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FILED

Date 1/15/14 By Susan Saylor

7 *Attorneys for Complainant*

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. 2014-35

13 **JAMES RUDOLPH GIBSON**
14 **5039 Verdun Avenue,**
15 **Los Angeles, CA 90043**

ACCUSATION

16 **Operator's License No. OPR 10886, Branch 2**
17 **and 3**

Respondent

18 Complainant alleges:

PARTIES

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

22 2. On or about April 30, 2004, the Board issued Operator's License Number OPR 10886
23 in Branches 2 (general pest) and 3 (termite) to James Rudolph Gibson ("Respondent").
24 Respondent's operator's license will expire on June 30, 2015, unless renewed.

25 **STATUTORY AND REGULATORY PROVISIONS**

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

3 4. Code section 8654 states:

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

12 5. Code section 8641 states:

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

16 6. Code section 8593 states:

17 The board shall require as a condition to the renewal of each operator's
18 and field representative's license that the holder submit proof satisfactory to the board
19 that he or she has informed himself or herself of developments in the field of pest
20 control either by completion of courses of continuing education in pest control
21 approved by the board or equivalent activity approved by the board.

22 In lieu of submitting that proof, the license holder, if he or she so desires,
23 may take and successfully complete an examination given by the board, designed to
24 test his or her knowledge of developments in the field of pest control since the
25 issuance of his or her license.

23 The board shall develop a correspondence course or courses with any
24 educational institution or institutions as it deems appropriate. This course may be
25 used to fulfill the requirements of this section. The institution may charge a
26 reasonable fee for each course.

25 The board may charge a fee for the taking of an examination in each
26 branch of pest control pursuant to this section in an amount sufficient to cover the
27 cost of administering each examination, provided, however, that in no event shall the
28 fee exceed fifty dollars (\$ 50) for each examination.

1 7. California Code of Regulations, title 16, section ("Regulation") 1950 states, in
2 pertinent part:

3 (a) Except as provided in section 1951, every licensee is required, as a
4 condition to renewal of a license, to certify that he or she has completed the
5 continuing education requirements set forth in this article. A licensee who cannot
6 verify completion of continuing education by producing certificates of activity
7 completion, whenever requested to do so by the Board, may be subject to disciplinary
8 action under section 8641 of the code.

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

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

27 **COST RECOVERY**

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

FIRST CAUSE FOR DISCIPLINE

(Failure to Verify Completion of Continuing Education)

10 10. On or about September 7, 2012, Respondent submitted a license renewal
11 application to the Board wherein Respondent certified under penalty of perjury that he
12 successfully completed twenty (20) hours of continuing education during his last renewal period.

13 11. On or about November 29, 2012, a representative of the Board sent
14 Respondent a letter indicating that he had been selected for the 2012 continuing education (CE)

1 audit. The November 29, 2012 letter to Respondent asked Respondent to submit copies of the
2 certificates of course completion which verified his CE hours for the renewal period of July 1,
3 2009, through, June 30, 2012, to the Board.

4 12. On or about September 17, 2013, a representative of the Board sent
5 Respondent a letter indicating the while the Board had received certificates from Respondent in
6 response to the Board's letter dated November 29, 2012, that Respondent was short 20 hours total
7 including eight (8) hours Rules and Regulations, four (4) hours Technical Branch 2, four (4)
8 hours Technical Branch 3, two (2) hours IPM and two (2) hours General. Respondent was asked
9 to submit copies of any additional certificates of course completion that verify his continuing
10 education hours for the renewal period of July 1, 2009 through June 30, 2012, to the Board.

11 13. On or about September 25, 2013, Respondent sent to the Board a letter
12 indicating that he was not able to produce any more certificates verifying his continuing
13 education hours for the renewal period in question.

14 14. Respondent is subject to disciplinary action pursuant to Code sections
15 8641 and 8593 in that he failed to comply with Regulation 1950 by failing to verify that he
16 completed all of the required courses of continuing education in pest control approved by the
17 Board. Specifically, Respondent failed to produce copies documenting completion of twenty (20)
18 hours of continuing education for the renewal period of July 1, 2009 through June 30, 2012, as
19 requested by the Board's representative.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Misrepresentation of Material Fact)**

22 15. Respondent is subject to disciplinary action pursuant to Code sections
23 8641 and 8637 in that he made a misrepresentation of a material fact to the Board or its designee
24 in that on or about September 7, 2012, Respondent sent back to the Board a completed license
25 renewal application signed under penalty of perjury that he had completed all twenty (20) hours
26 of continuing education required for renewal of his license when in fact he had not completed the
27 twenty (20) hours required for renewal of his license. Paragraphs 10-14 are hereby incorporated
28 by reference as though alleged herein.

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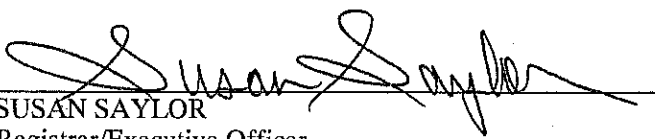
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4. Taking such other and further action as deemed necessary and proper.

DATED: 1/15/14


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

LA2014510962