

1 KAMALA D. HARRIS  
2 Attorney General of California  
3 GREGORY J. SALUTE  
4 Supervising Deputy Attorney General  
5 HELENE E. SWANSON  
6 Deputy Attorney General  
7 State Bar No. 130426  
8 300 So. Spring Street, Suite 1702.  
9 Los Angeles, CA 90013  
10 Telephone: (213) 620-3005  
11 Facsimile: (213) 897-2804

12 *Attorneys for Complainant*

**FILED**

Date 12/30/13 By *Susan Saylor*

13 **BEFORE THE**  
14 **STRUCTURAL PEST CONTROL BOARD**  
15 **DEPARTMENT OF CONSUMER AFFAIRS**  
16 **STATE OF CALIFORNIA**

17 In the Matter of the Accusation Against:

Case No. 2014-30

18 **JOSE EVERETT FISHER**  
19 424 W. Evergreen Avenue  
20 Santa Maria, CA 93458

**A C C U S A T I O N**

21 Field Representative License  
22 No. FR 43561, Branch 1

23 Respondent.

24 Complainant alleges:

25 **PARTIES**

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

29 2. On or about August 30, 2008, the Structural Pest Control Board (Board) issued Field  
30 Representative License No. FR 43561, in Branch 1 (fumigation) to Jose Everett Fisher  
31 (Respondent). The Field Representative License was in full force and effect at all times relevant to  
32 the charges brought herein and will expire on June 30, 2014, unless renewed.

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1       7.    Section 8625 states:

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

7       8.    Section 8641 provides, in relevant part, that "Failure to comply with the provisions of  
8 this chapter, or any rule or regulation adopted by the board . . . is a ground for disciplinary action."

9       9.    Section 8649 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 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 suspension,  
21 and while acting as such member, officer, director, associate, qualifying manager, or responsible  
22 managing employee had knowledge of or participated in any of the prohibited acts for which the  
23 license or registration was denied, suspended or revoked, shall be prohibited from serving as an  
24 officer, director, associate, partner, qualifying manager, or responsible managing employee of a  
25 registered company, and the employment, election or association of such person by a registered  
26 company is a ground for disciplinary action."

27      //

28      11.   Section 8655 states:

1 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
2 charge substantially related to the qualifications, functions, and duties of a structural pest control  
3 operator, field representative, applicator, or registered company is deemed to be a conviction  
4 within the meaning of this article or Section 8568 of this chapter. The board may order the license  
5 or registration suspended or revoked, or may decline to issue a license, when the time for appeal  
6 has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting  
7 probation is made suspending the imposition of sentence, irrespective of a subsequent order under  
8 the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company  
9 to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,  
10 or dismissing the accusation, information or indictment."

#### 11 **REGULATORY PROVISIONS**

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

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

#### 20 **COST RECOVERY**

21 13. Section 125.3 states, in pertinent part, that a Board may request the administrative law  
22 judge to direct a licentiate found to have committed a violation or violations of the licensing act to  
23 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### 24 **FIRST CAUSE FOR DISCIPLINE**

##### 25 **(Conviction of a Substantially Related Crime)**

26 14. Respondent is subject to disciplinary action under Sections 8649 and 490, in  
27 conjunction with California Code of Regulations, title 16, Section 1937.1, in that Respondent has  
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1 been convicted of a crime substantially related to the qualifications, functions or duties of a  
2 licensed field representative, as follows:

3 a. On or about April 25, 2013, after pleading nolo contendere, Respondent was  
4 convicted of one misdemeanor count of violating Penal Code section 148, subdivision (a)(1)  
5 [restrict/obstruct/delay a peace officer or EMT] in the criminal proceeding entitled *The People of*  
6 *the State of California v. Jose Everett Fisher* (Super. Ct. Santa Barbara County, 2013, No.  
7 1433311.) The Court placed Respondent on three years probation, with terms and conditions.

8 b. The circumstances surrounding the conviction are that, on or about March 7, 2013,  
9 the Santa Maria Police Department responded to a call of a fight at a residence. When the officers  
10 arrived at the residence, Respondent's girlfriend informed them that Respondent was in the  
11 backyard naked. She also stated that he had not taken his medication and was having some mental  
12 issues. The officer found Respondent in the garage naked with a blanket covering his hands. The  
13 officer asked Respondent to show him his hands several times. Respondent dropped the blanket,  
14 walked to the backyard, sat down, grabbed a dog and began fondling the dog's genitalia.  
15 Respondent was repeatedly asked to leave the dog alone. When officers attempted to pull the dog  
16 away from Respondent, he began to hold on tight to the dog's collar, choking him. The  
17 Respondent struggled with the officers and had to be tazed several times to be subdued.

## 18 **SECOND CAUSE FOR DISCIPLINE**

### 19 **(Violation of Regulations)**

20 15. Respondent is subject to disciplinary action under Sections 8620 and 8641, for  
21 violating or attempting to violate, any provision or term of the Structural Pest Control Act, as set  
22 forth above in Paragraph 14, subparagraphs (a) and (b), inclusive, which are incorporated herein  
23 by reference, as though set forth fully.

## 24 **DISCIPLINARY CONSIDERATIONS**

25 16. To determine the appropriate degree of discipline in this matter, Complainant alleges  
26 as follows:

27 a. In a disciplinary action entitled "In the Matter of the Statement of Issues Against: Jose  
28 Everett Fisher," Case No. 2008-39, the Board issued a decision, effective August 30, 2008, in

1 which Respondent was issued Field Representative License No. FR 43561, in Branch 1  
2 (fumigation), but it was immediately revoked. However, the revocation was stayed and  
3 Respondent's Field Representative License was placed on three years probation, with terms and  
4 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

5 **OTHER MATTERS**

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

11 18. Pursuant to Section 8654, if discipline is imposed on Field Representative's License  
12 No. FR 43561 issued to Respondent, Respondent shall be prohibited from serving as an officer,  
13 director, associate, partner, qualifying manager, or responsible managing employee for any  
14 registered company during the time the discipline is imposed, and any registered company which  
15 employs, elects, or associates Respondent shall be subject to disciplinary action.

16 **PRAYER**

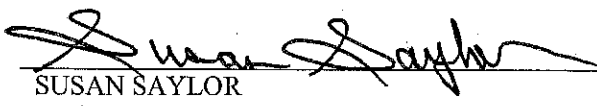
17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
18 and that following the hearing, the Board issue a decision:

19 1. Revoking or suspending Field Representative License No. FR 43561, issued to  
20 Respondent;

21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
22 enforcement of this case, pursuant section 125.3; and

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

24 DATED: 12/30/13

25   
26 SUSAN SAYLOR  
27 Registrar/Executive Officer  
28 Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
Complainant

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