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**FILED**

Date 9/4/15 By Susan Saylor

8  
9 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**

11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2016-15

13 **GORDON BRIAN EISENBARTH**  
27751 Smith Road  
14 Winchester, CA 92596

**A C C U S A T I O N**

15 **Field Representative License No. FR 21129**

16  
17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the  
22 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer  
23 Affairs.

24 2. On or about October 1, 1992, the Structural Pest Control Board issued Field  
25 Representative License Number FR 21129 to Gordon Brian Eisenbarth (Respondent). The Field  
26 Representative License was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on June 30, 2016, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Structural Pest Control Board (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section references  
4 are to the Business and Professions Code unless otherwise indicated.

5 4. Section 8620 of the Business and Professions Code (Code) provides, in pertinent part,  
6 that the Board may suspend or revoke a license when it finds that the holder, while a licensee or  
7 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu  
8 of a suspension may assess a civil penalty.

9 5. Section 8625 of the Code states:

10 The lapsing or suspension of a license or company registration by operation of law  
11 or by order or decision of the board or a court of law, or the voluntary surrender of a  
12 license or company registration shall not deprive the board of jurisdiction to proceed with  
13 any investigation of or action or disciplinary proceeding against such licensee or company,  
14 or to render a decision suspending or revoking such license or registration.

13 **STATUTORY PROVISIONS**

14 6. Section 482 of the Code states:

15 Each board under the provisions of this code shall develop criteria to evaluate  
16 the rehabilitation of a person when:

17 (a) Considering the denial of a license by the board under Section 480; or

18 (b) Considering suspension or revocation of a license under Section 490.

19 Each board shall take into account all competent evidence of rehabilitation  
20 furnished by the applicant or licensee.

21 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
22 revoke a license on the ground that the licensee has been convicted of a crime substantially related  
23 to the qualifications, functions, or duties of the business or profession for which the license was  
24 issued.

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8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

9. Section 8649 of the Code states:

Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

10. Section 8654 of the Code states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

11. Section 8655 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

1 **REGULATORY PROVISIONS**

2 12. California Code of Regulations, title 16, section 1937.1 states:

3 For the purposes of denial, suspension or revocation of a license or company  
4 registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime  
5 or act shall be considered to be substantially related to the qualifications, functions or  
6 duties of a licensee or registered company under Chapter 14 of Division 3 of the code if to  
7 a substantial degree it evidences present or potential unfitness of such licensee or  
8 registered company to perform the functions authorized by the license or company  
9 registration in a manner consistent with the public health, safety, or welfare. Such crimes  
10 or acts shall include, but not be limited to, the following:

11 (a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

12 (b) Commission of any of the following in connection with the practice of  
13 structural pest control:

14 (1) Fiscal dishonesty

15 (2) Fraud

16 (3) Theft

17 (4) Violations relating to the misuse of pesticides.

18 13. California Code of Regulations, title 16, section 1937.2 states:

19 . . . .

20 (b) When considering the suspension or revocation of a structural pest control  
21 license or company registration on the grounds that the licensee or registered company  
22 has been convicted of a crime, the board, in evaluating the rehabilitation of such person or  
23 company and his or her or its present eligibility for a license or company registration will  
24 consider the following:

25 (1) Nature and severity of the act(s) or offense(s).

26 (2) Total criminal record.

27 (3) The time that has elapsed since commission of the act(s) or offense(s).

28 (4) Whether the licensee or registered company has complied with any terms of  
parole, probation, restitution or any other sanctions lawfully imposed against the licensee  
or registered company.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4  
of the Penal Code.

(6) Evidence, if any of rehabilitation submitted by the licensee or registered  
company. . . . .

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1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
3 the administrative law judge to direct a licentiate found to have committed a violation or violations  
4 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **CAUSE FOR DISCIPLINE**

9 **(January 22, 2015 Conviction of Corporal Injury on Spouse on November 16, 2014)**

10 15. Respondent has subjected his license to disciplinary action under sections 490 and  
11 8649 of the Code in that he was convicted of a crime that is substantially related to the  
12 qualifications, functions, and duties of a licensee. The circumstances are as follows:

13 a. On or about January 22, 2015, in a criminal proceeding entitled *People of*  
14 *the State of California v. Gordon Brian Eisenbarth*, in Riverside County Superior Court, case  
15 number SWF 1403178, Respondent was convicted on his plea of guilty of violating Penal Code  
16 section 273.5, subdivision (a), willfully and unlawfully inflict a corporal injury on a spouse  
17 resulting in a traumatic condition, a felony. Respondent admitted and the court found true that  
18 Respondent personally inflicted great bodily injury pursuant to Penal Code 1192.7(c)(8) and Penal  
19 Code section 12022.7(e). Pursuant to a plea agreement, the court dismissed an additional count of  
20 Penal Code section 245, subdivision (a)(4), assault of a person by means of force likely to produce  
21 great bodily injury; two counts of Penal Code section 273.5, subdivision (a) willfully inflicts  
22 corporal injury resulting in a traumatic condition upon a victim; two counts of Penal Code section  
23 273(a) subdivision (b), likely to produce great bodily harm or death, cause a child to suffer; one  
24 count of Penal Code section 166(a), subdivision(4), committed contempt of court by willful  
25 disobedience.

26 b. As a result of the conviction, on or about January 22, 2015, Respondent  
27 was sentenced to the mid-term of three years on the principal count, and three years on the  
28 enhancement, to be served consecutively, for a total of six years in state prison.

1 Respondent was given pre-custody credit for 72 days.

2 c. The circumstances that led to the conviction are that on or about November  
3 16, 2014, deputies from the Riverside County Sheriff's Department responded to a domestic  
4 violence call. The deputies arrested Respondent for assaulting his wife, breaking her arm and  
5 causing traumatic injuries.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
8 and that following the hearing, the Structural Pest Control Board issue a decision:

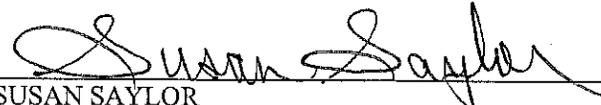
9 1. Revoking or suspending Field Representative License Number FR 21129, issued to  
10 Gordon Brian Eisenbarth;

11 2. Prohibiting Gordon Brian Eisenbarth from serving as an officer, director, associate,  
12 partner, qualifying manager, or responsible managing employee of any registered company during  
13 the period that discipline is imposed on Field Representative License Number FR 21129, issued to  
14 Gordon Brian Eisenbarth;

15 3. Ordering Gordon Brian Eisenbarth to pay the Structural Pest Control Board the  
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
17 Professions Code section 125.3;

18 4. Taking such other and further action as deemed necessary and proper.  
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22 DATED: 9/4/15



SUSAN SAYLOR  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
Complainant

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