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FILED

Date 11/11/13 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 **DANA LYNN THOMAS**
13 **1531 Paulann Court**
Fallbrook, CA 92028
14 **Field Representative License No. FR 43442**
15 Respondent.

Case No. 2014-28
ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Complainant Susan Saylor brings this Accusation solely in her official capacity as the
20 Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of
21 Consumer Affairs (Department).
- 22 2. On August 4, 2008, the Board issued Field Representative License Number FR
23 43442 to Respondent Dana Lynn Thomas. The Field Representative License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless
25 renewed.
- 26 3. On August 14, 2000, the Board issued Field Representative License Number FR
27 32608 to Respondent. The Field Representative License expired and was cancelled on June 30,
28 2003, and has not been renewed.

1 organisms, or furnishing a notice of work completed prior to the completion of the
2 work specified in the contract, is a ground for disciplinary action.

3 11. Section 8654 of the Code states:

4 Any individual who has been denied a license for any of the reasons
5 specified in Section 8568, or who has had his or her license revoked, or whose
6 license is under suspension, or who has failed to renew his or her license while it
7 was under suspension, or who has been a member, officer, director, associate,
8 qualifying manager, or responsible managing employee of any partnership,
9 corporation, firm, or association whose application for a company registration has
10 been denied for any of the reasons specified in Section 8568, or whose company
11 registration is under suspension, and while acting as such member, officer, director,
12 associate, qualifying manager, or responsible managing employee had knowledge of
13 or participated in any of the prohibited acts for which the license or registration was
14 denied, suspended or revoked, shall be prohibited from serving as an officer,
15 director, associate, partner, qualifying manager, or responsible managing employee
16 of a registered company, and the employment, election or association of such person
17 by a registered company is a ground for disciplinary action.

18 REGULATORY PROVISIONS

19 12. California Code of Regulations, Title 16, section 1950, states:

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

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27 (d) Field representatives licensed in one branch of pest control shall have
28 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.

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29 COST RECOVERY

30 13. Section 125.3 of the Code states, in pertinent part, that a Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of
32

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FACTS**

4 14. On or about June 10, 2011, Respondent submitted a Field Representative license
5 renewal application to the Board. Respondent certified under penalty of perjury on the form that
6 she had completed the continuing education hours required to renew her license in accordance
7 with regulations.

8 15. On October 20, 2011, the Board mailed Respondent a letter informing her she had
9 been selected for a continuing education audit and asked Respondent to submit verification of
10 continuing education hours for the renewal period of July 1, 2008, through June 30, 2011, within
11 14 days from the date of the Board's letter. The Board received no response from Respondent.
12 On November 27, 2012, the Board attempted to telephone Respondent, but her telephone had
13 been disconnected. On November 27, 2012, the Board sent Respondent a second request for the
14 same verification materials by certified mail, which Respondent signed for and received on
15 December 1, 2012. The Board again received no response from Respondent. On April 3, 2013,
16 the Board sent Respondent its final request for the same verification materials by certified mail,
17 which Respondent signed for and received on April 6, 2013. The Board again received no
18 response from Respondent and she has failed to comply with the Board's requests.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Failure to Provide Proof of Continuing Education)**

21 16. Respondent is subject to disciplinary action under section under Code section 8641 in
22 that she failed to verify the completion of 16 hours continuing education hours as claimed on her
23 renewal application dated June 10, 2011, as required by California Code of Regulations, title 16,
24 section 1950, subdivision (a) and (c), and having been requested by the Board to do so in writing
25 on October 20, 2011, November 27, 2012, and April 3, 2013.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Misrepresentation)**

3 17. Respondent is subject to disciplinary action under section 8637 for misrepresentation
4 of a material fact on her June 10, 2011 License Renewal Application by certifying under penalty
5 of perjury that she had completed the continuing education required to renew her license, when in
6 fact she had not done so.

7 **OTHER MATTERS**

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

13 20. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
14 License Number FR 43442, issued to Respondent, then Respondent shall be prohibited from
15 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
16 employee for any registered company during the time the discipline is imposed, and any registered
17 company which employs, elects, or associates Respondent shall be subject to disciplinary action.

18 **PRAYER**

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

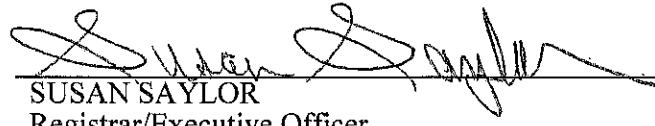
- 21 1. Revoking or suspending Field Representative License Number FR 43442, issued to
22 Dana Lynn Thomas;
- 23 2. Ordering Dana Lynn Thomas to pay the Structural Pest Control Board the reasonable
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
25 section 125.3; and
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5. Taking such other and further action as deemed necessary and proper.

DATED:

11/1/13



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

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