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FILED

Date 6/24/15 By *Susan Saylor*

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

12 In the Matter of the Accusation Against:

Case No. 2015-65

13 **MICHAEL A. MCDANIEL**
6619 Stanford Avenue
14 Garden Grove, CA 92845

ACCUSATION

15 **Field Representative License No. FR 42581**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about December 4, 2007, the Structural Pest Control Board issued Field
24 Representative License Number FR 42581 in Branch 3 to Michael A. McDaniel (Respondent).
25 On June 21, 2012, Field Representative License Number FR 42581 was upgraded to include
26 Branches 2 and 3. The Field Representative License was in full force and effect at all times
27 relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

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JURISDICTION

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

4. Section 8620 of the Code provides, in pertinent 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.

5. Section 8625 of the Code 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.

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STATUTORY PROVISIONS

6. Section 498 of the Code states:

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

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

8. Section 8641 of the Code provides that failure to comply with the provisions of the Business and Professions Code, or any rule or regulation adopted by the Board, is a ground for disciplinary action.

9. Section 8654 of the Code 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

1 manager, or responsible managing employee had knowledge of or participated in any
2 of the prohibited acts for which the license or registration was denied, suspended or
3 revoked, shall be prohibited from serving as an officer, director, associate, partner,
4 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.

5 10. Section 8593 of the Code provides, in pertinent part, that the Board shall require as a
6 condition to the renewal of each operator's and field representative's license that the holder
7 submit proof satisfactory to the board that he or she has informed himself or herself of
8 developments in the field of pest control either by completion of courses of continuing education
9 in pest control approved by the board or equivalent activity approved by the board.

10 REGULATORY PROVISIONS

11 11. California Code of Regulations, title 16, section 1950 states:

12 (a) Except as provided in section 1951¹, every licensee is required, as a
13 condition to renewal of a license, to certify that he or she has completed the
14 continuing education requirements set forth in this article. A licensee who cannot
15 verify completion of continuing education by producing certificates of activity
completion, whenever requested to do so by the Board, may be subject to disciplinary
action under section 8641 of the code.

16 (b) Each licensee is required to complete a certain number of continuing
17 education hours during the three year renewal period. The number of hours required
18 depends on the number of branches of pest control in which licenses are held. The
19 subject matter covered by each activity shall be designated as "technical" or "general"
20 by the Board when the activity is approved. Hour values shall be assigned by the
Board to each approved educational activity, in accordance with the provisions of
section 1950.5.

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22 (d) Field representatives licensed in one branch of pest control shall have
23 completed 16 continuing education hours, field representatives licensed in two
24 branches of pest control shall have completed 20 continuing education hours, field
representatives licensed in three branches of pest control shall have completed 24
continuing education hours during each three year renewal period. In each case, a
minimum of four continuing education hours in a technical subject directly related to
each branch of pest control held by the licensee must be completed for each branch of
pest control licensed, a minimum of two hours in Integrated Pest Management must

25 ¹ 16 C.C.R. § 1951 states: "In lieu of continuing education, a licensee may qualify for
26 renewal by taking and passing an examination designed by the Board to cover developments in
27 the field of pest control. Licensees who choose this method of qualifying for renewal may take
28 this examination only once, and must take the examination no earlier than one year prior to their
license expiration date. A score of 70% or higher shall be considered a passing grade on this
examination."

1 be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and
2 a minimum of eight hours must be completed from Board approved courses on the
3 Structural Pest Control Act, the Rules and Regulations, or structural pest control
4 related agencies' rules and regulations.

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6 COSTS

7 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate 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, with failure of the licentiate to comply subjecting the license to not being
11 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
12 included in a stipulated settlement.

13 FIRST CAUSE FOR DISCIPLINE

14 (Securing a License by Fraud, Deceit, or Knowing Misrepresentation of a Material Fact)

15 13. Respondent is subject to disciplinary action under sections 498 and 8637 of the Code
16 in that he secured his Field Representative License by fraud, deceit, or knowing misrepresentation
17 of a material fact. The circumstances are as follows:

18 14. On or about September 25, 2013, Respondent signed the "License Renewal
19 Application – Field Representative" for Field Representative License number FR 42581.
20 Declaring under penalty of perjury under the laws of the State of California that his information
21 was true and correct, Respondent stated that he completed 20 hours of continuing education
22 required for the renewal of his license. Respondent's Field Representative License was
23 subsequently renewed for a period of three years.

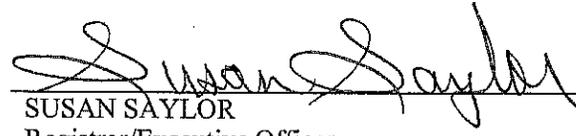
24 15. In a letter dated January 3, 2014, mailed to Respondent's address of record, the Board
25 informed Respondent that he had been selected for a continuing education audit. Respondent was
26 directed to provide the certificates of course completion to verify the continuing education
27 requirement for the renewal period July 1, 2010 through June 30, 2013. Respondent was told that
28 the requested information was due 14 days from the date of the letter, and that failure to comply
would subject him to disciplinary action.

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2. Ordering Michael A. McDaniel to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/24/15



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

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