

FILED

Date ~~10/10/12~~ By Susan Saylor

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

11 In the Matter of the Accusation Against:

Case No. 2013-19

12 **JEREMY R. WHEELER**
13 **14030 Mosswood Court**
14 **Corona, CA 92880**

ACCUSATION

15 **Operator License No. OPR 11202, Branch 2**

16 **Field Representative License No. FR 26151,**
17 **Branch 2 [cancelled 6-30-01]**

18 **Applicator License No. RA 1439, Branch 2**
19 **[cancelled 6-21-98]**

Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
24 the Assistant Executive Officer of the Structural Pest Control Board, Department of Pesticide
25 Regulation.

26 2. On or about October 25, 2005, the Structural Pest Control Board issued Operator's
27 License Number OPR 11202, Branch 2, to Jeremy R. Wheeler (Respondent). The Operator's
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1 License was in full force and effect at all times relevant to the charges brought herein and will
2 expire on June 30, 2014, unless renewed.

3 3. On or about April 10, 1996, the Structural Pest Control Board issued Field
4 Representative License Number FR 26151, Branch 2, to Jeremy R. Wheeler (Respondent). The
5 Field Representative license was cancelled on June 30, 2001.

6 4. On or about June 21, 1995, the Structural Pest Control Board issued Applicator
7 License Number RA 1439, Branch 2, to Jeremy R. Wheeler (Respondent). The Applicator
8 License was cancelled on June 21, 1998.

9 JURISDICTION

10 5. This Accusation is brought before the Structural Pest Control Board (Board),
11 Department of Pesticide Regulation, under the authority of the following laws. All section
12 references are to the Business and Professions Code unless otherwise indicated.

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

17 7. Section 8625 of the Code states:

18 The lapsing or suspension of a license or company registration by operation
19 of law or by order or decision of the board or a court of law, or the voluntary
20 surrender of a license or company registration shall not deprive the board of
21 jurisdiction to proceed with any investigation of or action or disciplinary proceeding
22 against such licensee or company, or to render a decision suspending or revoking
23 such license or registration.

22 STATUTORY PROVISIONS

23 8. Code section 8593 states, in pertinent part:

24 The board shall require as a condition to the renewal of each operator's and
25 field representative's license that the holder submit proof satisfactory to the board
26 that he or she has informed himself or herself of developments in the field of pest
27 control either by completion of courses of continuing education in pest control
28 approved by the board or equivalent activity approved by the board. In lieu of
submitting that proof, the license holder, if he or she so desires, may take and
successfully complete an examination given by the board, designed to test his or her
knowledge of developments in the field of pest control since the issuance of his or
her license.

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3 9. Section 8637 of the Code states:

Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.

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6 10. Section 8641 of the Code states:

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

7 11. Section 8654 of the Code states:

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

22 REGULATORY PROVISIONS

23 12. California Code of Regulations, Title 16, section 1950, states:

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

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23 (c) Operators licensed in one branch of pest control shall complete 16 hours
24 continuing education hours during each three year renewal period. . . . , with a
25 minimum of four continuing education hours in a technical subject directly related
26 to each branch of pest control held by the licensee and a minimum of eight hours
27 must be gained from Board approved courses on the Structural Pest Control Act, the
28 Rules and Regulations, or structural pest control related agencies' rules and
regulations.

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COST RECOVERY

13. Section 125.3 of the Code states, in pertinent part, that a Board may request the administrative law judge to direct a licentiate 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.

FACTS

14. On or about June 23, 2011, Respondent submitted a license renewal application to the Board. Respondent certified under penalty of perjury on the form that he had completed the continuing education hours required to renew his license in accordance with regulations.

15. On or about October 20, 2011, the Board mailed Respondent a letter informing him he had been selected for a continuing education audit and asked Respondent to submit verification of continuing education hours for the renewal period of July 1, 2008 through June 30, 2011, within 14 days from the date of the Board's letter. In response, on or about October 26, 2011, Respondent mailed the Board a certificate of completion for 16 hours of continuing education. However, said certificate was dated June 10, 2008, and not the for renewal period being audited.

16. On or about December 9, 2011, the Board sent Respondent a letter informing him the continuing education certificate submitted by him was for courses taken outside of the renewal period in question and asked Respondent to submit proof of continuing education within 14 days for the renewal period July 1, 2008 through June 30, 2011. Two more letters, dated January 26, 2012 and March 1, 2012, were mailed by the Board reminding Respondent of the need to submit to the Board proof of continuing education. Respondent failed to comply.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Provide Proof of Continuing Education)

3 17. Respondent is subject to disciplinary action under section under Code section 8641 in
4 that he failed to verify the completion of 16 hours continuing education hours as claimed on his
5 renewal application dated June 23, 2011, as required by California Code of Regulations, title 16,
6 section 1950, subdivision (a) and (c), and having been requested by the Board in writing on
7 October 20, 2011, December 9, 2011, January 26, 2012, and March 1, 2012, to do so.

8 SECOND CAUSE FOR DISCIPLINE

9 (Misrepresentation)

10 18. Respondent is subject to disciplinary action under section 8637 for misrepresentation
11 of a material fact on his June 23, 2011 License Renewal Application by certifying under penalty
12 of perjury that he had completed the continuing education required to renew his license, when in
13 fact he had not done so.

14 OTHER MATTERS

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

20 20. Pursuant to Code section 8654, if discipline is imposed on Operator's License
21 Number OPR 11202, issued to Respondent, then Respondent shall be prohibited from serving as
22 an officer, director, associate, partner, qualifying manager, or responsible managing employee for
23 any registered company during the time the discipline is imposed, and any registered company
24 which employs, elects, or associates Respondent shall be subject to disciplinary action.

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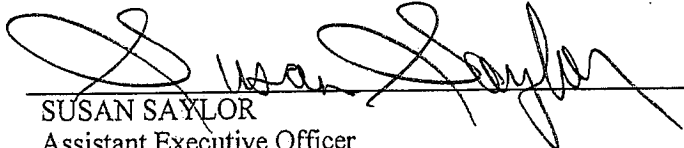
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PRAYER

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

- 4 1. Revoking or suspending Operator's License Number OPR 11202, Branch 2, issued to
5 Jeremy R. Wheeler;
- 6 2. Ordering Jeremy R. Wheeler to pay the Structural Pest Control Board the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;
- 9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 10/10/12


SUSAN SAYLOR
Assistant Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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