

✓

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

In the Matter of the Accusation against:)
)
CHARLES JOHN BARSUGLIA) Case No. 812-A
31435 Blue Heron Lane)
Auberry, CA 93602-9600) OAH No. 2008100365
)
Land Surveyor License No. L 5396,)
)
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.

This Decision shall become effective on May 15, 2009.

IT IS SO ORDERED April 15, 2009.

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
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CHARLES JOHN BARSUGLIA,
a.k.a. CHARLES J. BARSUGLIA,
a.k.a. CHARLES JOHN BARSUGLIA, JR.,

Land Surveyor License No. L 5396

Respondent.

Case No. 812-A

OAH No. 2008100365

PROPOSED DECISION

This matter was heard before Rebecca M. Westmore, Administrative Law Judge, Office of Administrative Hearings, State of California, on January 5, 2009, in Sacramento, California.

Karen R. Denvir, Deputy Attorney General, represented complainant, Cindi Christenson, P.E., Executive Officer of the Board of Professional Engineers and Land Surveyors (board), Department of Consumer Affairs, State of California.

Charles John Barsuglia (respondent) did not appear, but was represented by Jeffrey S. Kravitz, Esq.

Evidence was received, the record was closed, and the matter was submitted on January 5, 2009.

FACTUAL FINDINGS

1. The board issued land surveyor license number L 5396 to respondent on March 16, 1984. Respondent's license expired on September 30, 2008. No evidence was presented to establish that respondent has filed an application to renew his license.
2. Complainant, Cindi Christenson, P.E., filed the Accusation in her official capacity.

3. Respondent timely filed a Notice of Defense to the Accusation, pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500, et seq.

Respondent's Convictions

4. On January 29, 1974, in the Superior court of California, County of Los Angeles, in the matter entitled *People of the State of California v. Charles John Barsuglia, Jr.* (Case No. A-517103), respondent, upon a plea of nolo contendere, was convicted of violating Penal Code section 288, lewd or lascivious acts upon the body of a child under the age of 14 years, a felony. Respondent was adjudged as a mentally disordered sex offender, and was committed to the Atascadero State Hospital in Atascadero, California, for an indeterminate period. On March 22, 1976, respondent was granted three years formal probation, and ordered to stay away from children under the age of 14 years except in the presence of a responsible adult, and to seek weekly out-patient or group therapy sessions. On February 26, 1979, respondent's conviction was dismissed pursuant to Penal Code section 1203.4.

Respondent's conviction arose from his conduct between early 1972 and August 1973. During that time, respondent engaged in acts of sexual intercourse, and anal and oral copulation, with his seven-year-old stepdaughter and eight-year-old stepson, and forced his stepchildren to commit acts of sexual intercourse and oral copulation with each other and with respondent at the same time.

5. On May 8, 2006, in the United States District court, Eastern District of California, in the matter entitled *United States of America v. Charles John Barsuglia, Jr.* (Case No. 1:05CR00310-001), respondent, upon a plea of guilty, was convicted of violating 18 USC sections 2252, subdivision (a)(4)(B), possession of material involving the sexual exploitation of minors, and 922, subdivision (g)(1), possession of firearms by a felon, both felonies. Respondent was sentenced to serve 51 months in federal prison, placed on supervised release for 120 months upon his release from imprisonment, and ordered to register as a sex offender and pay \$10,200 in fines and monetary penalties. Special Conditions of Supervision were attached to respondent's judgment, and include, inter alia, that respondent participate in a program of mental health treatment; not possess or use a computer that has access to on-line computer services; stay away from children under the age of 18 unless approved by his probation officer in advance; not loiter within 100 feet of school yards, parks, playgrounds, arcades, or other places used by children under the age of 18; not engage in occupations, paid or volunteer, which expose respondent to children under the age of 18; consent to periodic unannounced examinations of his computer equipment and devices; consent to the installation of hardware or software systems to monitor respondent's computer use; not possess, own, use, view, read or frequent places with sexually explicit material involving children under the age of 18; provide all business and personal phone records at the request of respondent's probation officer; disclose to his probation officer all

contracts with telephone line/cable service providers; disclose to employers or potential employers all computer-related restrictions imposed upon respondent; attend and participate in a sex offender treatment and therapy program; and cooperate in the collection of Deoxyribonucleic acid (DNA), as directed by his probation officer.

Respondent's conviction arose from his conduct on or before February 1, 2005, when he downloaded from the Internet visual depictions of minors engaging in sexually explicit conduct, and was in possession of seven firearms, to wit: a Winchester, model 37, .410 gauge shotgun; a Ruger semi-automatic, model 10-22, rifle; a Winchester, model 62, .22 caliber slide-action rifle; a Mauser, type 98, bolt-action military rifle; a Para-Ordnance, model P15, .45 caliber semi-automatic pistol; a Glock, model 17, 9mm semi-automatic pistol; and a Ruger, model SP101, .38 caliber revolver.

Respondent's Rehabilitation

6. Three witnesses testified telephonically on respondent's behalf at hearing. John H. Asher has been licensed as a professional land surveyor since 1996. He has known respondent for 14 years, through their employment with the California Department of Transportation (CalTrans). Mr. Asher is a direct supervisor over three line chiefs and their field survey crews in the Fresno area. He estimates work, orders equipment, and supervises field crews. Together they work on state highway projects, topographical surveys, boundary surveys, and highway improvement projects, "use computers frequently," and travel "25% of the time." According to Mr. Asher, respondent's duties included supervising and managing 90 to 100 employees in the field survey department at CalTrans, before he became a manager over the "entire field survey" department in geographic districts 6 (Fresno, Kern, Kings and Madera) and 9 (Sierra and central California). Also, there was "quite a bit of travel at that management level," where respondent "was gone several days at a time," and attended meetings in Bishop and Los Angeles, as well as statewide meetings in Sacramento. Mr. Asher is unaware of any allegations involving respondent's profession, but is aware of his felony convictions in 2006 for possession of firearms and child pornography, and "heard the story," but was "surprised" by, respondent's conviction in 1974 for child molestation. Mr. Asher was unaware that respondent was committed to the Atascadero State Hospital. He does not believe that respondent's convictions are "related to the practice of land surveying." Mr. Asher testified that respondent "doesn't intend to survey at all if he keeps his license," but that "he worked hard to get the license and doesn't want to lose it."

Adrian Oskam has been a professional land surveyor for 26 years, and currently works for CalTrans in geographic district 6 in Visalia. Mr. Oskam has known respondent for over 10 years, through their employment at CalTrans. Respondent was Mr. Oskam's supervisor before becoming the supervisor over Mr. Oskam's supervisor. According to Mr. Oskam, as head of the survey department, respondent managed between 17 and 27 people, conducted the hiring of personnel, and directed the work. They work in the field on highway and freeway projects, right of way surveys, and boundary surveys, and "use computers quite often." Mr. Oskam is unaware of any allegations involving respondent's work as a land surveyor, is aware of respondent's felony convictions in 2006, and was recently informed of,

and disappointed by, the charges resulting in respondent's felony conviction in 1974 for child molestation. Mr. Oskam observed respondent's "good work," and believes that respondent is "truly sorry for what he has done," is "trying to better himself and do the right thing," and "should have an opportunity to straighten [himself] out."

William George Fenton, Jr. has been licensed as a professional land surveyor since 1994, and currently works for CalTrans. Mr. Fenton has known respondent since 1991, when respondent "was on the interview panel at CalTrans." Mr. Fenton testified that while they "send notices to the property owners that [they] are in the area," they have a "statutes right" of entry onto real property, and have been advised to "be professional," and use "other options to work with land owners" to gain entry onto their property. Other than "professional courtesy," however, there are no other restrictions from entering a private residence. They are "out every day" in the field, "encounter private citizens," and enter "mostly properties adjacent to highways and agricultural land" to "recover corners for our highways." He is unaware of any allegations involving respondent's wrongdoing in his professional capacity, but is aware of respondent's convictions in 2006 for possession of firearms and child pornography, and recently learned of respondent's conviction in 1974 for child molestation. Mr. Fenton is concerned that respondent "has improper thoughts," but believes that respondent's convictions have "no bearing on his surveying qualifications."

7. Respondent submitted eight certificates of achievement and appreciation, and commendations, attesting to his exemplary conduct and dedication to a safe working environment during his 22 years in service to CalTrans. Respondent retired from CalTrans, and from state service, on March 1, 2006. Respondent also submitted a letter dated November 10, 2008, from John H. Asher, attesting to respondent's professionalism at CalTrans, and confirming that respondent's convictions were "unrelated to the practice of land surveying." These documents were received in evidence and considered to the extent permitted under Government Code section 11513, subdivision (d).¹

LEGAL CONCLUSIONS

Applicable Statutes and Regulations

1. The burden of proof in this matter is on complainant to show by clear and convincing evidence to a reasonable certainty that respondent's license and licensing rights should be suspended or revoked. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-56.)

¹ Government Code section 11513, subdivision (d), states in pertinent part, "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions...."

2. Business and Professions Code section 118, subdivision (b), provides, in pertinent part, that “the... expiration... of a license... shall not, during any period in which it may be renewed, restored, reissued or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee...”

3. Business and Professions Code section 8802 provides, in pertinent part, that “licenses issued under this chapter may be renewed at any time within three years after expiration...”

4. Business and Professions Code section 8774, subdivision (a), provides that,

The right of entry upon or to real property to investigate and utilize boundary evidence, and to perform surveys, is a right of persons legally authorized to practice land surveying, and it is the responsibility of the owner or tenant who owns or controls property to provide reasonable access without undue delay. The right of entry is not contingent upon the provision of prior notice to the owner or tenant. However, the owner or tenant shall be notified of the proposed time of entry where practicable.

5. Business and Professions Code section 8780, subdivision (e), provides that the board may suspend or revoke a license for “[a]ny 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.”

6. California Code of Regulations, title 16, section 416, defines, in pertinent part, the substantial relationship criteria to be used when determining whether a licensee’s conviction is related to the qualifications, functions, and duties of a land surveyor, as follows:

For the purpose of denial, suspension, or revocation of the license of a... land surveyor..., a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

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

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

(c) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying.

Cause for Discipline

7. Complainant established cause to revoke respondent's license and licensing rights by clear and convincing evidence. Respondent's felony convictions in 1974 for lewd or lascivious acts upon the body of a child under the age of 14 years, and in 2006 for possession of child pornography, relates, to a substantial degree, to respondent's present or potential unfitness to perform the functions authorized by his license, in a manner consistent with the public health, safety, or welfare. Between 1972 and 1973, respondent abused a position of power, and breached the duties of respect and care that adults owe to children, particularly here, where the children were in his home and under his care and supervision. Thirty-three years later, in 2006, respondent was still involved with sexually explicit conduct involving children. The evidence is undisputed that by virtue of his license, respondent has, and will continue to have, unique access to public works projects, public facilities, real property, and to be within 100 feet of school yards, parks, playgrounds, arcades, or other places used by children under the age of 18. In addition, by virtue of his job duties, it is undisputed that respondent will have access to Internet images involving child pornography. Respondent's ability to access these unique locations and systems exposes vulnerable members of the public, thereby placing the public health, safety, or welfare at risk, by reason of Factual Findings 4 and 5.

8. In addition, respondent's convictions in 2006 for possession of firearms and child pornography, demonstrate a flagrant disrespect for the law. It is inconceivable that a person as educated and sophisticated as respondent would be unaware that he was a convicted felon in 1973, and that he was not permitted to carry firearms, or had to continue to obey federal, state or local laws, by reason of Factual Findings 4 and 5.

Fitness for Licensure

9. The determination whether a person is presently fit for licensure should be made only after consideration of the conduct of the licensee and consideration of any factors introduced in justification, aggravation or mitigation. "The licensee, of course, should be permitted to introduce evidence of extenuative circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation" (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449; *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747). The criteria to evaluate the rehabilitation of a licensee, after a criminal conviction, are set forth in California Code of Regulations, title 16, section 418, subdivision (b).²

² California Code of Regulations, title 16, section 418, subdivision (b), provides, in pertinent part, that,

10. Reviewing these criteria, respondent has possessed dangerous firearms, and twice acted on sexual impulses that led to convictions for sexually explicit conduct involving children. The seriousness of the offenses involving children, and his possession of firearms establish a pattern of misconduct extending over 35 years, which was in complete disregard for the law, and demonstrates respondent's inability to conform his conduct to comply with the terms of his status as a convicted felon. In addition, it has been less than three years since respondent's last conviction, for which he is still incarcerated. Respondent will be subject to supervised release for 120 months subsequent to his imprisonment, which will be completed in or about August 2020. When balanced against the seriousness of respondent's crimes, the impulsive nature of his conduct, and the violation of his status as a convicted felon, the testimony by respondent's former colleagues, attesting to his competency as a professional, carried little weight in assessing respondent's claim of rehabilitation. In light of respondent's retirement from CalTrans, and state service, there is no means by which the state can monitor respondent should he retain and use his land surveyor license upon his release from imprisonment. Given respondent's criminal behavior over the past 35 years, a history of activities that would indicate changed behavior is needed to provide adequate assurances that he is sufficiently rehabilitated. (See *In Re Gossage* (2000) 23 Cal.4th 1080, 1104-1005). In light of these factors, it would be contrary to the public health, safety, or welfare to permit respondent to retain his land surveyor license.

When considering the suspension or revocation of the...license of a professional land surveyor..., the Board will consider the following criteria in evaluating the rehabilitation of such person and his or her present eligibility to retain his or her license:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed prior to or subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation which could also be considered as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the license.
- (5) Any evidence of rehabilitation submitted by the licensee.
- (6) Total criminal record.
- (7) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

Assessment of Costs

11. The total cost of investigation and prosecution of this matter was established as \$5,894. Business and Professions Code section 125.3 provides, in pertinent part, that “the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.” Accordingly, the initial inquiry is whether these costs are reasonable.

Complainant represents that the investigation costs of \$2,850 represent 15 hours of investigation work performed at the rate of \$190 per hour by investigator Michelle Thompson, and that the prosecution costs of \$3,044 represent 11.50 hours at the rate of \$158 per hour by Karen R. Denvir for case evaluation, assessment, management, research, analysis and communication; .25 hours at the rate of \$158 per hour by Arthur D. Taggart for case management; and 5.25 hours at the rate of \$101 per hour by paralegal Patricia H. Davies for pleading preparation and communication. In addition, complainant anticipates additional prosecution costs of \$632, which represents 4 hours at the rate of \$158 per hour by Karen R. Denvir to complete her prosecution of the case.

12. Respondent contends that the investigation costs are illogical, in that the investigation consisted primarily of obtaining certified copies of court documents.

13. It is determined that the costs of investigation and prosecution of this matter are reasonable under section 125.3. However, the inquiry as to whether to impose these costs on respondent is governed by *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32. *Zuckerman* sets forth the factors to be considered in determining the reasonableness of imposing costs on a chiropractor disciplined by the Board of Chiropractic Examiners. These factors can be applied to cost recovery schemes applicable to other governmental agencies.

The *Zuckerman* court held that “the Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that ... [cost recovery] does not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing.” The court established five considerations that an agency must take into account when assessing the amount to be charged. The court said:

[T]he Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a chiropractor who has committed some misconduct but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the chiropractor’s “subjective good faith belief in the merits of his or her position” [Citation] and whether the chiropractor has raised a “colorable challenge” to the proposed discipline [Citation.] Furthermore, as in cost recoupment

schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [Citation] the Board must determine that the chiropractor will be financially able to make later payments. Finally the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation and prosecution to prove that a chiropractor engaged in relatively innocuous misconduct.³

In this matter, respondent was given the opportunity to apply the *Zuckerman* factors to his situation and to argue accordingly. No evidence was presented other than the fact that respondent is incarcerated.

The remaining *Zuckerman* considerations are often intertwined. The agency must assess respondent's "subjective good faith belief in the merits of [his or her] positions," and whether respondent "raised a colorable challenge to the proposed discipline." A related consideration is whether there has been some misconduct but the respondent has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed.

Here, the accusation sought revocation or suspension of respondent's license, and imposition of costs. While respondent's challenge as to whether his criminal convictions were substantially related to the qualifications, functions, or duties of a land surveyor, was unsuccessful, respondent's good faith belief that he had a sound defense justifies the reduction of the costs by twenty percent (20%).

ORDER

1. All licenses and licensing rights of respondent Charles John Barsuglia, a.k.a. Charles J. Barsuglia, a.k.a. Charles John Barsuglia, Jr., are hereby REVOKED.

2. Respondent is ordered to pay to the board the costs of investigation and prosecution of this matter, in the amount of \$4,716, pursuant to Legal Conclusions 11 through 13.

Dated: January 20, 2009

Original Signed
REBECCA M. WESTMORE
Administrative Law Judge
Office of Administrative Hearings

³ *Id.* at p. 45.

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 83047
Supervising Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 327-5339
6 Facsimile: (916) 327-8643

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 812-A

13 CHARLES JOHN BARSUGLIA,
a.k.a. CHARLES J. BARSUGLIA,
14 a.k.a. CHARLES JOHN BARSUGLIA, JR.
31435 Blue Heron Lane
15 Auberry, California 93602-9600

A C C U S A T I O N

16 Land Surveyor License No. L 5396

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about March 16, 1984, the Board issued Land Surveyor License
25 Number L 5396 to Charles John Barsuglia, also known as Charles J. Barsuglia and Charles John
26 Barsuglia, Jr. ("Respondent"). Respondent's land surveyor license was in full force and effect at
27 all times relevant to the charges brought herein and will expire on September 30, 2008, unless
28 renewed.

1 7. California Code of Regulations, title 16, section 416 states, in pertinent
2 part:

3 For the purpose of denial, suspension, or revocation of the license of a
4 professional engineer or a land surveyor pursuant to Division 1.5 (commencing
5 with Section 475) of the Business and Professions Code, a crime or act shall be
6 considered substantially related to the qualifications, functions, and duties of a
7 professional engineer or land surveyor if, to a substantial degree, it evidences
8 present or potential unfitness of a professional engineer or land surveyor to
9 perform the functions authorized by his or her license in a manner consistent with
10 the public health, safety, or welfare . . .

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

15 **CAUSE FOR DISCIPLINE**

16 **(Criminal Convictions)**

17 9. Respondent's land surveyor license is subject to disciplinary action
18 pursuant to Code section 8780, subdivision (e), in that Respondent was convicted of crimes
19 which are substantially related to the qualifications, functions, and duties of a land surveyor, as
20 follows:

21 a. On or about September 25, 1973, in the criminal proceeding titled *People*
22 *v. Charles John Barsuglia, Jr.* (Super. Ct. Los Angeles County, El Monte Div., 1973, Case No.
23 A517103), Respondent was convicted by the court on his plea of nolo contendere to one count of
24 violating Penal Code section 288 (committing lewd and lascivious acts upon a child under age

25 b. The circumstances of the crime set forth in subparagraph (a) above are as
26 follows: On or before August 6, 1973, Respondent sexually molested his 7 year old step-

27
28 1 Respondent was also charged with three other counts of violating Penal Code section 288, but those
charges were dismissed in view of Respondent's plea, as set forth above.

1 daughter and 8 year old step-son, including engaging in acts of sexual and/or anal intercourse and
2 oral copulation with the victims, and forcing or persuading the victims to commit acts of
3 intercourse and oral copulation with each other and also with Respondent at the same time.

4 c. On or about February 27, 2006, in the criminal proceeding titled *U.S. v.*
5 *Charles John Barsuglia, Jr.* (U.S. Dist. Ct., Eastern Dist. of California, 2006, Case No.
6 1:05CR00310-001), Respondent pled guilty to violating United States Code, title 18, section
7 2252, subdivision (a)(4)(B) (possession of material involving the sexual exploitation of minors),
8 and United States Code, title 18, section 922, subdivision (g)(1) (possession of firearms by a
9 felon), both felonies. On or about May 8, 2006, Respondent was sentenced to serve 51 months
10 in state prison. Further, the court ordered that upon his release from imprisonment, Respondent
11 shall be on supervised release for a term of 120 months subject to certain conditions, including
12 that Respondent shall have no contact with children under the age of 18 unless approved by the
13 probation officer in advance, Respondent is not to loiter within 100 feet of school yards, parks,
14 playgrounds, arcades, or other places primarily used by children under the age of 18, Respondent
15 is not to engage in any occupation, either paid or volunteer, which exposes him directly or
16 indirectly with children under the age of 18, and Respondent shall register as a sex offender.

17 d. The circumstances of the crime set forth in subparagraph (c) above are as
18 follows: On or about February 1, 2005, Respondent knowingly possessed visual depictions, the
19 producing of which involved minors engaging in sexually explicit conduct, which depictions had
20 been transported in interstate commerce, specifically: Respondent obtained possession via the
21 Internet of numerous image files, including, but not limited to, Joint Photographic-Experts
22 Format files and Graphic Interchange Formats (JPEG and GIF files) all of which contained visual
23 depictions, the producing of which involved the use of minors engaged in sexually explicit
24 conduct as defined in United States Code, title 18, section 2256. Further, Respondent, having
25 been previously convicted of the crime set forth in subparagraph (a) above, knowingly possessed
26 a Winchester model 37 .410 gauge shotgun; a Ruger semi-automatic, model 10-22 rifle; a
27 Winchester model 61 .22 caliber slide-action rifle; a Mauser type 98 bolt-action military rifle; a

28 ///

1 Para-Ordnance model P15 .45 caliber semi-automatic pistol; a Glock model 17 9mm semi-
2 automatic pistol; and a Ruger model SP101 .38 caliber revolver.

3 **PRAYER**

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

7 1. Revoking or suspending Land Surveyor License Number L 5396, issued to
8 Charles John Barsuglia, also known as Charles J. Barsuglia and Charles John Barsuglia, Jr.;

9 2. Ordering Charles John Barsuglia, also known as Charles J. Barsuglia and
10 Charles John Barsuglia, Jr., to pay the Board for Professional Engineers and Land Surveyors the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

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

14
15 DATED: 7/14/08

16
17 *Original Signed*

18 _____
19 CINDI CHRISTENSON, P.E.
20 Executive Officer
21 Board for Professional Engineers and Land Surveyors
22 Department of Consumer Affairs
23 State of California

24
25 Complainant
26
27