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FILED
Date 5/20/15 By Susan Saylor

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **CHARLES A. SMITH** 436 North Loop Drive Camarillo, CA 93010 Field Representative License No. FR 43081 Respondent.	Case No. 2015-54 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about May 7, 2008, the Board issued Field Representative License No. FR 43081 to Charles A. Smith (Respondent). The Field Representative License was in full force and effect at all times 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 Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 8620 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 8593 states:

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

6. Section 8637 states:

> Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.

7. Section 8641 states:

> Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action.

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8. 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.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1950 states, in pertinent part:

"(a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot 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.

"(b) Each licensee is required to complete a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" 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.

. . . .

"(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two 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 be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations."

COST RECOVERY

10. Section 125.3 states, in pertinent part, that a 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.

FACTS

11. On or about June 17, 2013, Respondent submitted a Field Representative license renewal application to the Board wherein Respondent certified under penalty of perjury that he successfully completed all required continuing education coursework during his last renewal period. Specifically, Respondent signed a License Renewal Application, which provided in pertinent part:

> Continuing Education Certification – I have completed "24" hours of continuing education required for renewal of my license. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

12. Respondent filled in the "24" for the number of hours, signed his name below the above certification, and dated his signature "6/17/13."

13. On or about January 3, 2014, Respondent was notified that he had been selected for a continuing education (CE) audit by the Board. Respondent was informed that he needed to submit to the Board, copies of his certificates of completion that verify the CE hours for the renewal period July 1, 2010 through June 30, 2013. Respondent was given 14 days to respond to the Board's request or risk disciplinary action being taken against his license. Respondent failed to provide the Board with any certificates of completion of CE requirements for the renewal period indicated.

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14. On or about March 21, 2014, and August 1, 2014, Respondent was notified by "SECOND REQUEST" and "FINAL REQUEST" (respectively), that he had been selected for the 2013 continuing education (CE) audit. Respondent was given 14 days to respond to the Board's request for both dates. Respondent was advised that his failure to verify his CE hours or to supply the requested information could subject his field representative's license to disciplinary action. Respondent has not responded to any of the Board's requests.

FIRST CAUSE FOR DISCIPLINE

(Failure to Provide Proof of Continuing Education)

15. Respondent is subject to disciplinary action pursuant to sections 8641 and 8593 of the Code in conjunction with California Code of Regulations, title 16, section 1950 subdivision (a), in that Respondent failed to provide the Board with verifiable documentation to demonstrate that he completed all of the courses of continuing education requirements as a condition of renewal of his Field Representative License. Specifically, Respondent failed to produce copies documenting completion of twenty-four (24) hours of continuing education for the renewal period of July 1, 2010 through June 30, 2013, as requested by the Board's representative. Complainant refers to and by this reference incorporates, the allegations set forth above in paragraphs 11-14, inclusive, as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Misrepresentation of Material Fact)

16. Respondent is subject to disciplinary action pursuant to section 8637 of the Code, in that on or about June 17, 2013, Respondent misrepresented to the Board that he had completed twenty-four (24) hours of continuing education coursework in his license renewal application and failed to submit proof of completion of hours to fulfill the Board's continuing education requirements as a condition of renewal of his license. Complainant refers to and by this reference incorporates, the allegations set forth above in paragraphs 11-14, inclusive, as though set forth fully.

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OTHER MATTERS

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

18. Pursuant to section 8654, if discipline is imposed on Field Representative's License No. FR 43081, issued to Respondent, Respondent shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company, and any registered company which employees, elects, or associates Respondent shall be subject to disciplinary action.

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 License No. FR 43081, issued to Charles A. Smith;

2. Ordering Charles A. Smith 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; and

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

DATED: 5/20/15

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

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