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FILED

Date 4/14/15 By *Susan Saylor*

7
8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2015-46

11 **NICK A. GIL**
12 **6285 Lillian Street**
13 **San Jose, CA 95120**

ACCUSATION

14 **434 Park Avenue**
15 **San Jose, CA 95110**

16 **Field Representative License No. FR 48400,**
17 **Branches 2 and 3**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about December 17, 2012, the Board issued Field Representative License
25 Number FR 48400, Branches 2 and 3 to Nick A. Gil (Respondent). The Field Representative
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on June 30, 2015, unless renewed.

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1 license or registration was denied, suspended or revoked, shall be prohibited from serving as an
2 officer, director, associate, partner, qualifying manager, or responsible managing employee of a
3 registered company, and the employment, election or association of such person by a registered
4 company is a ground for disciplinary action."

5 8. Cal. Code Regs. tit. 16, section 1937.1, states:

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

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

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

16 (1) Fiscal dishonesty

17 (2) Fraud

18 (3) Theft

19 (4) Violations relating to the misuse of pesticides."

20 COST RECOVERY

21 9. Code section 125.3 states, in pertinent part, that a 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.

25 CAUSE FOR DISCIPLINE

26 (Criminal Conviction)

27 10. Respondent is subject to disciplinary action under Code section 8649 in that on or
28 about May 13, 2014, in the Superior Court of California, County of Alameda, Respondent was

1 convicted of violating Penal Code section 503 (Embezzlement). Imposition of sentence was
2 suspended in favor of a three year probation term. Among other things, Respondent was ordered
3 to serve two days in county jail, maintain regular employment or attend school or job training,
4 submit to warrantless search and seizure by any law enforcement officer, and pay fines and fees.

5 11. Respondent's conviction arose after he was caught stealing pest control products from
6 his employer. Respondent told arresting officers that he and a co-conspirator had been stealing
7 pest control products from his employer for about a year and that they had made several thousands
8 of dollars selling the products. The arresting officers found several stolen products in a storage
9 unit under Respondent's name.

10 **OTHER MATTERS**

11 12. Notice is hereby given that Code section 8620 provides, in pertinent part, that a
12 Respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an
13 actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45
14 days. Such request must be made at the time of the hearing and must be noted in the proposed
15 decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a
16 suspension.

17 13. Pursuant to Code section 8654, if discipline is imposed on Respondent's Field
18 Representative License, then Respondent shall be prohibited from serving as an officer, director,
19 associate, partner, qualifying manager, or responsible managing employee for any registered
20 company during the time the discipline is imposed, and any registered company which employs,
21 elects, or associates him, shall be subject to disciplinary action.

22 **PRAYER**

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

25 1. Revoking or suspending Field Representative License Number FR 48400, Branches 2,
26 and 3, issued to Nick A. Gil;

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2. Prohibiting Nick A. Gil from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of any registered company during the period that discipline is imposed on Field Representative License Number FR 48400, Branches 2 and 3, issued to Nick A. Gil;

3. Ordering Nick A. Gil to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/14/15



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

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