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FILED

Date 1/26/15 By Susan Saylor

7 *Attorneys for Complainant*

8
9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2015-35

14 **SEBASTIEN B. GARCIA,**
15 **a.k.a., SEBASTIEN BELLAFONTAINE GARCIA**
4375 Park Fortuna
16 Calabasas, CA 91302

A C C U S A T I O N

17 Field Representative License No. FR 48705

Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about May 29, 2013, the Board issued Field Representative License No. FR
24 48705 to Sebastien B. Garcia, also known as Sebastien Bellafontaine Garcia (Respondent). The
25 Field Representative License was in full force and effect at all times relevant to the charges
26 brought herein and will expire on June 30, 2015, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 STATUTORY PROVISIONS

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

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

24 6. Section 8625 states:

25 "The lapsing or suspension of a license or company registration by operation of law or by
26 order or decision of the board or a court of law, or the voluntary surrender of a license or company
27 registration shall not deprive the board of jurisdiction to proceed with any investigation of or
28 action or disciplinary proceeding against such licensee or company, or to render a decision

1 suspending or revoking such license or registration.”

2 7. Section 8649 states:

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

6 8. Section 8654 states:

7 "Any individual who has been denied a license for any of the reasons specified in Section
8 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
9 failed to renew his or her license while it was under suspension, or who has been a member,
10 officer, director, associate, qualifying manager, or responsible managing employee of any
11 partnership, corporation, firm, or association whose application for a company registration has
12 been denied for any of the reasons specified in Section 8568, or whose company registration has
13 been revoked as a result of disciplinary action, or whose company registration is under
14 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
15 responsible managing employee had knowledge of or participated in any of the prohibited acts for
16 which the license or registration was denied, suspended or revoked, shall be prohibited from
17 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
18 employee of a registered company, and the employment, election or association of such person by
19 a registered company is a ground for disciplinary action."

20 9. Section 8655 states:

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

1 to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,
2 or dismissing the accusation, information or indictment."

3 **REGULATORY PROVISIONS**

4 10. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

5 "For the purposes of denial, suspension or revocation of a license or company registration
6 pursuant to Division 1.5 (commencing with Section 475), a crime or act shall be considered to be
7 substantially related to the qualifications, functions or duties of a licensee or registered company
8 under Chapter 14 of Division 3 of the code if to a substantial degree it evidences present or
9 potential unfitness of such licensee or registered company to perform the functions authorized by
10 the license or company registration in a manner consistent with the public health, safety, or
11 welfare."

12 **COST RECOVERY**

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

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Convictions of Substantially Related Crimes)**

18 12. Respondent is subject to disciplinary action under sections 8649 and 490, in
19 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has
20 been convicted of a crime substantially related to the qualifications, functions or duties of a
21 licensed field representative, as follows:

22 a. On or about January 31, 2014, after pleading nolo contendere, Respondent was
23 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty
24 theft] in the criminal proceeding entitled *The People of the State of California v. Sebastian*
25 *Bellafontaine Garcia* (Super. Ct. L.A. County, 2014, No. 3GN00836). The Court sentenced
26 Respondent to serve one (1) day in Los Angeles County Jail and placed him on 12 months
27 probation, with terms and conditions.

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