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FILED

Date 12/4/14 By *Susan Saylor*

9
10 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2015-31

13 **ROBERT ALLAN LEE**
834 Loquat Court
14 El Cajon, CA 92020

A C C U S A T I O N

15 **Field Representative License No. FR 23872**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On May 15, 1992, the Structural Pest Control Board issued Applicator License
24 Number RA 30026 to Robert Allan Lee (Respondent). The Applicator's License was cancelled
25 on September 14, 1994, due to issuance of a Field Representative's License.

26 3. On September 14, 1994, the Structural Pest Control Board issued Field
27 Representative License Number FR 23872 to Respondent. The Field Representative License

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1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 June 30, 2015, unless renewed.

3 JURISDICTION

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

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

11 6. Section 8625 of the Code states:

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

16 7. Section 8654 of the Code states:

17 Any individual who has been denied a license for any of the reasons
18 specified in Section 8568, or who has had his or her license revoked, or whose
19 license is under suspension, or who has failed to renew his or her license while it
20 was under suspension, or who has been a member, officer, director, associate,
21 qualifying manager, or responsible managing employee of any partnership,
22 corporation, firm, or association whose application for a company registration has
23 been denied for any of the reasons specified in Section 8568, or whose company
24 registration has been revoked as a result of disciplinary action, or whose company
25 registration is under suspension, and while acting as such member, officer,
26 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.

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STATUTORY PROVISIONS

8. Section 8593 of the Code states:

The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars (\$50) for each examination.

9. Section 8593.1 of the Code states:

The board shall require as a condition to the renewal of each applicator's license that the holder thereof submit proof satisfactory to the board that he or she has completed courses of continuing education in pesticide application and use approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may successfully apply for and pass an appropriate written applicator's examination for renewal of a license given by the board.

10. Section 8637 of the Code states in pertinent part that "[m]isrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action."

11. Section 8641 of the Code states in pertinent part that "[f]ailure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, . . . is a ground for disciplinary action."

REGULATORY PROVISION

12. Title 16, California Code of Regulations (Regulation), section 1950, subdivision (a), states:

1 Except as provided in section 1951, every licensee is required, as a
2 condition to a renewal of a license, to certify that he or she has completed the
3 continuing education requirements set forth in this article. A licensee who cannot
4 verify completion of continuing education by producing certificates of activity
5 completion, whenever required to do so by the Board, may be subject to
6 disciplinary action under section 8641 of the code.

7 **COST RECOVERY**

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

14 **FACTS**

15 14. On or before June 30, 2012, Respondent submitted a renewal application for his
16 Field Representative's License to the Board in which he certified to the Board that he had taken
17 all required continuing education coursework. Specifically, Respondent signed a License
18 Renewal Application, which provided in pertinent part:

19 Continuing Education Certification – I have completed 16 [blank filled in with the
20 number 16] hours of continuing education required for renewal of my license. I DECLARE
21 UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA
22 THAT THE FOREGOING IS TRUE AND CORRECT.

23 Respondent signed his name below the above certification, and dated his signature
24 "5/12/12."

25 15. Thereafter, on November 28, 2012, January 9, 2013, and October 23, 2013
26 Respondent was notified that he had been selected for a continuing education (CE) audit by the
27 Board. Respondent was informed, in writing, that he was to submit to the Board copies of his
28 certificates of course completion for the renewal period of July 1, 2009 through June 30, 2012.
Respondent was given 14 days to respond to each of the Board's requests or risk disciplinary
action being taken against his license. On December 3, 2013, Respondent was contacted by

1 telephone through his number of record, which turned out not to be a valid phone number for
2 Respondent. On December 13, 2013, Respondent's last known employer informed the Board that
3 Respondent no longer works there and left no forwarding address. Respondent failed to provide
4 the Board with any certificates of completion of CE requirements for the renewal period of July
5 1, 2009 through June 30, 2012. On December 18, 2013, the Board notified Respondent that his
6 non-compliance with the Board's request will be forwarded for disciplinary action.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Failure To Provide Proof Of Continuing Education)**

9 16. Respondent's Field Representative License is subject to disciplinary action under
10 Code section 8641, for failure to comply with Code section 8593 and Regulation section 1950,
11 subdivision (a), in that Respondent failed to provide the Board with verifiable documentation to
12 demonstrate that he completed the continuing education requirements as a condition of renewal of
13 his Field Representative License, as set forth above in paragraphs 14 and 15.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Misrepresentation of Fact Regarding Continuing Education)**

16 17. Respondent's Field Representative License is subject to disciplinary action under
17 Code section 8637, in that Respondent misrepresented that he had completed 16 hours of
18 continuing education coursework in his license renewal application, when in fact he had failed to
19 fulfill the Board's continuing education requirements as a condition of renewal of his license as
20 set forth above in paragraphs 14 and 15.

21 **PRAYER**

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

24 1. Revoking or suspending Field Representative License Number FR 23872, issued
25 to Robert Allan Lee;

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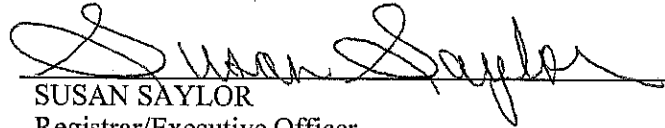
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1 2. Ordering Robert Allan Lee to pay the Structural Pest Control Board the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: 12/4/14



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

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