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**FILED**

Date 6/15/15 By

*Susan Saylor*

9 **BEFORE THE**  
10 **STRUCTURAL PEST CONTROL BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2015-62

13 **THEODORE D. PATTERSON, JR.**  
14 **11117 Pisces Way**  
**San Diego, CA 92126**

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

15 **Field Representative License No. FR 46678**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about April 18, 2011, the Structural Pest Control Board issued Field  
24 Representative License Number FR 46678 in branch 2 and 3 to Theodore D. Patterson, Jr.  
25 (Respondent). The Field Representative License was in full force and effect at all times relevant to  
26 the charges brought herein and will expire on June 30, 2016, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Structural Pest Control Board (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section references  
4 are to the Business and Professions Code unless otherwise indicated.

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

10 5. Section 8625 of the Code states:

11 The lapsing or suspension of a license or company registration by operation of  
12 law or by order or decision of the board or a court of law, or the voluntary surrender  
13 of a license or company registration shall not deprive the board of jurisdiction to  
14 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.

15 **STATUTORY PROVISIONS**

16 6. Section 498 of the Code states:

17 A board may revoke, suspend, or otherwise restrict a license on the ground that the  
18 licensee secured the license by fraud, deceit, or knowing misrepresentation of a material  
fact or by knowingly omitting to state a material fact.

19 7. Section 8637 of the Code states: "Misrepresentation of a material fact by the  
20 applicant in obtaining a license or company registration is a ground for disciplinary action."

21 8. Section 8641 of the Code provides that failure to comply with the provisions of the  
22 Business and Professions Code, or any rule or regulation adopted by the Board, is a ground for  
23 disciplinary action.

24 9. Section 8593 of the Code provides, in pertinent part, that the Board shall require as a  
25 condition to the renewal of each operator's and field representative's license that the holder submit  
26 proof satisfactory to the board that he or she has informed himself or herself of developments in  
27 the field of pest control either by completion of courses of continuing education in pest control  
28 approved by the board or equivalent activity approved by the board.

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## REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1950 states:

(a) Except as provided in section 1951<sup>1</sup>, 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 complete 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 completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

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## COSTS

11. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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<sup>1</sup> 16 C.C.R. § 1951 states: "In lieu of continuing education, a licensee may qualify for renewal by taking and passing an examination designed by the Board to cover developments in the field of pest control. Licensees who choose this method of qualifying for renewal may take this examination only once, and must take the examination no earlier than one year prior to their license expiration date. A score of 70% or higher shall be considered a passing grade on this examination."

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Securing a License by Fraud, Deceit, or Knowing Misrepresentation of a Material Fact)**

3 12. Respondent has subjected his license to disciplinary action under sections 498 and  
4 8637 of the Code in that he secured his Field Representative License by fraud, deceit, or knowing  
5 misrepresentation of a material fact. The circumstances are as follows:

6 13. On or about August 8, 2013, Respondent signed his "License Renewal Application –  
7 Field Representative" for Field Representative License number FR 46678. Declaring under  
8 penalty of perjury under the laws of the State of California that his information was true and  
9 correct, Respondent stated that he completed 22 hours of continuing education required for the  
10 renewal of his license. Respondent's Field Representative License was subsequently renewed for a  
11 period of three years.

12 14. In a letter dated January 3, 2014, mailed to Respondent's address of record, the Board  
13 informed Respondent that he had been selected for a continuing education audit. Respondent was  
14 directed to provide the certificates of course completion for the 22 hours of continuing education  
15 claimed on his license renewal application for the renewal period of July 1, 2010 through June 30,  
16 2013. Respondent was told that the requested information was due 14 days from the date of the  
17 letter, and that failure to comply would subject him to disciplinary action. After Respondent failed  
18 to respond to the letter, a second letter dated March 21, 2014, was mailed to Respondent.  
19 Respondent failed to comply.

20 15. In a third letter dated August 1, 2014, sent to Respondent via First Class Mail to his  
21 address of record and to his last known place of employment, he was directed to provide the  
22 requested information within 14 days. Respondent failed to comply.

23 16. On September 10, 2014, the Board called Respondent's home and spoke with a  
24 woman who verified that the address of record and phone number were valid for Respondent.

25 17. In a fourth and final letter dated September 10, 2014, sent to Respondent's address of  
26 record and employer via First Class and Certified Mail, Respondent was warned that as a result of  
27 his ongoing non-compliance with the continuing education audit, disciplinary action would be  
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1 taken against his license. The Domestic Return Receipt was signed September 23, 2014.

2 Respondent failed to comply.

3 18. On September 12, 2014, the Board received a voicemail left by Respondent stating he  
4 would look for the certificates over the weekend and send them in on Monday (September 15,  
5 2014). The Board returned his phone call and left a voicemail with the fax number where to send  
6 the certificates.

7 19. On September 23, 2014, the Board left Respondent a message at his home with his  
8 wife requesting Respondent to fax his certificates and then indicated the fax number of where to  
9 send them.

10 20. On October 7, 2014, the Board called Respondents home once again and left a  
11 message with his wife and advised her that he would be going to a Board hearing if he did not  
12 comply. Respondent failed to comply again.

13 21. On October 9, 2014, the Board received a call from Respondent stating his wife never  
14 relayed any of the messages to him. He stated he has tried calling the ACEAPP and has not been  
15 able to get through to anyone. The Board advised him to send in a letter of explanation and in the  
16 interim the Board would look through the ACEAPP's rosters. The Board checked all the  
17 ACEAPP rosters between 2010-2013 and his name was not on any roster.

18 22. On October 20, the Board left Respondent a voicemail reminding him that the Board  
19 needed to obtain the certificates or a letter of explanation. The Board looked through the  
20 ACEAPP rosters and his name did not appear. Respondent failed to call back and comply.

21 23. On October 28, 2014, the Board spoke with Respondent once again and asked for a  
22 letter of explanation and advised Respondent that the case would be sent out for disciplinary  
23 hearing by November 7, 2014. The Board asked for Respondents email address and emailed him a  
24 copy of the administration hearing letter, then asked Respondent to email his letter of explanation.

25 24. On November 5, 2014, the Board left Respondent a voicemail inquiring if he received  
26 the email with the administration letter and informing him that the case would be sent out for a  
27 disciplinary hearing by November 7, 2014. Another request was made by the Board for a letter of  
28 explanation to be delivered by email or fax.

