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**FILED**

Date 9/16/13 By *Susan Saylor*

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

12 In the Matter of the Accusation Against:

Case No. 2014-14

13 **PROBLEM SOLVED PEST CONTROL**  
14 **STEPHEN ARTHUR ADAMS, QM**  
15 **1400 N. 9th Street**  
16 **Modesto, CA 95350**

**ACCUSATION**

17 **Company Registration Certificate No. PR 4378**  
18 **Operator's License No. OPR 10762**

19 Respondents.

20 Susan Saylor ("Complainant") alleges:

21 **PARTIES**

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

25 **Company Registration Certificate**

26 2. On or about August 7, 2003, the Board issued Company Registration Certificate  
27 Number PR 4378 ("registration"), in Branch 2, to Problem Solved Pest Control with Stephen  
28 Arthur Adams ("Respondent") as the owner and Qualifying Manager. On or about  
December 6, 2011, the registration was upgraded to include Branch 3 with Roger Dalton Baker as  
the Branch 3 Qualifying Manager. On or about March 23, 2012, Roger Dalton Baker

1 disassociated as the Branch 3 Qualifying Manager. On or about April 3, 2012, the registration  
2 was downgraded to include Branch 2 only. On or about August 3, 2012, the registration was  
3 suspended for no Qualifying Manager due to Respondent's failure to renew Operator's License  
4 Number OPR 10762 by June 30, 2012. On or about August 8, 2012, the registration was  
5 reinstated due to the renewal of Operator's License Number OPR 10762. On or about  
6 November 28, 2012, the registration was suspended for failing to maintain a surety bond as  
7 required by Business and Professions Code ("Code") section 8697. On or about  
8 December 10, 2012, the registration was reinstated.

### 9 **Operator License**

10 3. On or about July 24, 2003, the Board issued Operator's License Number OPR 10762  
11 inactive in Branch 2 to Respondent. On or about August 7, 2003, Respondent became the owner  
12 and Qualifying Manager of Problem Solved Pest Control. The license will expire on  
13 June 30, 2015, unless renewed.

### 14 **JURISDICTION**

15 4. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a  
16 license when it finds that the holder, while a licensee or applicant, has committed any acts or  
17 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil  
18 penalty.

19 5. Code section 8624 states:

20 If the board suspends or revokes an operator's license and one or more branch offices  
21 are registered under the name of the operator, the suspension or revocation may be applied  
22 to each branch office.

23 If the operator is the qualifying manager, a partner, responsible officer, or owner of a  
24 registered structural pest control company, the suspension or revocation may be applied to  
25 the company registration.

26 The performance by any partnership, corporation, firm, association, or registered  
27 company of any act or omission constituting a cause for disciplinary action, likewise  
28 constitutes a cause for disciplinary action against any licensee who, at the time the act or  
omission occurred, was the qualifying manager, a partner, responsible officer, or owner of  
the partnership, corporation, firm, association, or registered company whether or not he or  
she had knowledge of, or participated in, the prohibited act or omission.

6. Code section 8625 states:

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

7. Code section 8622 states:

When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

## STATUTORY PROVISIONS

8. Code section 8610(c) states:

Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

9. Code section 8639 states:

Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or

1 associate, or otherwise, of an unlicensed individual or unregistered company to evade the  
2 provisions of this chapter is a ground for disciplinary action.

3 10. Code section 8641 states:

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

9 11. Code section 8642 states:

10 The commission of any grossly negligent or fraudulent act by the licensee as a pest  
11 control operator, field representative, or applicator or by a registered company is a ground  
12 for disciplinary action.

13 12. Code section 8551.5 states:

14 No unlicensed individual in the employ of a registered company shall apply any  
15 pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating,  
16 exterminating, controlling, or preventing infestation or infections of pests, or organisms  
17 included in Branch 2 or Branch 3. However, an individual may, for 30 days from the date  
18 of employment, apply pesticides, rodenticides, or allied chemicals or substances for the  
19 purposes of training under the direct supervision of a licensed field representative or  
20 operator employed by the company. This direct supervision means in the presence of the  
21 licensed field representative or operator at all times. The 30-day time period may not be  
22 extended.

### 23 REGULATORY PROVISIONS

24 13. California Code of Regulations, title 16, section 1918, states:

25 "Supervise" as used in Business and Professions Code Sections 8506.2, 8610 and  
26 8611 means the oversight, direction, control, and inspection of the daily business of the  
27 company and its employees, and the availability to observe, assist, and instruct company  
28 employees, as needed to secure full compliance with all laws and regulations governing  
structural pest control.

In cases of ownership of more than one registered company by the same sole owner,  
corporation or partnership where the qualifying manager or managers cannot supervise  
each registered company because of the location of the companies, the qualifying manager  
or managers may designate an individual or individuals licensed as an operator or as a  
field representative in the branch or branches of business being conducted to supervise the  
company. This designated supervisor or supervisors must be under the direct supervision  
of the qualifying manager or managers. Any such designation of supervisors does not  
relieve the qualifying manager or managers of responsibility to supervise as required in  
sections 8506.2 and 8610.

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1 **COST RECOVERY**

2 14. Code section 125.3 provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **BACKGROUND INFORMATION**

7 15. On or about September 13, 2012, the Board received information from Inspector  
8 Kelle Schroeder from the Agriculture/Weights and Measures for Stanislaus County that Bryan  
9 William Scobey ("Scobey"), an unlicensed individual<sup>1</sup>, was performing pest control services that  
10 required licensing on behalf of Problem Solved Pest Control. An investigation revealed that  
11 Respondent hired Scobey as the Operations Manager of Problem Solved Pest Control and allowed  
12 Scobey to act in the capacity of a licensee in the solicitation and application of pesticides.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Failing to Supervise Daily Activities)**

15 16. Respondent's registration and operator's license are subject to discipline under  
16 Code section 8641, in that between February 2011 and September 17, 2012, Respondent failed to  
17 comply with Code section 8610(c), by failing to supervise the daily activities of the company,  
18 allowing an unlicensed individual (Scobey) to perform duties requiring a field representative  
19 license and by failing to be available to observe, assist, and instruct company employees, as  
20 needed to secure full compliance with all laws and regulations governing structural pest control.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Aiding and Abetting)**

23 17. Respondent's registration and operator's license are subject to discipline under  
24 Code section 8639, in that between February 2011 and September 17, 2012, Respondent aided  
25 and abetted, knowingly combined or conspired with an unlicensed individual, or allowed his  
26 company registration to be used by an unlicensed individual, or acted as an agent or partner or

27 <sup>1</sup> Effective February 23, 2011, pursuant to a Stipulated Surrender of License and Order in  
28 Case No. 2010-77, Bryan William Scobey surrendered his field representative license.

1 associate, or otherwise of an unlicensed individual, in that Respondent allowed an unlicensed  
2 individual, Scobey to evade the provisions of the Structural Pest Control Act by allowing Scobey  
3 to perform inspections and complete inspection work orders (Yearly Service Maintenance  
4 Agreements).

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Gross Negligent or Fraudulent Act)**

7 18. Respondent's registration and operator's license are subject to discipline under  
8 Code section 8642, in that between February 2011 and September 17, 2012, Respondent  
9 committed grossly negligent or fraudulent acts by conspiring with Scobey, an unlicensed  
10 individual, to avoid the provision of the Structural Pest Control Act, in that Respondent examined  
11 photographs taken by Scobey of various properties and developed a treatment plan based on those  
12 photographs without ever performing a physical inspection of the property, then created a  
13 document entitled "Yearly Service Maintenance Agreement" with Respondent's name and/or  
14 signature declaring that he had inspected the property when he did not.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Violation of Pesticide Application)**

17 19. Respondent's registration and operator's license are subject to discipline under  
18 Code section 8641, in that between February 2011 and September 17, 2012, Respondent failed to  
19 comply with Code section 8551.5, by allowing an unlicensed individual (Scobey) to apply  
20 pesticides for the purposes of controlling or preventing an infestation of structural/household  
21 pests.

22 **OTHER MATTERS**

23 20. Notice is hereby given that section 8620 of the Code provides, in pertinent part,  
24 that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of  
25 an actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to  
26 45 days. Such request must be made at the time of the hearing and must be noted in the proposed  
27 decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a  
28 suspension.

21. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 4378, issued to Problem Solved Pest Control, likewise constitute cause for discipline against Operator's License Number OPR 10762, issued to Stephen Arthur Adams, who serves as the Qualifying Manager of Problem Solved Pest Control, regardless of whether Stephen Arthur Adams had knowledge of or participated in the acts or omissions which constitute cause for discipline against Problem Solved Pest Control.

22. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 4378, issued to Problem Solved Pest Control, then Stephen Arthur Adams, who serves as the Qualifying Manager of Problem Solved Pest Control, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, shall be subject to 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. Revoking or suspending Company Registration Certificate Number PR 4378, issued to Problem Solved Pest Control;

2. Revoking or suspending Operator's License Number OPR 10762, issued to Stephen Arthur Adams;

3. Revoking or suspending any other license for which Stephen Arthur Adams is furnishing the qualifying experience or appearance;

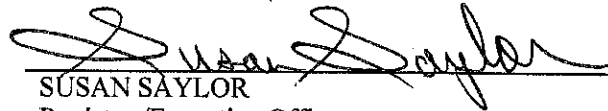
4. Prohibiting Stephen Arthur Adams from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration Certificate Number PR 4378, issued to Problem Solved Pest Control;

1           5.    Ordering Stephen Arthur Adams and Problem Solved Pest Control to pay the  
2 Structural Pest Control Board the reasonable costs of the investigation and enforcement of this  
3 case, pursuant to Business and Professions Code section 125.3; and,

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

5  
6 DATED:

9/10/13



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

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