

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED

Date 4/30/13 By *[Signature]*
[Signature]

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

12 In the Matter of the Accusation Against:

Case No. 2013-43

13 **JOSEPH T.W. WALKER**
14 **A TAC**
15 **801 E. Florida**
16 **Hemet, CA 92543**

ACCUSATION

17 **Field Representative License No. FR 43838**
Applicator License No. RA 47788
Respondent.

18
19 Complainant alleges:

PARTIES

20
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, Department of
23 Pesticide Regulation.

24 2. On or about December 3, 2008, the Structural Pest Control Board issued Field
25 Representative License Number FR 43838 to Joseph T.W. Walker (Respondent). The Field
26 Representative License was in full force and effect at all times relevant to the charges brought
27 herein and will expire on June 30, 2014, unless renewed.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

10. Section 8649 of the Code states:

Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

11. 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 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.

12. Section 8655 of the Code states:

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

1 setting aside the verdict of guilty, or dismissing the accusation, information or
2 indictment.

3 REGULATORY PROVISIONS

4 13. California Code of Regulations, title 16, section 1937.1 states:

5 For the purposes of denial, suspension or revocation of a license or company
6 registration pursuant to Division 1.5 (commencing with Section 475) of the code, a
7 crime or act shall be considered to be substantially related to the qualifications,
8 functions or duties of a licensee or registered company under Chapter 14 of Division
9 3 of the code if to a substantial degree it evidences present or potential unfitness of
such licensee or registered company to perform the functions authorized by the
license or company registration in a manner consistent with the public health, safety,
or welfare. Such crimes or acts shall include, but not be limited to, the following:

10 (a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

11 (b) Commission of any of the following in connection with the practice of
structural pest control:

12 (1) Fiscal dishonesty

13 (2) Fraud

14 (3) Theft

15 (4) Violations relating to the misuse of pesticides.

16 14. California Code of Regulations, title 16, section 1937.2 states:

17

18 (b) When considering the suspension or revocation of a structural pest control
19 license or company registration on the grounds that the licensee or registered
20 company has been convicted of a crime, the board, in evaluating the rehabilitation of
such person or company and his or her or its present eligibility for a license or
company registration will consider the following:

21 (1) Nature and severity of the act(s) or offense(s).

22 (2) Total criminal record.

23 (3) The time that has elapsed since commission of the act(s) or offense(s).

24 (4) Whether the licensee or registered company has complied with any terms of
25 parole, probation, restitution or any other sanctions lawfully imposed against the
licensee or registered company.

26 (5) If applicable, evidence of expungement proceedings pursuant to Section
27 1203.4 of the Penal Code.

28 (6) Evidence, if any of rehabilitation submitted by the licensee or registered
company. . . .

1 **COSTS**

2 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **DRUGS**

9 16. Hydrocodone bitartate/acetaminophen, also known by the brand names Norco and
10 Vicodin, is a Schedule III controlled substance as designated by Health and Safety Code section
11 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section 4022.

12 17. Marijuana is a Schedule I controlled substance as designated by Health and Safety
13 Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business &
14 Professions Code section 4022.

15 18. Clonazepam, the generic name for Klonopin, is a Schedule IV controlled substance as
16 designated by California Health and Safety Code section 11057, subdivision (d)(7), and is a
17 dangerous drug pursuant to Business and Professions Code section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(May 11, 2012 Criminal Conviction for DUI/Drugs on March 8, 2012)**

20 19. Respondent has subjected his licenses to disciplinary action under sections 490 and
21 8649 of the Code in that he was convicted of a crime that is substantially related to the
22 qualifications, functions, and duties of a licensee. The circumstances are as follows:

23 a. On or about May 11, 2012, in a criminal proceeding entitled *People of the*
24 *State of California v. Joseph Thomas William Walker*, in Riverside County Superior Court, case
25 number SWM1202784, Respondent was convicted on his plea of guilty of violating Vehicle Code
26 section 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor.
27 Respondent was also convicted of driving on a suspended/revoked license, in violation of Vehicle
28 Code section 14601.1, subdivision. (a).

1 b. As a result of the conviction, on or about May 11, 2012, Respondent was
2 granted 36 months summary probation and sentenced to serve 20 days in the custody of the
3 Riverside County Sheriff, with credit for one day, to be served in the work release program.
4 Respondent was ordered to complete a First Offender Drinking Driver Program, pay fees, fines,
5 and restitution, and comply with DUI probation terms.

6 c. The circumstances that led to the conviction are that at four in the morning,
7 on or about March 8, 2012, an officer with the California Highway Patrol (CHP) was dispatched
8 to a casino to assist security officers with a suspected DUI driver. A security officer told the CHP
9 officer that he had observed Respondent driving around the casino's parking lot on the wrong side
10 of the road, weaving and nearly striking parked cars, before parking. The security officer found
11 Respondent passed out behind the steering wheel. Respondent was escorted to the security office.
12 The CHP officer interviewed Respondent; he observed that the pupils of Respondent's eyes were
13 constricted, his speech was heavy and very slurred, and there were burns to his lips and fingers.
14 Respondent told the officer that he consumed pain medications for various illnesses in the
15 previous 24 hours, including Klonopin, Norco, and marijuana. Respondent submitted to a series
16 of field sobriety tests which he was not able to complete as explained and demonstrated by the
17 officer. In a search of Respondent incident to arrest, the CHP officer found in Respondent's pants
18 pocket a plastic bottle containing marijuana, a glass pipe containing marijuana residue, and a
19 clear glass pipe with burnt residue, resembling pipes used for smoking methamphetamine.
20 Respondent did not have a valid physician's authorization to possess the marijuana. Respondent
21 was arrested for being under the influence of controlled substances. During booking, at 6:00
22 a.m., Respondent provided a blood sample which subsequently tested positive for amphetamines,
23 methamphetamine, opiates, and hydrocodone.

24 ///

25 ///

26 ///

SECOND CAUSE FOR DISCIPLINE

(November 5, 2012 Criminal Convictions for Possession of Methamphetamine & Possession of Burglary Tools on September 9, 2012)

20. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of crimes that are substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. On or about November 5, 2012, in a criminal proceeding entitled *People of the State of California v. Joseph Thomas William Walker*, in Riverside County Superior Court, case number SWM1207100, Respondent was convicted on his plea of guilty of violating Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, to wit, methamphetamine; and Penal Code section 466, possession of burglary tools, misdemeanors.

b. As a result of the convictions, on or about November 5, 2012, Respondent was granted 36 months summary probation and sentenced to serve 15 days in the custody of the Riverside County Sheriff, with credit for two days, to be served in the work release program. Respondent was ordered to enroll in a 30-day residential drug rehabilitation program following completion of the work release program. Respondent was further ordered to pay fees, fines, and restitution, submit to a Fourth Amendment waiver, and comply with probation terms.

c. The circumstances that led to the convictions are that on or about the evening of September 9, 2012, patrol deputies with the Riverside County Sheriff's Department were dispatched to investigate a report of a suspicious person looking into parked vehicles at an apartment complex. The deputies stopped Respondent as he left the complex and conducted a pat down search. Inside Respondent's rear pocket the deputy found a screw driver and a hammer with a "cats" claw. Respondent was arrested for possession of burglary tools. The deputies also located a small zip-loc baggie containing what subsequently tested positive for methamphetamine and Respondent was additionally charged with possession of a controlled substance.

///

///

///

THIRD CAUSE FOR DISCIPLINE

(February 5, 2013 Criminal Conviction for Second Degree Burglary on October 22, 2012)

21. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. On or about February 5, 2013, in a criminal proceeding entitled *People of the State of California v. Joseph Thomas William Walker*, in Riverside County Superior Court, case number SWF1207335, Respondent was convicted on his plea of guilty of violating Penal Code section 459, commercial burglary, a felony. A second count of violating Penal Code section 470, subdivision (d), forgery, was dismissed pursuant to a plea agreement.

b. As a result of the conviction, on or about February 5, 2013, Respondent was granted 36 months formal probation and sentenced to serve 90 days in the custody of the Riverside County Sheriff, with credit for 60 days, to be served in the work release program. Respondent was ordered to complete a counseling or rehabilitation program, pay fees, fines, and restitution, including restitution to the victims, submit to a Fourth Amendment waiver, and comply with additional felony probation terms.

c. The circumstances that led to the convictions are that on or about the morning of October 23, 2012, an officer with the Hemet Police Department was dispatched to a local market in reference to a past forgery call. The reporting party stated that her duties required her to verify the validity of checks received for payment or to be cashed. If discrepancies were found, she would contact the endorser of the check. On the previous day, the reporting party stated that she received a check from a sister store to verify. The check was in the amount of \$1,038.68 and endorsed by a company. The check was cashed by Respondent's brother, Thomas; the clerk accepted the check because Thomas was a regular customer at the sister store with no previous problems. After checking the validity of the check Thomas presented, the reporting party learned that it was fraudulent. Later the same day, the reporting party was working at the market when Respondent came in attempting to cash another check on the same account in the amount of \$1,038.68. The reporting party recognized the check and made a copy of

1 Respondent's identification before he got nervous and left the market. The officers were able to
2 locate both Respondent and his brother and they were taken into custody. Respondent was
3 arrested for burglary and forgery.

4 **OTHER MATTERS**

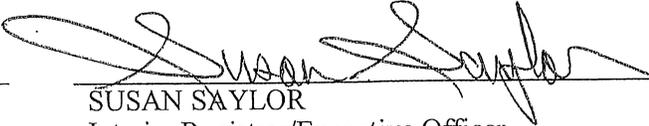
5 22. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License
6 Number RA 47788, and/or Field Representative License Number FR 43838 issued to
7 Respondent, Joseph T.W. Walker shall be prohibited from serving as an officer, director,
8 associate, partner, qualifying manager, or responsible managing employee for any registered
9 company during the time the discipline is imposed, and any registered company which employs,
10 elects, or associates Joseph T.W. Walker shall be subject to disciplinary action.

11 **PRAYER**

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

- 14 1. Revoking or suspending Field Representative License Number FR 43838, issued to
15 Joseph T.W. Walker;
- 16 2. Revoking or suspending Applicator License Number RA 47788, issued to Joseph
17 T.W. Walker;
- 18 3. Ordering Joseph T.W. Walker to pay the Structural Pest Control Board the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
20 Code section 125.3;
- 21 4. Taking such other and further action as deemed necessary and proper.
- 22

23 DATED: 4/30/13

24 
25 SUSAN SAYLOR
26 Interim Registrar/Executive Officer
27 Structural Pest Control Board
28 Department of Pesticide Regulation
State of California
Complainant

SD2013704992