1 2 3 4 5 6 7 8	KAMALA D. HARRIS Attorney General of California GREGORY J. SALUTE Supervising Deputy Attorney General NANCY A. KAISER Deputy Attorney General State Bar No. 192083 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-5794 Facsimile: (213) 897-2804 Attorneys for Complainant BEFORE THE STRUCTURAL PEST CONTROL BOARD
10	DEPARTMENT OF PESTICIDE REGULATION
11	STATE OF CALIFORNIA
12	In the Matter of the Accusation Against:
13	Case No. 2012-22
ı	JOSHUA DANIEL BAPTISTA 2315 Meredith Lane, Suite M
14	Santa Maria, CA 93455 ACCUSATION
15	Field Representative's License No. FR 38822
16	Respondent.
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18	Complainant alleges:
19	PARTIES
20	1. William H. Douglas (Complainant) brings this Accusation solely in his official
21	capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board,
22	Department of Pesticide Regulation.
23	2. On or about June 20, 2005, the Structural Pest Control Board (Board) issued Field
24	Representative's License No. FR 38822 in Branch 3 to Joshua Daniel Baptista (Respondent). The
25	Field Representative's License was in full force and effect at all times relevant to the charges
26	brought herein and will expire on June 30, 2013, unless renewed.
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Applicator License No. RA 23291

3. On June 5, 2003, the Board issued Applicator License No. RA 23291 in Branch 2 and 3 to Joshua Daniel Baptista, employee of Western Exterminator Company. On April 7, 2006, Respondent's license was downgraded to a Branch 2 due to the issuance of a Branch 3 Field Representative License. On June 5, 2006, Respondent's Applicator License was cancelled.

JURISDICTION

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

STATUTORY PROVISIONS

- 5. Section 8620 provides, in part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.
 - 6. Section 8520.2, subdivision (e), states:

"The duties, powers, purposes, responsibilities, and jurisdictions of the board under the jurisdiction of the Department of Consumer Affairs shall remain with the board under the jurisdiction of the Department of Pesticide Regulation."

7. Section 8625 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."

8. Section 8649 states:

"Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof."

9. 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 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."

10. Section 8655 states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting side the verdict of guilty, or dismissing the accusation, information or indictment."

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COST RECOVERY

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

CAUSE FOR DISCIPLINE

(Criminal Conviction)

- 12. Respondent's license is subject to disciplinary action under section 8649, in that he was convicted of a crime substantially related to the qualifications, functions or duties of a licensed field representative, as follows:
- a. On or about March 17, 2011, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 314.1 [indecent exposure], in the criminal proceeding entitled *The People of the State of California v. Joshua Daniel Baptista* (Super. Ct. Santa Barbara County, 2011, No. 1345655). The Court placed Respondent on supervised probation for a period of 3 years with certain terms and conditions and fined. In addition, Respondent was ordered to register as a sex offender (Penal Code section 290).
- b. The circumstances surrounding the conviction are that on or about November 30, 2009, Respondent willfully exposed his private parts to a female victim while she waited at a bus stop.

PRAYER

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's License No. FR 38822, issued to Joshua Daniel Baptista;
- 2. Ordering Joshua Daniel Baptista to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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1	3. Taking such other and further action as deemed necessary and proper.
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3	DATED: 11/8/11 Milliam H. Dauglas WILLIAM H. DOUGLAS
4	Interim Registrar/Executive Officer Structural Pest Control Board Department of Pesticide Regulation
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Accusation (Baptista)