

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of:

RYAN VANVELZER,

Petitioner.

Case No. 2012-31

OAH No. 2016060903

ORDER OF DECISION

DECISION

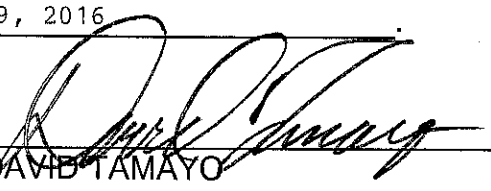
The Proposed Decision of Ed Washington, Administrative Law Judge, in Sacramento, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 1, paragraph number 1, "July 13, 2013" is stricken and replaced with "July 3, 2013".

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

The Decision shall become effective on October 29, 2016

IT IS SO ORDERED September 29, 2016



DAVID TAMAYO
President
Structural Pest Control Board
Department of Consumer Affairs

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

RYAN CHRISTOPHER VANVELZER

Petitioner.

OAH No. 2016060903

DECISION

This matter was heard before a quorum of the Structural Pest Control Board (Board) on July 14, 2016, in Sacramento, California. Administrative Law Judge Ed Washington, Office of Administrative Hearings, State of California, presided.

Deputy Attorney General Tim McDonough represented the Department of Justice, Office of the Attorney General, and appeared pursuant to Government Code section 11522.

Ryan Christopher VanVelzer (petitioner) was present at the hearing and represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on July 14, 2016.

FACTUAL FINDINGS

1. On April 25, 2003, the Board issued Field Operator License No. FR 35866 (license), Branches 2 and 3 to petitioner.¹ On December 20, 2013, the Board revoked petitioner's license pursuant to a Default Decision and Order in Case Number 2012-31. The Default Decision was based upon an Accusation filed on January 31, 2012, and amended on July 13, 2013. The First Amended Accusation sets forth three causes for discipline. It

¹ Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination. The practice of pest control is classified into the following three branches: Fumigation (Branch 1), General Pest Control (Branch 2), and Termite (Branch 3). (Bus. & Prof. Code, § 8560, subd. (a).)

alleges that petitioner was convicted of crimes substantially related to the qualifications, functions and duties of a field representative as follows: On January 16, 2009, petitioner was convicted, upon his plea of guilty, of violating Vehicle Code section 23152, subdivision (b) (driving while under the influence of alcohol with a blood alcohol content of .08 percent or higher), a misdemeanor; on July 14, 2011, he was convicted, upon his plea of guilty, of violating Penal Code sections 459 (second degree burglary), and 487 (grand theft), felonies; and on November 1, 2011, petitioner was convicted, upon his plea of guilty, of violation Penal Code section 12020, subdivision (a)(1) (felon in possession of a dangerous firearm or weapon), a felony.

2. Petitioner filed a Petition for Reinstatement (Petition) with the Board on March 24, 2016. Included with the Petition are the Board's *Guidelines for Petitions for Reinstatement (Guidelines)*, petitioner's declaration, letters of support, and documents offered to demonstrate rehabilitation. These documents reflect that petitioner complied with his criminal probation. Additionally, petitioner's second degree burglary conviction was reduced to a misdemeanor and dismissed pursuant to Penal Code section 1203.4 on March 11, 2016.

3. Petitioner testified that his convictions stemmed from his abusing alcohol. He joined Alcoholics Anonymous (AA) and completed a 12-step treatment program that required he attend a minimum of two meetings each week. Petitioner testified that he learned "a lot about triggers and addicts and stuff like that" in his alcohol treatment program. He stated he has been sober "since after his convictions in 2012," but could not provide a specific sobriety date. Petitioner continues to regularly attend AA self-help meetings, but prefers to attend various locations rather than a single site. He does not have a sponsor.

4. At hearing, petitioner was asked, "Are there any current criminal charges pending against you in this state or any other jurisdiction?" Petitioner replied "No." Petitioner admitted that there were criminal charges pending against him only after Deputy Attorney General McDonough disclosed that he had discovered such charges. On June 30, 2016, petitioner was stopped by law enforcement while driving. The officer concluded that petitioner was driving under the influence of a controlled substance and arrested him. Petitioner was charged with that offense and the charge was pending as of the date of the Petition hearing.

5. Since his license was revoked, petitioner has worked primarily in construction and has held temporary positions working in shipping and receiving. He testified that he has not engaged in any formalized continuing education in the pest control field, but reviews study material at home occasionally to maintain his knowledge. Petitioner added that he understands the Board's concern with his character in light of his DUI and theft convictions, and emphasized that he has changed. He testified that he is no longer spending time with the people who influenced his poor decisions, and is more financially secure because he is no longer "wasting [his money] on alcohol." Petitioner asked that his license be reinstated so he can return to the career he found purpose in and truly enjoyed.

6. Petitioner submitted insufficient evidence of rehabilitation. His rehabilitation evidence consisted entirely of his compliance with his criminal probation and the dismissal of his felony burglary conviction. Petitioner is encouraged to review the Board's *Guidelines* to gain an understanding of the type of evidence the Board considers indicative of rehabilitation. Petitioner called no witnesses to testify on his behalf. He did not provide evidence of efforts to maintain or upgrade his professional skills and knowledge through continuing education or other methods. Petitioner also did not provide evidence of service to his community or charitable groups. Though he attends AA self-help meetings, his involvement seems attenuated as he does not attend a particular location regularly and has no sponsor. Most telling of his lack of rehabilitation, however, is petitioner's failure to disclose that he has pending criminal charges against him for driving under the influence of a controlled substance. To be clear, it is petitioner's failure to disclose this charge, either by his own initiative or in response to questioning at hearing, rather than the charge itself that is currently concerning for the Board. Petitioner's failure to be forthright about the pending charge and his failure to provide more evidence of rehabilitation, demonstrates that he has not fully accepted responsibility for his actions and is not rehabilitated.

LEGAL CONCLUSIONS

1. The Board has the authority to impose discipline upon any licensee, where factual and legal cause for disciplinary action has been proved. (Bus. & Prof. Code, § 8620 et seq.) The Board has the authority to reinstate a license and restrict or limit that license for such a period of time as the Board deems necessary to safeguard the public.

2. Petitioner has the burden of establishing that he has the necessary and current qualifications and skills to safely engage in the practice of structural pest control within the scope of current law and accepted standards of practice. In reaching its determination, the Board considers the violations for which action was taken and petitioner's evidence of rehabilitation. Here, petitioner was responsible for multiple violations of law. His criminal convictions reflect alcohol abuse, driving while under the influence of alcohol, and theft. Petitioner provided little evidence of rehabilitation and was not forthcoming about his pending criminal charges. Under these circumstances, it would be against public interest and safety to issue petitioner even a restricted license.

ORDER

The Petition of Ryan Christopher VanVelzer for Reinstatement of Revoked License is DENIED.

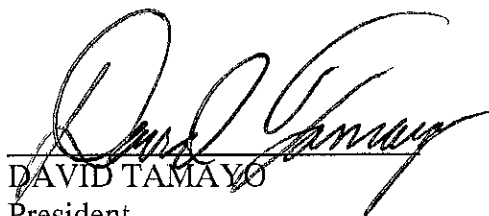
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This Decision is hereby adopted by the Structural Pest Control Board.

This Decision shall become effective on October 29, 2016.

IT IS SO ORDERED.

Dated: September 29, 2016



DAVID TAMAYO
President
Structural Pest Control Board