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FILED

Date 6/2/15 By

Susan Saylor

8
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. 2015-59

13 **DANIEL R. BLAIR**
1311 Morena Boulevard, Suite #300
14 San Diego, CA 92110

ACCUSATION

15 -and

16 3952 Ashford Street
17 San Diego, CA 92111

18 Field Representative License No. FR 46694

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about April 21, 2011, the Structural Pest Control Board issued Field
27 Representative License Number FR 46694 in Branch 2 to Daniel R. Blair (Respondent). The
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1 Field Representative License was in full force and effect at all times relevant to the charges
2 brought herein and will expire on June 30, 2016, unless renewed.

3 JURISDICTION

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

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

12 5. Section 8625 of the Code states:

13 The lapsing or suspension of a license or company registration by operation of
14 law or by order or decision of the board or a court of law, or the voluntary surrender
15 of a license or company registration shall not deprive the board of jurisdiction to
16 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.

17 STATUTORY PROVISIONS

18 6. Section 498 of the Code states:

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

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

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

26 9. Section 8593 of the Code provides, in pertinent part, that the Board shall require as a
27 condition to the renewal of each operator's and field representative's license that the holder
28 submit proof satisfactory to the board that he or she has informed himself or herself of

1 developments in the field of pest control either by completion of courses of continuing education
2 in pest control approved by the board or equivalent activity approved by the board.

3 REGULATORY PROVISIONS

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

5 (a) Except as provided in section 1951¹, every licensee is required, as a condition
6 to renewal of a license, to certify that he or she has completed the continuing education
7 requirements set forth in this article. A licensee who cannot verify completion of
8 continuing education by producing certificates of activity completion, whenever
9 requested to do so by the Board, may be subject to disciplinary action under section 8641
10 of the code.

11 (b) Each licensee is required to complete a certain number of continuing education
12 hours during the three year renewal period. The number of hours required depends on
13 the number of branches of pest control in which licenses are held. The subject matter
14 covered by each activity shall be designated as "technical" or "general" by the Board
15 when the activity is approved. Hour values shall be assigned by the Board to each
16 approved educational activity, in accordance with the provisions of section 1950.5.

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18 (d) Field representatives licensed in one branch of pest control shall have
19 completed 16 continuing education hours, field representatives licensed in two branches
20 of pest control shall have completed 20 continuing education hours, field representatives
21 licensed in three branches of pest control shall have completed 24 continuing education
22 hours during each three year renewal period. In each case, a minimum of four continuing
23 education hours in a technical subject directly related to each branch of pest control held
24 by the licensee must be completed for each branch of pest control licensed, a minimum of
25 two hours in Integrated Pest Management must be completed by Branch 2 and/or 3
26 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be
27 completed from Board approved courses on the Structural Pest Control Act, the Rules
28 and Regulations, or structural pest control related agencies' rules and regulations.

. . . .

20 COSTS

21 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

25 ¹ 16 C.C.R. § 1951 states: "In lieu of continuing education, a licensee may qualify for
26 renewal by taking and passing an examination designed by the Board to cover developments in
27 the field of pest control. Licensees who choose this method of qualifying for renewal may take
28 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 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

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

5 12. Respondent has subjected his license to disciplinary action under sections 498 and
6 8637 of the Code in that he secured his Field Representative License by fraud, deceit, or knowing
7 misrepresentation of a material fact. The circumstances are as follows:

8 13. On or about May 21, 2013, Respondent signed his "License Renewal Application –
9 Field Representative" for Field Representative License number FR 46694. Declaring under
10 penalty of perjury under the laws of the State of California that his information was true and
11 correct, Respondent stated that he completed 22 hours of continuing education required for the
12 renewal of his license. Respondent's Field Representative License was subsequently renewed for
13 a period of three years.

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

22 15. In a third letter dated April 15, 2014, sent to Respondent via First Class, to a new
23 address updated by Respondent, he was directed to provide the requested information within 14
24 days. Respondent failed to comply.

25 16. In a fourth letter dated August 1, 2014, sent to Respondent via First Class, and
26 address of record via Certified Mail, Respondent was warned that as a result of his ongoing non-
27 compliance with the continuing education audit, disciplinary action would be taken against his
28 license. The Domestic Return Receipt was signed August 1, 2014. Respondent failed to comply.

1 17. In a fifth letter dated August 29, 2014, sent to Respondent's address of record via
2 First Class and Certified Mail, Respondent was told that as a result of his ongoing non-
3 compliance with the continuing education audit, disciplinary action would be taken against his
4 license and forwarded to the Board for further action. The Domestic Return Receipt was signed
5 September 4, 2014. Respondent failed to comply.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Failure to Comply With the Provisions of the Structural Pest Control Act)**

8 18. Respondent has subjected his license to disciplinary action under section 8641 of the
9 Code, and California Code of Regulations, title 16, section 1950, in that he failed to comply with
10 the provisions of the Structural Pest Control Act, as described in paragraphs 12-17, above.
11 Respondent's conduct violated Business and Professions Code section 8593, which required
12 Respondent, as a condition to the renewal of his Field Representative License, to submit proof
13 that he complete a minimum of 16 hours of continuing education in pest control approved by the
14 Board or equivalent activity approved by the Board within the three-year renewal period.

15 **PRAYER**

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

- 18 1. Revoking or suspending Field Representative License Number FR 46694, issued to
19 Daniel R. Blair.
- 20 2. Ordering Daniel R. Blair to pay the Structural Pest Control Board the reasonable costs
21 of the investigation and enforcement of this case, pursuant to Business and Professions Code
22 section 125.3;

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

DATED: 6/2/15



SUSAN SAYLOR

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

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