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FILED

Date 4/11/12 By

William H. Douglas

8 BEFORE THE
9 STRUCTURAL PEST CONTROL BOARD
10 DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 and Statement of Issues Against:

13 ISAAC MANUEL CRUZ
14 17802 Hurley Street
LaPuente, California 91744
15 Applicator License No. RA 50408, Br. 2 and 3

16 Respondent/Applicant.

Case No. 2011-72(e) (First Amended
Accusation)

FIRST AMENDED ACCUSATION AND
STATEMENT OF ISSUES

Case No. 2012-50 (Statement of
Issues)

17 William H. Douglas ("Complainant") alleges:

18 PARTIES

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20 1. Complainant brings this First Amended Accusation and Statement of Issues solely in
21 his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control
22 Board, Department of Pesticide Regulation ("Board").

23 Application Information

24 2. On or about July 28, 2010, the Board received an Application for Field
25 Representative's License in Branch 2, from Isaac Manuel Cruz ("Respondent"). On or about
26 May 1, 2010, Respondent certified under penalty of perjury to the truthfulness of all statements,
27 answers, and representations in the application. The Board denied the application on
28 March 29, 2011.

1 **License History**

2 3. On or about October 21, 2009, the Board issued Applicator License Number RA
3 50408 in Branches 2 and 3 to Respondent as an employee of Eagleshield Pest Control, L.P. The
4 license will expire on October 21, 2012, unless renewed.

5 **STATUTORY PROVISIONS**

6 4. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that
7 the Board may suspend or revoke a license when it finds that the holder, while a licensee or
8 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
9 of a suspension may assess a civil penalty.

10 5. Code section 8625 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
15 licensee or company, or to render a decision suspending or revoking such license or
16 registration.

17 6. Code section 8641 states:

18 Failure to comply with the provisions of this chapter, or any rule or regulation
19 adopted by the board, or the furnishing of a report of inspection without the making
20 of a bona fide inspection of the premises for wood-destroying pests or organisms, or
21 furnishing a notice of work completed prior to the completion of the work specified in
22 the contract, is a ground for disciplinary action.

23 7. Code section 8568 provides, in pertinent part, that the Board may deny a license or
24 registration if the applicant, while unlicensed or not registered, knowingly committed or aided or
25 abetted the commission of any act for which a license or company registration is required, or has
26 committed any act or omissions constituting grounds for discipline under section 480 of that
27 Code.

28 8. Code section 8654 states, in pertinent part, that any individual who has been
denied a license for any of the reasons specified in Code section 8568, 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.

1 9. Code section 8651 states:

2 The performing or soliciting of structural pest control work, the inspecting for
3 structural or household pests, or the applying of any pesticide, chemical, or allied
4 substance for the purpose of eliminating, exterminating, controlling, or preventing
5 structural pests in branches of pest control other than those for which the operator,
6 field representative, or applicator is licensed or the company is registered is a ground
7 for disciplinary action.

8 10. Code section 480 states, in pertinent part:

9 (a) A board may deny a license regulated by this code on the grounds that
10 the applicant has one of the following:

11 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
12 substantially benefit himself or herself or another, or substantially injure another.

13 (3)(A) Done any act that if done by a licentiate of the business or profession
14 in question, would be grounds for suspension or revocation of license.

15 COST RECOVERY

16 11. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 REGULATORY PROVISIONS

21 12. California Code of Regulations, title 16, section 1999.5 states, in pertinent part:

22 It is the purpose of this regulation to protect the public from false, misleading,
23 deceptive, or unfair representations or claims concerning structural pest control while
24 enabling the public to receive truthful and legitimate information about those
25 structural pest control products and services and the potential of these products and
26 services to reduce impact to health or the environment.

27 (f) Examples of direct or indirect statements or representations which are
28 unfair, deceptive, untrue or misleading include, but are not limited to, the following:

 (10) any unfair, deceptive, untrue or misleading comparison of pest control
 services, methods, products, pesticides or devices.

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1 **FIRST AMENDED ACCUSATION**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Unlicensed Activity)**

4 13. Respondent's applicator license is subject to discipline under Code section 8651, in
5 that in or about 2010, he performed field representative work without holding a valid license.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(False and Misleading Advertisements)**

8 14. Respondent's applicator license is subject to discipline under Code section 8641, in
9 that he violated California Code of Regulations, title 16, section 1999.5(f)(10), in that he
10 advertised on Craigslist to perform services of a field representative without holding a valid
11 license.

12 **STATEMENT OF ISSUES**

13 **FIRST CAUSE FOR DENIAL OF APPLICATION**

14 **(Committed Acts Which If Done By A Licentiate Would Be Grounds For Discipline)**

15 15. Respondent's application is subject to denial under Code sections 8568 and
16 480(a)(3)(A), in that he committed acts which if done by a licentiate of the profession would
17 constitute grounds for discipline under Code section 8651 (unlicensed activity), and California
18 Code of Regulations, title 16, section 1999.5(f)(10) (false and misleading advertisement), as more
19 particularly set forth above in paragraphs 13 and 14.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(Dishonesty, Fraud or Deceit)**

22 16. Respondent's application is subject to denial under Code sections 8568 and 480(a)(2),
23 in that he committed acts involving dishonesty, fraud or deceit with the intent to substantially
24 benefit himself or another, or substantially injure another, by performing field representative
25 work without holding a valid license, and advertising on Craigslist to perform field representative
26 work without holding a valid license.

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OTHER MATTERS

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

18. Pursuant to Code section 8654, if Respondent's application is denied, then Respondent 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 grounds for disciplinary action.

PRAYER

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

1. Denying the application of Isaac M. Cruz for a Field Representative's License;
2. Revoking or suspending Registered Applicator's License Number RA 50408, issued to Isaac M. Cruz;
3. Revoking or suspending any other license for which Isaac M. Cruz is furnishing the qualifying experience or appearance;
4. Prohibiting Isaac M. Cruz 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 Registered Applicator's License Number RA 50408, issued to Isaac M. Cruz;

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1 5. Ordering Isaac M. Cruz to pay the Structural Pest Control Board the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3; and,

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

5 DATED: 4/11/12

William H. Douglas
WILLIAM H. DOUGLAS
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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