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FILED

Date 6/6/17 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 Petition to Revoke
12 Probation Against:

Case No. 2015-3

13 **CHRISTIAN PONCE,**
14 **aka CRISTIAN PONCE**
Country Wide Fumigation
4252 Whiteside Street
Los Angeles, CA 90063

PETITION TO REVOKE PROBATION

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

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Susan Saylor ("Complainant") brings this Petition to Revoke Probation solely in her
22 official capacity as the Registrar/Executive Officer of the Structural Pest Control Board,
23 Department of Consumer Affairs.

24 2. On or about August 30, 2006, the Structural Pest Control Board ("Board") issued
25 Field Representative's License No. FR 40682 to Christian Ponce, aka Cristian Ponce
26 ("Respondent"). The Field Representative's License was in effect at all times relevant to the
27 charges brought herein and will expire on June 30, 2018, unless renewed.

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8. Section 8617, subdivision (h), of the Code states:

Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

9. Section 8654 of the Code provides, as follows:

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registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate,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. California Code of Regulations, title 16, section 1911, states:

Each operator, field representative and applicator shall file his or her address of record with the board and shall notify the board of any change in address within ten (10) days of such change. The address of record of a field representative, an operator or an applicator shall be the address of the registered company by which he or she is employed or with which he or she is associated or his or her residence address if he or she is not employed and associated.

Each licensee shall also file his or her address for mailing purposes with the board and shall notify the board of any change in address within ten (10) days of such change.

11. California Code of Regulations, title 16, section 1937.12, states:

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

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

(2) Such other terms and conditions as may be appropriate in light of the number and nature of the violations proven.

(b) Nothing in this regulation shall deprive the board of its authority to modify or delete any term or condition of probation contained in a proposed decision submitted by an administrative law judge.

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Submit Quarterly Reports)**

3 12. At all times after the May 29, 2015, effective date of the Decision, Condition 3 stated:

4 **Quarterly Reports.** Respondent shall file quarterly reports with the Board
5 during the period of probation.

6 13. Respondent's probation is subject to revocation because he failed to comply with
7 Probation Condition 3, referenced above, in that he failed to submit quarterly reports to the Board
8 which were due on May 29, 2016, August 29, 2016, and November 29, 2016.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Failure to Notify the Board of Leaving California)**

11 14. At all times after the May 29, 2015, effective date of the Decision, Condition 4 stated:

12 **Tolling of Probation.** Should Respondent leave California to reside outside this
13 state, Respondent must notify the Board in writing of the dates of departure and return.
14 Periods of residency or practice outside the state shall not apply to reduction of the
probationary period.

15 15. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 4, referenced above. The facts and circumstances regarding this violation
17 are that on or about November 24, 2016, during a quarterly probation inspection, the Board's
18 specialist was informed that Respondent had moved out of California in October 2016.
19 Respondent failed to notify the Board in writing of the dates of departure when he moved out of
20 California, therefore, Respondent's probation began tolling. Respondent failed to notify the
21 Board of his dissociation with his employer or his change of address.

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1 b. The Board sent multiple letters to Respondent on or about April 15, 2016, July 29,
2 2016, September 30, 2016, and December 15, 2016, reminding him that the Board has yet to
3 receive the costs of \$4,860.00.

4 **FIFTH CAUSE TO REVOKE PROBATION**

5 **(Failure to Obey All Laws)**

6 20. At all times after the May 29, 2015, effective date of the Decision, Condition 2 stated:

7 **Obey All Laws.** Respondent shall obey all Federal, State and Local laws along
8 with all laws and rules relating to the practice of structural pest control.

9 21. Respondent's probation is subject to revocation because he failed to comply with
10 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
11 are as follows:

12 a. On or about March 28, 2016, The Los Angeles County Agricultural Commissioner
13 issued a \$400.00 fine levied to Respondent's Field Representative's License No. FR 40682 for
14 violation of the Food and Agricultural Code section 12973 [the use of any pesticide shall not
15 conflict with labeling registered pursuant to this chapter which is delivered with the pesticide or
16 with any additional limitations applicable to the conditions of any permit issued by the director or
17 commissioner.]

18 b. Respondent is in violation of the Code section 8567, in that on or about November
19 24, 2016, the Board's specialist was informed that Respondent had moved out of California and
20 Respondent failed to change his employment, or being already employed by a registered company
21 change his employment, or being employed by a registered company leave that employment and
22 enter the pest control business on his own behalf, he shall notify the registrar on a form
23 prescribed by the board and issued by the registrar in accordance with rules and regulations
24 adopted by the board. The registrar shall register the change in his records. Complainant refers to
25 and by this reference incorporates the allegations set forth above in paragraphs 13 and 14, as
26 though set forth fully herein.

27 c. Respondent is in violation of the California Code of Regulations, title 16, section
28 1911, in that Respondent failed to file a change of address or notify of his dissociation from his

1 employer with the Board within ten (10) days of such change. Complainant refers to and by this
2 reference incorporates the allegations set forth above in paragraphs 13 and 14, as though set forth
3 fully herein.

4 22. Respondent is in violation of the California Code of Regulations, title 16, section
5 1937.12, in that Respondent failed to obey all laws and rules relating to structural pest control and
6 probationary terms and conditions. Complainant refers to and by this reference incorporates the
7 allegations set forth above in paragraphs 11 through 18, as though set forth fully herein.

8 **PRIOR DISCIPLINE**

9 23. To determine the degree of discipline, Complainant alleges that:

10 a. On or about October 20, 2008, the Board issued Company registration Certificate No.
11 PR 5704 to Allstar Fumigation, Inc. with Respondent as Vice President.

12 b. On or about February 8, 2010, the Company Registration Certificate No. PR 5704
13 reflected Respondent as President and 100% shareholder.

14 c. In a disciplinary action entitled *In the Matter of Accusation Against Allstar*
15 *Fumigation, Inc.; Florencia Ponce; Christian Ponce; Abdul-Aleem Rasheed*, Case No. 2012-58,
16 the Board issued a Decision and Order ("Decision"), effective March 2, 2014, in which the
17 Company Registration Certificate No. PR 5704 was surrendered by Respondent as President of
18 Allstar Fumigation, Inc.

19 **OTHER MATTERS**

20 24. Pursuant to section 8654, if discipline is imposed on Field Representative's License
21 No. FR 40682 issued to Respondent, Respondent shall be prohibited from serving as an officer,
22 director, associate, partner, qualifying manager, or responsible managing employee for any
23 registered company during the time the discipline is imposed, and any registered company which
24 employs, elects, or associates Respondent shall be subject to disciplinary action.

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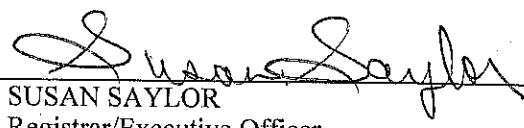
PRAYER

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 the probation that was granted by the Board in Case No. 2015-3 and imposing the disciplinary order that was stayed thereby revoking Field Representative's License No. FR 40682 issued to Christian Ponce, aka Cristian Ponce;
2. Revoking or suspending Field Representative's License No. FR 40682, issued to Christian Ponce, aka Cristian Ponce;
3. Prohibiting Christian Ponce, aka Cristian Ponce from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of any registered company during the period that discipline is imposed on Field Representative's License No. FR 40682 issued to Christian Ponce, aka Cristian Ponce; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: _____

6/6/17



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

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