

FILED

Date 11/1/12 By Susan Saylor

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8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2013-21

11 **Christian A. Martinez**
12 **4205 Live Oak St.,**
13 **Cudahy, CA 90201**

ACCUSATION

14 **-and-**

15 **5867 Pine Avenue,**
Chino Hills, CA 91709

16 **Field Representative License No. FR43595,**
17 **Branch 2 and 3**

18 Respondent

19 Complainant alleges:

20 **PARTIES**

21 1. Susan Saylor ("Complainant") brings this Accusation solely in her official capacity as
22 the Interim Registrar/Executive Officer of the Structural Pest Control Board ("Board"),
23 Department of Pesticide Regulation.

24 2. On or about September 16, 2008, the Board issued Field Representative License
25 Number FR43595 in Branch 3 (termite) to Christian A. Martinez ("Respondent"). On or about
26 May 18, 2011, Respondent's field representative license was upgraded to include Branch 2 and
27 Branch 3. Respondent's field representative license will expire on June 30, 2014, unless renewed.

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1 STATUTORY AND REGULATORY PROVISIONS

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

6 4. Code section 8654 states:

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

22 5. Code section 8641 states:

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

28 6. Code section 8593 states:

The board shall require as a condition to the renewal of each Field
Representative’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.

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.

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.

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.

7. California Code of Regulations, title 16, section ("Regulation") 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 gain 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 gained for each branch of pest control licensed and a minimum of eight hours must be gained 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

8. Code 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.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Verify Completion of Continuing Education)**

3 10. On or about June 30, 2011, Respondent submitted a license renewal
4 application to the Board wherein Respondent certified under penalty of perjury that he
5 successfully completed twenty (20) hours of continuing education during his last renewal period.

6 11. On or about October 20, 2011, a representative of the Board sent
7 Respondent a letter indicating that he had been selected for the 2011 continuing education (CE)
8 audit. The October 20, 2011 letter to Respondent asked Respondent to submit copies of the
9 certificates of course completion which verified his CE hours for the renewal period of July 1,
10 2008, through, June 30, 2011, to the Board.

11 12. Having received no response from Respondent, on or about January 13,
12 2012, a representative of the Board sent another letter to Respondent asking him to submit copies
13 of any certificates of course completion which verify his continuing education hours for the
14 renewal period of July 1, 2008 through June 30, 2011, to the Board.

15 13. After again receiving no response from Respondent, on or about March,
16 13, 2012, the Board sent a letter to Respondent asking him to submit copies of any certificates of
17 course completion which verify his continuing education hours for the renewal period of July 1,
18 2008 through June 30, 2011, to the Board.

19 14. Respondent is subject to disciplinary action pursuant to Code sections
20 8641 and 8593 in that he failed to comply with Regulation 1950 by failing to verify that he
21 completed all of the required courses of continuing education in pest control approved by the
22 Board. Specifically, Respondent failed to produce copies documenting completion of twenty (20)
23 hours of continuing education for the renewal period of July 1, 2008 through June 30, 2011, as
24 requested by the Board's representative.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Misrepresentation of Material Fact)**

27 15. Respondent is subject to disciplinary action pursuant to Code sections
28 8641 and 8637 in that he made a misrepresentation of a material fact to the Board or its designee

1 in that on or about June 30, 2011, Respondent sent back to the Board a completed license renewal
2 application signed under penalty of perjury that he had completed all twenty (20) hours of
3 continuing education required for renewal of his license when in fact he had not completed the
4 twenty (20) hours required for renewal of his license. Paragraphs 10-14 are hereby incorporated
5 by reference as though alleged herein.

6 **OTHER MATTERS**

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

12 18. Pursuant to Code section 8654, if discipline is imposed on Field
13 Representative License Number FR43595, issued to Christian A. Martinez, Christian A. Martinez
14 shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or
15 responsible managing employee for any registered company during the time the discipline is
16 imposed, and any registered company which employs, elects, or associates Christian A. Martinez
17 shall be subject to disciplinary action.

18 **PRAYER**

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

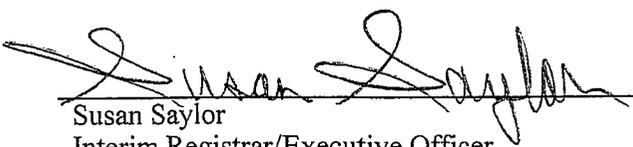
- 21 1. Revoking or suspending Field Representative's License Number
22 FR43595, issued to Christian A. Martinez;
- 23 2. Prohibiting Christian A. Martinez from serving as an officer, director,
24 associate, partner, qualifying manager or responsible managing employee of any registered
25 company during the period that discipline is imposed on Field Representative's License Number
26 FR43595, issued to Christian A. Martinez;

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3. Ordering Christian A. Martinez 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;

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

DATED: 11/11/12



Susan Saylor
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

LA2012508435