



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

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Date 4/30/13 By 


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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. 2013-44

13 **THOMAS C. WALKER**
14 **A TAC**
15 **801 E. Florida**
Hemet, CA 92543

A C C U S A T I O N

16 **Field Representative License No. FR 45521**
Applicator License No. RA 47863

17 Respondent.

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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, Department of
23 Pesticide Regulation.

24 2. On or about May 13, 2010, the Structural Pest Control Board issued Field
25 Representative License Number FR 45521 to Thomas C. 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, 2015, unless renewed.

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2 3. On or about August 16, 2007, the Structural Pest Control Board issued Applicator
3 License Number RA 47863 to Thomas C. Walker (Respondent). The Applicator License expired
4 on August 16, 2010, and has not been renewed.

5 JURISDICTION

6 4. This Accusation is brought before the Structural Pest Control Board (Board),
7 Department of Pesticide Regulation, under the authority of the following laws. All section
8 references are to the Business and Professions Code (Code) unless otherwise indicated.

9 5. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or
10 revoke a license when it finds that the holder, while a licensee or applicant, has committed any
11 acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a
12 civil penalty.

13 6. Section 8625 of the Code states:

14 The lapsing or suspension of a license or company registration by operation of
15 law or by order or decision of the board or a court of law, or the voluntary surrender
16 of a license or company registration shall not deprive the board of jurisdiction to
17 proceed with any investigation of or action or disciplinary proceeding against such
licensee or company, or to render a decision suspending or revoking such license or
registration.

18 STATUTORY PROVISIONS

19 7. Section 482 of the Code states:

20 Each board under the provisions of this code shall develop criteria to evaluate
21 the rehabilitation of a person when:

22 (a) Considering the denial of a license by the board under Section 480; or

23 (b) Considering suspension or revocation of a license under Section 490.

24 Each board shall take into account all competent evidence of rehabilitation
furnished by the applicant or licensee.

25 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
26 revoke a license on the ground that the licensee has been convicted of a crime substantially
27 related to the qualifications, functions, or duties of the business or profession for which the
28 license was issued.

1 9. Section 493 of the Code states:

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

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

14 10. Section 8649 of the Code states:

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

19 11. Section 8654 of the Code states:

20 Any individual who has been denied a license for any of the reasons specified
21 in Section 8568, or who has had his or her license revoked, or whose license is under
22 suspension, or who has failed to renew his or her license while it was under
23 suspension, or who has been a member, officer, director, associate, qualifying
24 manager, or responsible managing employee of any partnership, corporation, firm, or
25 association whose application for a company registration has been denied for any of
26 the reasons specified in Section 8568, or whose company registration has been
27 revoked as a result of disciplinary action, or whose company registration is under
28 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 12. Section 8655 of the Code states:

13 A plea or verdict of guilty or a conviction following a plea of nolo contendere
14 made to a charge substantially related to the qualifications, functions, and duties of a
15 structural pest control operator, field representative, applicator, or registered company
16 is deemed to be a conviction within the meaning of this article or Section 8568 of this
17 chapter. The board may order the license or registration suspended or revoked, or
18 may decline to issue a license, when the time for appeal has elapsed, or the judgment
19 of conviction has been affirmed on appeal or when an order granting probation is
20 made suspending the imposition of sentence, irrespective of a subsequent order under
21 the provisions of Section 1203.4 of the Penal Code allowing the individual or
22 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:

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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 CAUSE FOR DISCIPLINE

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

10 16. Respondent has subjected his licenses to disciplinary action under sections 490 and
11 8649 of the Code in that he was convicted of a crime that is substantially related to the
12 qualifications, functions, and duties of a licensee. The circumstances are as follows:

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

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

24 c. The circumstances that led to the convictions are that on or about the
25 morning of October 23, 2012, an officer with the Hemet Police Department was dispatched to a
26 local market in reference to a past forgery call. The reporting party stated that her duties required
27 her to verify the validity of checks received for payment or to be cashed. If discrepancies were
28 found, she would contact the endorser of the check. On the previous day, the reporting party

1 stated that she received a check from a sister store to verify. The check was in the amount of
2 \$1,038.68 and endorsed by a company. The check was cashed by Respondent; the clerk accepted
3 the check because Respondent was a regular customer at the sister store with no previous
4 problems. After checking the validity of the check Respondent presented, the reporting party
5 learned that it was fraudulent. Later the same day, the reporting party was working at the market
6 when Respondent's brother came in attempting to cash another check on the same account in the
7 amount of \$1,038.68. The reporting party recognized the check and made a copy of his
8 identification before he got nervous and left the market. The officers were able to locate both
9 Respondent and his brother and they were taken into custody. Respondent was arrested for
10 burglary and forgery.

11 **OTHER MATTERS**

12 17. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License
13 Number RA 47863, and/or Field Representative License Number FR 45521 issued to
14 Respondent, Thomas C. Walker shall be prohibited from serving as an officer, director, associate,
15 partner, qualifying manager, or responsible managing employee for any registered company
16 during the time the discipline is imposed, and any registered company which employs, elects, or
17 associates Thomas C. Walker 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 45521, issued to
22 Thomas C. Walker;
- 23 2. Revoking or suspending Applicator License Number RA 47863, issued to Thomas C.
24 Walker;
- 25 3. Ordering Thomas C. Walker to pay the Structural Pest Control Board the reasonable
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions
27 Code section 125.3;

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

DATED: 4/30/13



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

SD2013704993