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FILED

Date 8/5/14 By *Susan Saylor*

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

11 In the Matter of the Accusation Against:
12 **CHRISTIAN PONCE**
13 **aka CRISTIAN PONCE**
3756 Dalton Avenue
Los Angeles, CA 90018

Case No. 2015-3

ACCUSATION

14 **Field Representative License No. FR 40682**

15 Respondent.

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, Department of Consumer
21 Affairs.

22 2. On or about August 30, 2006, the Structural Pest Control Board issued Field
23 Representative License Number FR 40682 to Christian Ponce, also known as Cristian Ponce
24 (Respondent). The Field Representative License was in full force and effect at all times relevant
25 to the charges brought herein and will expire on June 30, 2015, unless renewed.

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1 **LICENSE HISTORY**

2 **Field Representative's License No. FR 40682**

3 3. On August 30, 2006, Field Representative's License No. FR 40682 was issued in
4 Branch 1 to Christian Ponce, employee of Warco Pest Control Co. with an address of 15735
5 Garfield Avenue, Suite # 35, Paramount, CA 90723. On March 15, 2008, Field Representative's
6 License No. FR 40682 left the employ of Warco Pest Control Co. On April 1, 2008, Field
7 Representative's License No. FR 40682 reflected employment with Franchise Fumigation, Inc.,
8 with an address of 3756 Dalton Avenue, Los Angeles, CA 90018. On October 1, 2008, Field
9 Representative's License No. FR 40682 left the employ of Franchise Fumigation, Inc. On
10 October 20, 2008, Field Representative's License No. FR 40682 became the Vice President and
11 reflected employment Allstar Fumigation Inc., with an address of 3756 Dalton Avenue, Los
12 Angeles, CA 90018. On March 9, 2009, Field Representative's License No. FR 40682 was issued
13 a \$500 fine levied by the Los Angeles County Agricultural Commissioner for violation of
14 sections 1970.4(a) and 6140(b) of the California Code of Regulations and section 8505.10 of the
15 Business and Professions Code. The fine was paid on August 12, 2010. On May 3, 2010, Field
16 Representative's License No. FR 40682 was issued a \$2,500 fine levied by the Structural Pest
17 Control Board for violation of section 8692 of the Business and Professions Code. The fine was
18 paid on June 4, 2012. On May 9, 2011, Field Representative's License No. FR 40682 reflected
19 employment with Country Wide Fumigation, with a business address of 5902 Lorelei Avenue,
20 Lakewood, CA 90712 and a mailing address of 3756 Dalton Avenue, Los Angeles, CA 90018.
21 On May 23, 2011, Field Representative's License No. FR 40682 was issued a \$1,200 fine levied
22 by the Los Angeles County Agricultural Commissioner for violation of section 8698.1 of the
23 Business and Professions Code and section 15204.5(a)(d) of the Food and Agricultural Code. The
24 fine was paid on June 27, 2012. On May 23, 2011, Field Representative's License No. FR 40682
25 was issued a \$400 fine levied by the Los Angeles County Agricultural Commissioner for
26 violation of section 15204(d) of the Food and Agricultural Code. The fine was paid on May 16,
27 2013. On May 23, 2011, Field Representative's License No. FR 40682 was issued a \$400 fine
28 levied by the Los Angeles County Agricultural Commissioner for violation of 15204(d) of the

1 Food and Agricultural Code. The fine was paid on June 27, 2012. On May 23, 2011, Field
2 Representative's License No. FR 40682 was issued a \$1,900 fine levied by the Los Angeles
3 County Agricultural Commissioner for violation of section 6600(b) of the California Code of
4 Regulations and section 15204.5(d) of the Food and Agricultural Code. The fine was paid on June
5 27, 2012. On July 8, 2011, Field Representative's License No. FR 40682 left the employ of
6 Allstar Fumigation, Inc. On August 15, 2011, Field Representative's License No. FR 40682 was
7 issued a \$250 fine levied by the Los Angeles County Agricultural Commissioner for violation of
8 section 6600(b) of the California Code of Regulations. The fine was paid on June 27, 2012. On
9 December 7, 2011, Field Representative's License No. FR 40682 was issued a \$250 fine levied
10 by the Los Angeles County Agricultural Commissioner for violation of section 6600(b) of the
11 California Code of Regulations. The fine was paid on June 27, 2012. On April 18, 2012, Field
12 Representative's License No. FR 40682 was issued a \$700 fine levied by the Los Angeles County
13 Agricultural Commissioner for violation of section 12973 of the Food and Agricultural Code. The
14 fine was paid on June 26, 2012. On January 17, 2013, Field Representative's License No. FR
15 40682 was issued a \$800 fine levied by the Los Angeles County Agricultural Commissioner for
16 violation of section 6600(b) of the California Code of Regulations. The fine has not been paid. On
17 February 12, 2013, Field Representative's License No. FR 40682 was issued a \$250 fine levied
18 by the Orange County Agricultural Commissioner for violation of section 6600 of the California
19 Code of Regulations. The fine was paid on March 10, 2014. Field Representative's License No.
20 FR 40682 is currently in effect and renewed through June 30, 2015.

21 **AllStar Fumigation Inc.; Christian Ponce as President**

22 4. On or about October 20, 2008, the Board issued Company Registration Certificate
23 Number PR 5704 ("Registration") to Allstar Fumigation, Inc. ("Respondents") in Branch 1, with
24 Florencio Ponce as President, Christian Ponce as Vice President, and Abdul-Aleem Rasheed as
25 Qualifying Manager. On or about May 18, 2009, Company Registration Certificate Number PR
26 5704 reflected the disassociation of Abdul-Aleem Rasheed as Branch 1 Qualifying Manager. On
27 or about February 8, 2010, Company Registration Certificate Number PR5704 reflected Christian
28 Ponce as President and 100% shareholder and Raymundo Esteban Gill as Qualifying Manager.

1 On or about June 14, 2010, Company Registration Certificate Number PR 5704 reflected the
2 disassociation of Raymundo Esteban Gill as Qualifying Manager. On or about July 9, 2010,
3 Company Registration Certificate Number PR 5704 reflected Susana Haro as Qualifying
4 Manager. On or about July 12, 2010, Company Registration Certificate Number PR 5704
5 reflected the disassociation of Susana Haro as Qualifying Manager. On or about August 12, 2010,
6 Company Registration Certificate Number PR 5704 reflected Jaime Chavez as Qualifying
7 Manager. On or about February 10, 2011, Company Registration Certificate Number PR 5704
8 reflected the disassociation of Jaime Chavez as Qualifying Manager. The Company Registration
9 Certificate No. PR 5704 was cancelled on July 29, 2011.

10 JURISDICTION

11 5. This Accusation is brought before the Structural Pest Control Board ("Board"),
12 Department of Consumer Affairs, under the authority of the following laws. All statutory section
13 references are to the Business and Professions Code (Code) unless otherwise indicated.

14 6. Section 118, subdivision (b) of the Code, provides that the suspension, expiration,
15 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
16 disciplinary action during the period within which the license may be renewed, restored, reissued
17 or reinstated.

18 7. Section 8567 of the Code states:

19 Should a field representative or applicator change his or her employment, or should an
20 operator enter the employ of a registered company, or being already employed by a registered
21 company change his or her employment, or being employed by a registered company leave that
22 employment and enter the pest control business on his or her own behalf, he or she shall notify
23 the registrar in writing, on a form prescribed by the board and issued by the registrar in
24 accordance with rules and regulations adopted by the board. Whereupon the registrar shall
25 register the change in his or her records.

26 8. Section 8624 of the Code states, in pertinent part:

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1 "If the operator is the qualifying manager, a partner, responsible officer, or owner of a
2 registered structural pest control company, the suspension or revocation may be applied to the
3 company registration.

4 The performance by any partnership, corporation, firm, association, or registered company
5 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for
6 disciplinary action against any licensee who, at the time the act or omission occurred, was the
7 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,
8 association, or registered company whether or not he or she had knowledge of, or participated in,
9 the prohibited act or omission."

10 STATUTORY PROVISIONS

11 9. Section 490 of the Code states, in pertinent part:

12 "(a) In addition to any other action that a board is permitted to take against a licensee, a
13 board may suspend or revoke a license on the ground that the licensee has been convicted of a
14 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
15 or profession for which the license was issued.

16 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
17 discipline a licensee for conviction of a crime that is independent of the authority granted under
18 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the licensee's license was issued.

20 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that a board is permitted to take
22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code."

26 10. Section 493 of the Code states:

27 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
28 the department pursuant to law to deny an application for a license or to suspend or revoke a

1 license or otherwise take disciplinary action against a person who holds a license, upon the
2 ground that the applicant or the licensee has been convicted of a crime substantially related to the
3 qualifications, functions, and duties of the licensee in question, the record of conviction of the
4 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
5 and the board may inquire into the circumstances surrounding the commission of the crime in
6 order to fix the degree of discipline or to determine if the conviction is substantially related to the
7 qualifications, functions, and duties of the licensee in question.”

8 As used in this section, “license” includes “certificate,” “permit,” “authority,” and
9 “registration.”

10 11. Section 8593 of the Code states, “The board shall require as a condition to the
11 renewal of each operator's and field representative's license that the holder submit proof
12 satisfactory to the board that he or she has informed himself or herself of developments in the
13 field of pest control either by completion of courses of continuing education in pest control
14 approved by the board or equivalent activity approved by the board. In lieu of submitting that
15 proof, the licenseholder, if he or she so desires, may take and successfully complete an
16 examination given by the board, designed to test his or her knowledge of developments in the
17 field of pest control since the issuance of his or her license. The board shall develop a
18 correspondence course or courses with any educational institution or institutions as it deems
19 appropriate. This course may be used to fulfill the requirements of this section. The institution
20 may charge a reasonable fee for each course. The board may charge a fee for the taking of an
21 examination in each branch of pest control pursuant to this section in an amount sufficient to
22 cover the cost of administering each examination, provided, however, that in no event shall the
23 fee exceed fifty dollars (\$50) for each examination.”

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

28 13. Section 8625 of the Code states:

1 "The lapsing or suspension of a license or company registration by operation of law or by
2 order or decision of the board or a court of law, or the voluntary surrender of a license or
3 company registration shall not deprive the board of jurisdiction to proceed with any investigation
4 of or action or disciplinary proceeding against such licensee or company, or to render a decision
5 suspending or revoking such license or registration."

6 14. Section 8637 of the Code states, "Misrepresentation of a material fact by the applicant
7 in obtaining a license or company registration is a ground for disciplinary action."

8 15. Section 8641 of the Code states, "Failure to comply with the provisions of this
9 chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection
10 without the making of a bona fide inspection of the premises for wood-destroying pests or
11 organisms, or furnishing a notice of work completed prior to the completion of the work
12 specified in the contract, is a ground for disciplinary action.

13 16. Section 8649 of the Code states:

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

17 17. Section 8654 of the Code states:

18 "Any individual who has been denied a license for any of the reasons specified in Section
19 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
20 failed to renew his or her license while it was under suspension, or who has been a member,
21 officer, director, associate, qualifying manager, or responsible managing employee of any
22 partnership, corporation, firm, or association whose application for a company registration has
23 been denied for any of the reasons specified in Section 8568, or whose company registration has
24 been revoked as a result of disciplinary action, or whose company registration is under
25 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
26 responsible managing employee had knowledge of or participated in any of the prohibited acts for
27 which the license or registration was denied, suspended or revoked, shall be prohibited from
28 serving as an officer, director, associate, partner, qualifying manager, or responsible managing

1 employee of a registered company, and the employment, election or association of such person by
2 a registered company is a ground for disciplinary action."

3 18. Section 8655 of the Code states:

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

14 19. Section 8695 of the Code states, in pertinent part:

15 "The violation of any provision of this article . . . shall be grounds for the suspension or
16 revocation by the board of the operator's license of the owner or qualifying manager or managers
17 of the registered company and of the company registration."

18 REGULATORY PROVISIONS

19 20. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

20 "For the purposes of denial, suspension or revocation of a license or company registration
21 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
22 considered to be substantially related to the qualifications, functions or duties of a licensee or
23 registered company under Chapter 14 of Division 3 of the code if to a substantial degree it
24 evidences present or potential unfitness of such licensee or registered company to perform the
25 functions authorized by the license or company registration in a manner consistent with the public
26 health, safety, or welfare."

27 21. California Code of Regulations, title 16, section 1950 provides in pertinent part as
28 follows:

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

6 **COST RECOVERY**

7 22. Section 125.3 of the Code states, in pertinent part, that a Board may request the
8 administrative law judge to direct a licensee found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of a Substantially Related Crime)**

13 23. Respondent is subject to disciplinary action under sections 8649 and 490 of the Code,
14 in conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent
15 has been convicted of a crime substantially related to the qualifications, functions or duties of a
16 licensed field representative and applicator.

17 a. On or about January 29, 2008, Respondent was convicted of one misdemeanor count
18 of violating Vehicle Code section 23152(b) [driving while having 0.08% and more, by weight, of
19 alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v.*
20 *Cristian Ponce* (Super. Ct. Los Angeles County, 2008, No. 713231). The Court placed
21 Respondent on thirty six (36) months probation and sentenced Respondent to serve one day in
22 jail. Respondent was ordered to complete a first-offender alcohol education and counseling
23 program and pay restitution in the amount of \$1,693.00.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Conviction of a Substantially Related Crime)**

26 24. Respondent is subject to disciplinary action under sections 8649 and 490, in
27 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has
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1 been convicted of a crime substantially related to the qualifications, functions or duties of a
2 licensed field representative and applicator.

3 a. On or about July 28, 2011, Respondent was convicted of one misdemeanor count of
4 violating Vehicle Code section 32002(b) [motor carrier or the person who directs the driver to
5 operate a vehicle transporting hazardous material, when that transportation requires a license
6 pursuant to this division] in the criminal proceeding entitled *The People of the State of California*
7 *v. Cristian Ponce* (Super. Ct. Los Angeles County, 2011, No. 1WA31153.) The Court placed
8 Respondent on twenty-four (24) months summary probation, and ordered Respondent to pay
9 \$2,000 in fees.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Conviction of a Substantially Related Crime)**

12 25. Respondent is subject to disciplinary action under sections 8649 and 490 of the Code,
13 in conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent
14 has been convicted of a crime substantially related to the qualifications, functions or duties of a
15 licensed field representative and applicator.

16 a. On or about May 11, 2009, Respondent was convicted of one misdemeanor count of
17 violating Vehicle Code section 12500(a) [driving without a license] in the criminal proceeding
18 entitled *The People of the State of California v. Cristian Ponce* (Super. Ct. Los Angeles County,
19 2009, No. LAMC9MP03581). The Court placed Respondent on twelve (12) months probation
20 and sentenced Respondent to five days in jail.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Continuing Education Requirements)**

23 26. Respondent's field representative license is subject to disciplinary action pursuant to
24 Code sections 8641 in conjunction with California Code of Regulations, title 16, section 1950, in
25 that he was unable to verify completion of continuing education requirements upon request by the
26 Board. A random audit revealed that subject did not submit proof of continuing education
27 completed in the correct renewal time period.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Misrepresentation of Material Fact)**

3 27. Respondent's field representative license is subject to disciplinary action pursuant to
4 Code section 8637 in that Respondent made material misrepresentations to the Board or its
5 designee as follows:

6 a. On or about June 6, 2012, Respondent signed under penalty of perjury on the License
7 Renewal Application form that the continuing education requirements were met.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Violation of Regulations)**

10 28. Respondent is subject to disciplinary action under Sections 8620 and 8641, for
11 violating or attempting to violate, any provision or term of the Structural Pest Control Act, as set
12 forth above in Paragraph 23 through 27, inclusive, which are incorporated herein by reference, as
13 though set forth fully.

14 **OTHER MATTERS**

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

20 30. Pursuant to section 8654 of the Code, if discipline is imposed on Field
21 Representative's License Number FR 40682, issued to Christian Ponce, also known as Cristian
22 Ponce, then Christian Ponce also known as Cristian Ponce shall be prohibited from serving as an
23 officer, director, associate, partner, qualifying manager, or responsible managing employee for
24 any registered company during the time the discipline is imposed, and any registered company
25 which employs, elects, or associates him, shall be subject to disciplinary action.

26 **DISCIPLINARY CONSIDERATIONS**

27 31. On or about June 7, 2012, Accusation No. 2012-58 was filed against Respondent as
28 President of Allstar Fumigation Inc. On or about March 2, 2014, the Board adopted the Stipulated

1 Surrender of License and Order for Respondent's Case No # 2012-58, OAH Case No.
2 2013041099.

3 **PRAYER**

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

6 1. Revoking or suspending Field Representative License Number FR 40682 issued
7 to Christian Ponce also known as Cristian Ponce (Respondent);

8 2. Prohibiting Christian Ponce also known as Cristian Ponce from serving as an
9 officer, director, associate, partner, qualifying manager or responsible managing employee of any
10 registered company during the period that discipline is imposed on Field Representative's License
11 Number FR 40682, issued to Christian Ponce;

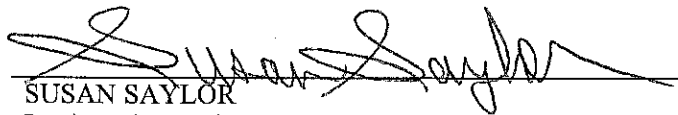
12 2. Ordering Christian Ponce also known as Cristian Ponce to pay the Structural
13 Pest Control Board the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

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17

18 DATED: 8/5/14



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

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