

FILED

Date 8/20/12 By Susan Saylor

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**BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke
Probation Against:

Case No. 2010-73

**RUDOLPH J. ARIAS
746 Cedar Avenue
Long Beach, CA 90813**

PETITION TO REVOKE PROBATION

Field Representative's License No. FR 29288

Respondent.

Complainant alleges:

PARTIES

1. Susan Saylor ("Complainant") brings this Petition to Revoke Probation solely in her official capacity as the Assistant Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.

2. On or about April 16, 1998, the Structural Pest Control Board issued Field Representative's License Number FR 29288, in Branch 1, to Rudolph J. Arias, also known as Rudy Arias ("Respondent"). On August 1, 2011, Respondent's Field Representative's License reflected employment with Mega Fume, Inc., with a business address of 438 West Meats Avenue, Orange, CA 92865. On January 3, 2012, Respondent's Field Representative's License was placed on inactive status. Respondent's Field Representative License was in effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

3. In a disciplinary action entitled *In the Matter of the Accusation Against Rudolph J. Arias*, Case No. 2010-73, the Structural Pest Control Board issued a decision, effective August 26, 2011, in which Respondent's Field Representative License was revoked. However, the revocation was stayed and Respondent's Field Representative License was placed on probation for a period of one (1) year with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated herein by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Structural Pest Control Board ("Board"), Department of Pesticide Regulation, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

5. Section 8625 of the Code states:

"The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the 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."

STATUTORY PROVISIONS

6. Section 8641 of the Code states:

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

7. Pursuant to section 8654 of the Code, if discipline is imposed on Field Representative's License Number FR 29288 issued to Respondent, he shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Respondent shall be subject to disciplinary action.

1 REGULATORY PROVISIONS

2 8. California Code of Regulations, title 16, section 1937.12 states, in pertinent part:

3 "(a) Whenever a proposed decision places a licensee or registered company on probation as
4 a condition of staying a revocation or staying all or any portion of a suspension, the order
5 granting such probation shall include at least the following conditions:

6 "(1) That the licensee or registered company shall file quarterly reports with the board
7 during the period of probation;"

8 "..."

9 PETITION TO REVOKE PROBATION

10 9. At all times after the effective date of Respondent's probation, Condition H stated:

11 "Should any respondent violate probation in any respect, the Board, after giving
12 respondent(s) notice and an opportunity to be heard, may revoke probation and carry out the
13 disciplinary order which was stayed. If a petition to revoke probation is filed against
14 respondent(s) during probation, the Board shall have continuing jurisdiction until the matter is
15 final, and the period of probation shall be extended until the matter is final."

16 10. Respondent's probation is subject to revocation, in that he violated probation as set
17 forth below:

18 FIRST CAUSE TO REVOKE PROBATION

19 (Quarterly Reports)

20 11. At all times after the effective date of Respondent's probation, Condition B stated:

21 "Respondent shall file quarterly reports with the Board during the period of probation."

22 12. Respondent's probation is subject to revocation because he failed to comply with
23 Probation Condition B, referenced above, in that Respondent has not provided quarterly reports to
24 the Board that were due on February 26, 2012 and May 26, 2012.

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