683, T2N, R4W, Sec 23, SBM, which
21 indicates 1 monument found with LS 7113 tag. As of October 16, 2003, Respondent had not
22 submitted a Record of Survey or Corner Record, as required by law.

23 SECOND CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 15. Respondent is subject to disciplinary action under section 8780,
26 subdivision (d) and (h), for unprofessional conduct, in that Respondent violated the laws
27 involving the practice of land surveying, as defined by sections 8762, 8765, 8767, and 8777 of
28 the Code, by failing to file a Record of Survey or Corner Record within 90 days of setting

1 monuments or finishing the surveying and failing to resubmit a Record of Survey or Corner
2 Record to the County Surveyor within 60 days of the survey being returned for correction, as
3 more fully set forth above in paragraphs 12 and 13.

4 DISCIPLINE CONSIDERATIONS
5 (In Aggravation)

6 16. To determine the degree of discipline, if any, to be imposed on
7 Respondent, Complainant alleges the following:

8 a. In a disciplinary action entitled *In the Matter of the Accusation Against*
9 *Richard Thomas Pretzinger*, Case No. 637-A, the Board for Professional Engineers and Land
10 Surveyors, issued a decision ("Decision"), effective January 18, 2000. By its Decision, the Board
11 disciplined Respondent's license pursuant to Business and Professions Code section 8762,
12 subdivision (a), (c), (d), and (e) and 8762.5, for failure to file a Record of Survey within 90 days
13 of having set survey monuments, failure to timely notify the County Surveyor, in writing that he
14 would not comply with the 90 day requirement for filing a Record of Survey, failure to provide
15 location of the survey and failure to file a Certificate of Compliance arising from a September 22,
16 1995 work order. Pursuant to the Decision, the Accusation was reduced to a Citation.
17 Accordingly, Citation No. 5036-L was issued to Respondent on January 18, 2000. Said Citation
18 was issued to Respondent for violation of Business and Professions Code section 8780,
19 subdivision (c) and 8762.

20 PRAYER

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

- 24 1. Revoking or suspending Land Surveyor License No. L 7113, issued to
25 Richard Thomas Pretzinger, Jr.;
- 26 2. Ordering Richard Thomas Pretzinger, Jr. to pay the Board for Professional
27 Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this
28 case, pursuant to Business and Professions Code section 125.3;

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

DATED: 2/4/05

Original Signed

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

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