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**FILED**

Date 10/10/14 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:

Case No. 2015-17

12 **DANIEL J. MULVANEY**  
13 **1921 South Willowcreek Drive**  
**Tracy, CA 95376**

**ACCUSATION**

14 **Field Representative License No. FR 44963**

15 Respondent.

16  
17 Susan Saylor ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant 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.

22 2. On or about November 24, 2009, the Board issued Field Representative License  
23 Number FR 44963 to Daniel J. Mulvaney ("Respondent"). The license was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless  
25 renewed.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part,  
28 that the Board may suspend or revoke a license when it finds that the holder, while a licensee or

1 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu  
2 of a suspension may assess a civil penalty.

3 4. Code section 8625 states:

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

8 5. Code section 8641 states:

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

12 6. Code section 8593 states, in pertinent part:

13 The board shall require as a condition to the renewal of each operator's and  
14 field representative's license that the holder submit proof satisfactory to the board that  
15 he or she has informed himself or herself of developments in the field of pest control  
16 either by completion of courses of continuing education in pest control approved by  
17 the board or equivalent activity approved by the board. In lieu of submitting that  
18 proof, the licenseholder, if he or she so desires, may take and successfully complete  
19 an examination given by the board, designed to test his or her knowledge of  
20 developments in the field of pest control since the issuance of his or her license.

### 18 REGULATORY PROVISIONS

19 7. California Code of Regulations, title 16, section 1950, states, in pertinent  
20 part:

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

25 (b) Each licensee is required to gain a certain number of continuing  
26 education hours during the three year renewal period. The number of hours required  
27 depends on the number of branches of pest control in which licenses are held. The  
28 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.

1 (d) Field representatives licensed in one branch of pest control shall have  
2 completed 16 continuing education hours, field representatives licensed in two  
3 branches of pest control shall have completed 20 continuing education hours, field  
4 representatives licensed in three branches of pest control shall have completed 24  
5 continuing education hours during each three year renewal period. In each case, a  
6 minimum of four continuing education hours in a technical subject directly related to  
7 each branch of pest control held by the licensee must be gained for each branch of  
8 pest control licensed and a minimum of eight hours must be gained from Board  
9 approved courses on the Structural Pest Control Act, the Rules and Regulations, or  
10 structural pest control related agencies' rules and regulations.

#### 11 **COST RECOVERY**

12 8. Code section 125.3 states, in pertinent part, that a Board may request the  
13 administrative law judge to direct a licentiate found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16 **BACKGROUND INFORMATION**

17 9. In or about September 2012, Respondent submitted a License Renewal  
18 Application to the Board. On or about September 28, 2012, Respondent certified under penalty  
19 of perjury to the truthfulness of all statements, answers, and representations in the application,  
20 including the successful completion of 21 hours of continuing education during the renewal  
21 period of July 1, 2009, through June 30, 2012.

22 10. On or about November 28, 2012, January 9, 2013, and October 23, 2013, the  
23 Board sent Respondent written requests for copies of his continuing education certificates to  
24 verify the 21 hours of continuing education set forth on his renewal application dated  
25 September 28, 2012. Respondent was advised on each occasion that if he failed to submit  
26 verification of his continuing education within fourteen (14) days, his field representative's  
27 license would be subject to disciplinary action.

#### 28 **FIRST CAUSE FOR DISCIPLINE**

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

11. Respondent is subject to discipline under Code section 8641, for failure to comply  
with California Code of Regulation, title 16, section 1950, by failing to submit verification that he  
had completed 21 hours of continuing education. Respondent failed to submit copies of the

1 continuing education certificates as requested by the Board on November 28, 2012,  
2 January 9, 2013, and October 23, 2013.

3 **OTHER MATTERS**

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

9 13. Pursuant to Code section 8654, if discipline is imposed on Field Representative's  
10 License Number FR 44963, issued to Daniel J. Mulvaney, then Daniel J. Mulvaney shall be  
11 prohibited from serving as an officer, director, associate, partner, qualifying manager, or  
12 responsible managing employee for any registered company during the time the discipline is  
13 imposed, and any registered company which employs, elects, or associates him shall be subject to  
14 disciplinary action.

15 **PRAYER**

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

18 1. Revoking or suspending Field Representative's License Number FR 44963, issued  
19 to Daniel J. Mulvaney;

20 2. Prohibiting Daniel J. Mulvaney from serving as an officer, director, associate,  
21 partner, qualifying manager or responsible managing employee of any registered company during  
22 the period that discipline is imposed on Field Representative's License Number FR 44963, issued  
23 to Daniel J. Mulvaney;

24 3. Ordering Daniel J. Mulvaney to pay the Structural Pest Control Board the  
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
26 Professions Code section 125.3; and,

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

DATED: 10/10/14



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

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