


FILED

Date 12/31/15 By 

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No. 2016-34

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

13 **ADOLFO R. MARTIN**
14 9637 Flower Street
Bellflower, CA 90706

15 Field Representative License No. FR 41018,
16 Branch 2

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 **Field Representative License**

24 2. On or about November 9, 2006, the Structural Pest Control Board (Board) issued
25 Field Representative License No. FR 41018, Branch 2 to Adolfo R. Martin (Respondent). The
26 Field Representative License expired on June 30, 2015, and has not been renewed.

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1 Applicator License

2 3. On or about February 21, 1996, the Board issued Applicator License No. RA 3045, in
3 Branch 3 to Respondent. On or about October 25, 2006, the license was upgraded to include
4 Branch 2. On or about November 9, 2006, the license was downgraded to include Branch 3 only
5 due to the issuance of Field Representative License No. FR 41018 in Branch 2. On or about
6 February 21, 2014, the Applicator License was cancelled.

7 **PRIOR DISCIPLINARY ACTION**

8 4. In a disciplinary action entitled *In the Matter of the Accusation Against: Adolfo R.*
9 *Martin*, Case No. 2011-32, the Board issued a Decision and Order effective February 22, 2013, in
10 which Respondent's Field Representative License was revoked. However, the revocation was
11 stayed and Respondent's Field Representative License was placed on probation for 3 years, with
12 certain terms and conditions. A copy of that Decision and Order is attached as Exhibit A and is
13 incorporated by reference.

14 **JURISDICTION AND STATUTORY PROVISIONS FOR ACCUSATION**

15 5. This Accusation is brought before the Board, under the authority of the following
16 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
17 indicated.

18 6. Section 8567 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
22 that employment and enter the pest control business on his or her own behalf, he or she shall
23 notify the registrar on a form prescribed by the board and issued by the registrar in accordance
24 with rules and regulations adopted by the board. The registrar shall register the change in his or
25 her records.”

26 7. Section 8620 of the Business and Professions Code (Code) provides, in pertinent part,
27 that the Board may suspend or revoke a license when it finds that the holder, while a licensee or
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1 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
2 of a suspension may assess a civil penalty.

3 8. Section 8625 of the Code states:

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

9 9. Section 8649 of the Code states:

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

13 10. Section 8654 of the Code states:

14 "Any individual who has been denied a license for any of the reasons specified in Section
15 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
16 failed to renew his or her license while it was under suspension, or who has been a member,
17 officer, director, associate, qualifying manager, or responsible managing employee of any
18 partnership, corporation, firm, or association whose application for a company registration has
19 been denied for any of the reasons specified in Section 8568, or whose company registration has /
20 been revoked as a result of disciplinary action, or whose company registration is under
21 suspension, and while acting as such member, officer, director, associate, qualifying
22 manager, or responsible managing employee had knowledge of or participated in any of the
23 prohibited acts for which the license or registration was denied, suspended or revoked, shall be
24 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
25 responsible managing employee of a registered company, and the employment, election or
26 association of such person by a registered company is a ground for disciplinary action.

27 **REGULATORY PROVISIONS**

28 11. California Code of Regulations, title 16, section 1911 states:

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

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

8 12. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

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

16 **COST RECOVERY**

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

21 **CAUSE FOR DISCIPLINE**

22 **(Substantially Related Criminal Conviction)**

23 14. Respondent is subject to disciplinary action under section 8649, in conjunction with
24 California Code of Regulations, title 16, section 1937.1, in that Respondent was convicted of a
25 crime substantially related to the qualifications, functions, and duties of a licensed field
26 representative. On or about July 1, 2014, Respondent was convicted of violating one
27 misdemeanor count of Penal Code section 422, subdivision (a) [criminal threats] and one
28 misdemeanor count of Penal Code section 273.6, subdivision (a) [disobeying domestic relations

1 court order] in the criminal proceeding entitled *The People of the State of California v. Adolfo*
2 *Rick Martin* (Super. Ct. L.A. County, 2014, No. 4BF03346). The court sentenced Respondent to
3 serve 12 days in jail and placed him on 12 months probation, with terms and conditions. The
4 circumstances underlying the conviction are that on or about June 4, 2014, Respondent willfully
5 and unlawfully threatened to commit a crime which would result in death and great bodily injury
6 to J.O., with the specific intent that the statement be taken as a threat. On or about June 19, 2014
7 and June 20, 2014, Respondent knowingly and intentionally violated a court order obtained
8 pursuant to Section 6200 of the Family Code of the State of CA, to wit: Temporary Domestic
9 Violence Restraining Order.

10 DISCIPLINARY CONSIDERATIONS

11 15. In order to determine the degree of discipline, if any to be imposed on Respondent,
12 Complainant alleges that on or about December 19, 2008, Respondent was convicted of violating
13 one felony count of Penal Code section 273.5, subdivision (a) [inflicting corporal injury on
14 spouse/cohabitant] in the criminal proceeding entitled *The People of the State of California v.*
15 *Martin Ricky Adolfo, aka Adolfo Martin* (Super. Ct. San Bernardino County, 2008, No.
16 FVI802428). The court sentenced Respondent to serve 270 days in jail and placed him on 36
17 months probation, with terms and conditions. The circumstances underlying the conviction are
18 that on or about November 16, 2008, Respondent told his wife of 16 years that he was going to
19 kill her. He had been separated from his wife for several months. Respondent entered his wife's
20 residence, slapped her, and told her if she screamed that he would kill her.

21 OTHER MATTERS

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

27 17. Pursuant to section 8654 of the Code, if discipline is imposed on Field Representative
28 License No. FR 41018 issued to respondent, Adolfo R. Martin shall be prohibited from serving as

1 an officer, director, associate, partner, qualifying manager, or responsible managing employee for
2 any registered company during the time the discipline is imposed, and any registered company
3 which employs, elects, or associates Adolfo R. Martin shall be subject to disciplinary action.

4 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

5 18. This Petition to Revoke Probation is brought before the Board under the authority of
6 the Board's Decision and Order *In the Matter of the Accusation Against: Adolfo R. Martin*, Case
7 No. 2011-32.

8 19. Condition 6 of the Decision and Order *In the Matter of the Accusation Against:*
9 *Adolfo R. Martin*, Case No. 2011-32, entitled "Violation of Probation," states:

10 Should Respondent violate probation in any respect, the Board, after giving Respondent
11 notice and opportunity to be heard, may revoke probation and carry out the disciplinary order
12 which was stayed. If a petition to revoke probation is filed against Respondent during probation,
13 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
14 shall be extended until the matter is final.

15 20. Grounds exist to revoke Respondent's probation under the authority of Condition 6 of
16 the Decision and Order *In the Matter of the Accusation Against: Adolfo R. Martin*, Case No.
17 2011-32. Respondent did not comply with the terms and conditions of his probation, as more
18 particularly set forth below.

19 **FIRST CAUSE TO REVOKE PROBATION**

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

21 21. At all times during probation, Respondent was subject to the following condition:

22 (1) Obey All Laws. Respondent shall obey all laws and rules relating to the practice of
23 structural pest control. This includes keeping the Board apprised of his address at all times.

24 22. Respondent's probation is subject to revocation, because he failed to obey all laws
25 and failed to keep the Board apprised of his address at all times. Complainant refers to, and by
26 this reference incorporates, the allegations set forth above in paragraph 14, and below in
27 paragraph 24, subdivision (b), inclusive, as though set forth fully.

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1 **SECOND CAUSE TO REVOKE PROBATION**

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

3 23. At all times during probation, Respondent was subject to the following condition:

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

6 24. Respondent's probation is subject to revocation, because he failed to file quarterly
7 reports, as follows:

8 a. On or about October 22, 2013, the Board sent Respondent a letter by certified mail to
9 his employer's address of record concerning his quarterly report, which was due on August 22,
10 2013 and his monthly payment for Board costs in the amount of \$92.15, which was past due. The
11 Board's records indicated that Respondent made two payments, which were received on May 24,
12 2013 for \$93.00 and August 20, 2013 for \$100.00.

13 b. On or about November 12, 2014, the Board sent Respondent a letter by certified mail
14 and first class mail to his employer's address of record and his address of record concerning his
15 quarterly reports, which were due on November 22, 2013, February 22, 2014, May 22, 2014, and
16 August 22, 2014 and his monthly payment for Board costs in the amount of \$92.15, which was
17 past due. The Board's records indicated that the last payment received was on November 8,
18 2013. On or about December 1, 2014, the Board received the envelope returned from the U.S.
19 Postal Service marked "Return to Sender- Attempted Not Known-Unable to Forward," which was
20 mailed to Respondent's address of record.

21 **THIRD CAUSE TO REVOKE PROBATION**

22 **(Failure to Pay Board Costs)**

23 25. At all times during probation, Respondent was subject to the following condition:

24 (6) Payment of Costs. Respondent shall pay costs to the Board in the total sum of
25 \$3,225.00 over the term of his probation, and prior to the end of the probation period.
26 Respondent shall pay 35 monthly installments of \$92.15, beginning 30 days after the effective
27 date of this order, except that the last installment shall be in the amount of \$91.90. Failure to
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1 make timely payment or to complete payment obligation by the end of the probation term, shall
2 constitute a violation of probation.

3 26. Respondent's probation is subject to revocation, because he failed to pay Board costs.
4 Complainant refers to, and by this reference incorporates, the allegations set forth above in
5 paragraph 24, subdivision (b), as though set forth fully.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
8 Accusation and Petition to Revoke Probation, and that following the hearing, the Board issue a
9 decision:

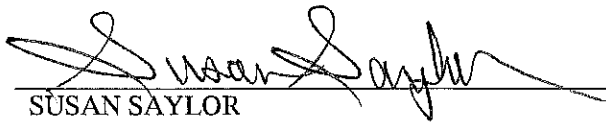
10 1. Revoking the probation that was granted by the Structural Pest Control Board in Case
11 No. 2011-32 and imposing the disciplinary order that was stayed thereby revoking Field
12 Representative License No. FR 41018, Branch 2 issued to Adolfo R. Martin;

13 2. Revoking or suspending Field Representative License No. FR 41018, issued to
14 Adolfo R. Martin;

15 3. Ordering Adolfo R. Martin to pay the Structural Pest Control Board the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions
17 Code section 125.3; and

18 4. Taking such other and further action as deemed necessary and proper.

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20 DATED: 12/31/15



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

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