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**FILED**

Date 7/23/14 By 

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **JAMES ALLEN WERNLI**  
1710 Cordova Street, Unit # 19  
13 Pomona, CA 91767  
14 Field Representative License No. FR 33331  
15 Respondent.

Case No. 2015-2  
**ACCUSATION**

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about April 12, 2001, the Board issued Field Representative License No. FR  
23 33331 to James Allen Wernli (Respondent). The Field Representative License was in full force  
24 and effect at all times relevant to the charges brought herein and will expire on June 30, 2015,  
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 **STATUTORY PROVISIONS**

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

6 5. Section 8593 states:

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

12 In lieu of submitting that proof, the licenseholder, if he or she so desires,  
13 may take and successfully complete an examination given by the board, designed to  
14 test his or her knowledge of developments in the field of pest control since the  
15 issuance of his or her license.

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

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

24 6. Section 8641 states:

25 Failure to comply with the provisions of this chapter, or any rule or  
26 regulation adopted by the board, or the furnishing of a report of inspection without  
27 the making of a bona fide inspection of the premises for wood-destroying pests or  
28 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. Section 8654 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

1 revoked, shall be prohibited from serving as an officer, director, associate, partner,  
2 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.

3 **REGULATORY PROVISIONS**

4 8. California Code of Regulations, title 16, section 1950 states, in pertinent part:

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

10 (b) Each licensee is required to complete a certain number of continuing education hours  
11 during the three year renewal period. The number of hours required depends on the number of  
12 branches of pest control in which licenses are held. The subject matter covered by each activity  
13 shall be designated as “technical” or “general” by the Board when the activity is approved. Hour  
14 values shall be assigned by the Board to each approved educational activity, in accordance with  
15 the provisions of section 1950.5.

16 ...

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

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1 **COST RECOVERY**

2 9. Section 125.3 states, in pertinent part, that a Board may request the administrative  
3 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
5 case.

6 **FIRST CAUSE FOR DISCIPLINE**

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

8 10. On or about June 13, 2012, Respondent submitted a license renewal application to the  
9 Board wherein Respondent certified under penalty of perjury that he successfully completed  
10 twenty (20) hours of continuing education during his last renewal period.

11 11. On or about November 28, 2012, January 9, 2013, and October 23, 2013, a  
12 representative of the Board sent Respondent a letter indicating that he had been selected for the  
13 2012 continuing education (CE) audit. The letter to Respondent, dated November 28, 2012,  
14 asked Respondent to submit copies of certificates of course completion which verified his CE  
15 hours for the renewal period of July 1, 2009, through June 30, 2012, to the Board. Respondent  
16 was advised that his failure to verify his continuing education hours or to supply the requested  
17 information could subject his field representative's license to disciplinary action.

18 12. On or about December 6, 2013, Respondent sent to the Board correspondence  
19 indicating that he was not able to produce certificates verifying his continuing education hours for  
20 the renewal period in question.

21 13. Respondent is subject to disciplinary action pursuant to sections 8641 and 8593 in  
22 that he failed to comply with California Code of Regulations, title 16, section 1950 by failing to  
23 verify that he completed all of the required courses of continuing education in pest control  
24 approved by the Board. Specifically, Respondent failed to produce copies documenting  
25 completion of twenty (20) hours of continuing education for the renewal period of July 1, 2009  
26 through June 30, 2012, as requested by the Board's representative.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Misrepresentation of Material Fact)**

3 14. Respondent is subject to disciplinary action pursuant to sections 8641 and 8637 in  
4 that he made a misrepresentation of a material fact to the Board or its designee in that on or about  
5 June 13, 2012, Respondent sent back to the Board a complete license renewal application signed  
6 under penalty of perjury that he had completed twenty (20) hours of continuing education  
7 required for renewal of his license when in fact he had not completed the twenty (20) hours  
8 required for renewal of license. Complainant refers to and by this reference incorporates, the  
9 allegations set forth above in paragraphs 10-13, inclusive, as though set forth fully.

10 **OTHER MATTERS**

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

16 16. Pursuant to section 8654, if discipline is imposed on Field Representative's License  
17 No. FR 33331, issued to Respondent, Respondent shall be prohibited from serving as an officer,  
18 director, associate, partner, qualifying manager, or responsible managing employee for any  
19 registered company, and any registered company which employees, elects, or associates  
20 Respondent shall be subject to disciplinary action.

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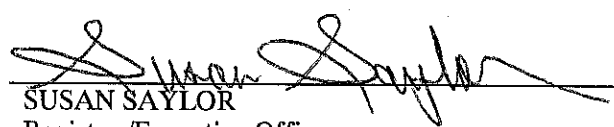
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28 **PRAYER**

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

1. Revoking or suspending Field Representative License No. FR 33331, issued to James Allen Wernli;
2. Ordering James Allen Wernli to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/23/14

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

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