

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

FILED

Date 3/4/13 By 

8
9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF PESTICIDE REGULATION**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-31

13 **ANDRE L. WELLES**
14 **1766 Daggett Way**
Sacramento, CA 95835

A C C U S A T I O N

15 **Field Representative's License No. FR 27227**

16 Respondent.

17
18 Susan Saylor ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Interim
21 Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of
22 Pesticide Regulation.

23 2. On or about November 18, 1996, the Board issued Field Representative's License
24 Number FR 27227 to Andre L. Welles ("Respondent"). The license was in full force and effect at
25 all times relevant to the charges brought herein and will expire on June 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that
28 the Board may suspend or revoke a license when it finds that the holder, while a licensee or

1 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
2 of a suspension may assess a civil penalty.

3 4. Code section 8625 states:

4 The lapsing or suspension of a license or company registration by operation of
5 law or by order or decision of the board or a court of law, or the voluntary surrender
6 of a license or company registration shall not deprive the board of jurisdiction to
7 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.

7 STATUTORY AND REGULATORY PROVISIONS

8 5. Code section 8593 states:

9 The board shall require as a condition to the renewal of each operator's and
10 field representative's license that the holder submit proof satisfactory to the board that
11 he or she has informed himself or herself of developments in the field of pest control
12 either by completion of courses of continuing education in pest control approved by
the board or equivalent activity approved by the board.

13 In lieu of submitting that proof, the licenseholder, if he or she so desires, may
14 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.

15 The board shall develop a correspondence course or courses with any
16 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.

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

20 6. Code section 8641 states:

21 Failure to comply with the provisions of this chapter, or any rule or regulation
22 adopted by the board, or the furnishing of a report of inspection without the making of a
23 bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing
24 a notice of work completed prior to the completion of the work specified in the contract, is
a ground for disciplinary action.

25 7. California Code of Regulations, title 16, section 1950 states, in pertinent part:

26 (a) Except as provided in section 1951, every licensee is required, as a
27 condition to renewal of a license, to certify that he or she has completed the
28 continuing education requirements set forth in this article. A licensee who cannot
verify completion of continuing education by producing certificates of activity

1 completion, whenever requested to do so by the Board, may be subject to disciplinary
2 action under section 8641 of the code.

3 (b) Each licensee is required to gain a certain number of continuing education
4 hours during the three year renewal period. The number of hours required depends
5 on the number of branches of pest control in which licenses are held. The subject
6 matter covered by each activity shall be designated as "technical" or "general" by the
7 Board when the activity is approved. Hour values shall be assigned by the Board to
8 each approved educational activity, in accordance with the provisions of section
9 1950.5.

10 (d) Field representatives licensed in one branch of pest control shall have
11 completed 16 continuing education hours, field representatives licensed in two
12 branches of pest control shall have completed 20 continuing education hours, field
13 representatives licensed in three branches of pest control shall have completed 24
14 continuing education hours, during each three year renewal period. In each case, a
15 minimum of four continuing education hours in a technical subject directly related to
16 each branch of pest control held by the licensee must be completed for each branch of
17 pest control licensed, a minimum of two hours in Integrated Pest Management must
18 be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and
19 a minimum of eight hours must be completed from Board approved courses on the
20 Structural Pest Control Act, the Rules and Regulations, or structural pest control
21 related agencies' rules and regulations.

22 COST RECOVERY

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

27 BACKGROUND INFORMATION

28 9. In or about June 2011, Respondent submitted a license renewal application to the
Board. On or about June 27, 2011, Respondent certified under penalty of perjury on the
application form that he successfully completed 16 hours of continuing education during the
renewal period of July 1, 2008, through June 30, 2011.

10. On or about October 20, 2011, and January 13, 2012, the Board sent Respondent
written requests instructing him to provide the Board with copies of his continuing education
certificates within fourteen (14) days. Respondent failed to submit copies of his continuing
education certificates as requested by the Board.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Verify Completion of Continuing Education)**

3 11. Respondent's field representative license is subject to discipline under Code sections
4 8641 and 8593, in that Respondent failed to comply with California Code of Regulations, title 16,
5 section 1950, by failing to submit verification of completing continuing education courses for the
6 renewal period of July 1, 2008, through June 30, 2011, as requested by the Board on October
7 20, 2011, and January 13, 2012.

8 **OTHER MATTERS**

9 12. Code section 8620 provides, in pertinent part, that a Respondent may request that a
10 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,
11 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made
12 at the time of the hearing and must be noted in the proposed decision. The proposed decision
13 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

14 13. Pursuant to Code section 8654, if discipline is imposed on Field Representative
15 License Number FR 27227, issued to Respondent, then Respondent shall be prohibited from
16 serving as an officer, director, associate, partner or responsible managing employee of a licensee,
17 and any licensee which employs, elects, or associates Respondent shall be subject to disciplinary
18 action.

19 **PRAYER**

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

22 1. Revoking or suspending Field Representative License Number FR 27227, issued to
23 Andre L. Welles;

24 2. Prohibiting Andre L. Welles from serving as an officer, director, associate, partner,
25 qualifying manager or responsible managing employee of any registered company during the
26 period that discipline is imposed on Field Representative License Number FR 27227, issued to
27 Andre L. Welles;

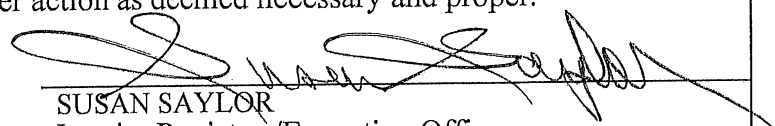
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Ordering Andre L. Welles to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 2/4/13



SUSAN SAYLOR
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

SA2012107457
11019403.doc