

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2455
6 Facsimile: (213) 897-2804

FILED

Date 4/24/14 By 

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 2014-55

12 **QUALITY RODENTS & PEST CONTROL;**
13 **ELPIDIO MARTINEZ ZAMORA**

ACCUSATION

13 1975 Idaho Drive
14 Ventura, CA 93003
15 Company Registration Certificate No. PR 6943,

15 **and**

16 **ELPIDIO MARTINEZ ZAMORA**

17 2180 Wankel Way, Apt # 2100
18 Oxnard, CA 93030
19 Operator's License No. OPR 11405

Respondent.

20
21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about January 10, 2014, the Board issued Company Registration Certificate
27 No. PR 6943 in Branch 2 (general pest) to Quality Rodents & Pest Control, with Elpidio Martinez
28

1 Zamora as owner and qualifying manager (Respondent). The Company Registration Certificate
2 was in full force and effect at all times relevant to the charges brought herein.

3 3. On or about September 28, 2006, the Board issued Operator's License No. OPR
4 11405 in Branch 2 (general pest) to Respondent Elpidio Martinez Zamora. The Operator's
5 License was in full force and effect at all times relevant to the charges brought herein and will
6 expire on June 30, 2015, unless renewed.

7 JURISDICTION

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

10 STATUTORY PROVISIONS

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

15 6. Section 8624 states:

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

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

20 The performance by any partnership, corporation, firm, association, or
21 registered company of any act or omission constituting a cause for disciplinary
22 action, likewise constitutes a cause for disciplinary action against any licensee who,
23 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.

24 7. Section 8625 states:

25 The lapsing or suspension of a license or company registration by
26 operation of law or by order or decision of the board or a court of law, or the
27 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
28 proceeding against such licensee or company, or to render a decision suspending or
revoking such license or registration.

1 8. Section 8637 states that "[m]isrepresentation of a material fact by the applicant in
2 obtaining a license or company registration is a ground for disciplinary action."

3 9. Section 8649 states:

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

8 10. Section 8654 states:

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

24 11. Section 8655 states:

25 A plea or verdict of guilty or a conviction following a plea of nolo
26 contendere made to a charge substantially related to the qualifications, functions, and
27 duties of a structural pest control operator, field representative, applicator, or
28 registered company is deemed to be a conviction within the meaning of this article or
Section 8568 of this chapter. The board may order the license or registration
suspended or revoked, or may decline to issue a license, when the time for appeal has
elapsed, or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
the individual or registered company to withdraw a plea of guilty and to enter a plea
of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

REGULATORY PROVISIONS

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

For the purposes of denial, suspension or revocation of a license or
company registration pursuant to Division 1.5 (commencing with Section 475), a
crime or act shall be considered to be substantially related to the qualifications,
functions or duties of a licensee or registered company under Chapter 14 of Division
3 of the code if to a substantial degree it evidences present or potential unfitness of
such licensee or registered company to perform the functions authorized by the

1 license or company registration in a manner consistent with the public health, safety,
2 or welfare.

3 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of Substantially Related Crimes)**

10 14. Respondent is subject to disciplinary action under sections 8649 and 8655, in
11 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has
12 been convicted of crimes substantially related to the qualifications, functions or duties of a
13 licensed operator, as follows:

14 a. On or about September 30, 2013, after pleading guilty, Respondent was convicted of
15 one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) [driving without
16 a license] in the criminal proceeding entitled *The People of the State of California v. Elpidio*
17 *Martinez Zamora* (Super. Ct. Ventura County, 2013, No. 2013027111). The Court ordered
18 Respondent to pay a fine. The circumstances surrounding the conviction are that on or about
19 August 17, 2013, the Ventura Police Department responded to a traffic collision report. When
20 the officer contacted Respondent and requested his driver's license, Respondent stated he did not
21 have a driver's license. A records check revealed that Respondent was driving with a suspended
22 license and had knowledge of it being suspended.

23 b. On or about July 19, 2013, after pleading nolo contendere, Respondent was convicted
24 of (1) one misdemeanor count of violating Penal code section 484, subdivision (a) [petty theft];
25 (2) one misdemeanor count of Vehicle Code section 20002, subdivision (a) [hit and run: property
26 damage]; (3) one misdemeanor count of Vehicle Code section 23152, subdivision (a) [driving
27 under the influence of alcohol or drugs]; (4) one misdemeanor count of Vehicle Code section
28 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood]
and; (5) one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a)

1 [driving while driving privileges are suspended or revoked with knowledge] in the criminal
2 proceeding entitled *The People of the State of California v. Elpidio Martinez Zamora* (Super. Ct.
3 Ventura County, 2013, No. 2013013519). The Court sentenced Respondent to serve 10 days in
4 Ventura County Jail and placed him on 36 months probation, with terms and conditions. The
5 circumstances surrounding the conviction are that on or about April 27, 2013, Respondent took
6 boxes of fruit from a man selling them out of his vehicle in the parking lot of a business.
7 Respondent advised the vendor that he was going into the business to get change in order to pay
8 for the fruit. However, when Respondent exited the business, he got into his vehicle, backed out
9 of the parking stall hitting the car parked behind him, and then he then pulled forward and side
10 swiped the vendor as he drove away from the parking lot. The Oxnard Police was called to the
11 scene. While at the scene, the officers were watching the video the vendor had capture on his cell
12 phone when they observed Respondent, who was the same driver on the video, slowly drive by
13 and glance towards the parking lot. Respondent was subsequently arrested. Respondent
14 displayed symptoms consistant with alcohol intoxication. He had slurred speech, red, watery
15 eyes and an odor of alcohol on his breath. During the booking procedure, Respondent submitted
16 to a breath test that resulted in a breath-alcohol content level of 0.11% on the first reading and
17 0.10% on the second.

18 c. On or about August 21, 2000, after being found guilty by the Court, Respondent was
19 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
20 [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal
21 proceeding entitled *The People of the State of California v. Elpidio Martinez Zamora* (Super. Ct.
22 Ventura County, 2000, No. 99S004345). The Court sentenced Respondent to serve two days in
23 Ventura County Jail and placed him on three years formal probation, with terms and conditions.
24 The circumstances surrounding the conviction are that on or about December 15, 1999,
25 Respondent drove a vehicle while having 0.08% or more of alcohol in his blood.

26 d. On or about May 8, 2000, after being found guilty by the Court, Respondent was
27 convicted of one misdemeanor count of violating Vehicle Code section 14601.5, subdivision (a)
28 [driving while driving privileges are suspended or revoked] in the criminal proceeding entitled

1 *The People of the State of California v. Elpidio Martinez Zamora* (Super. Ct. Ventura County,
2 2000, No. 00M019671). The Court placed Respondent on 36 months probation, with terms and
3 conditions. The circumstances surrounding the conviction are that on or about February 7, 2000,
4 Respondent drove a vehicle while knowing that his driving privileges were suspended.

5 e. On or about June 18, 1998, after pleading nolo contendere, Respondent was convicted
6 of one misdemeanor count of violating Penal Code section 532 subdivision (a)(1) [false pretense]
7 in the criminal proceeding entitled *The People of the State of California v. Elpidio Martinez*
8 *Zamora* (Super. Ct. Ventura County, 1998 No. 98C003646). The Court sentenced Respondent to
9 serve 10 days in Ventura County Jail and placed him on 36 months probation, with terms and
10 conditions. The circumstances surrounding the conviction are that on or about November 8,
11 1997, Respondent presented a false social security number at a dealership in order to purchase a
12 new car. On or about January 14, 1998, during an investigation by the Simi Valley Police
13 Department, Respondent admitted to using a false social security number at the dealership
14 because he was desperate to buy a new vehicle and his real social security number would show he
15 had poor credit. Respondent was subsequently arrested.

16 f. On or about August 21, 1990, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Penal Code section 166.4 [failed to obey court
18 order] in the criminal proceeding entitled *The People of the State of California v. Elpidio*
19 *Martinez Zamora* (Super. Ct. Ventura County, 1990 No. 90C003870). The circumstances
20 surrounding the conviction are that on or about August 1, 1989, Respondent failed to obey a court
21 order.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Misrepresentation to Licensing Authority)**

24 15. Respondent's application is subject to disciplinary action under section 8637, in that
25 Respondent misrepresented to the Board that he had not been convicted of a crime. On or about
26 November 4, 2013, Respondent applied for a Company Registration Certificate to the Board.
27 Respondent checked "No," to question No. 11, in the application, which asked if he had ever
28 been convicted of a criminal offense. Complainant refers to, and by this reference incorporates,

1 the allegations set forth above in paragraph 14, as though set forth fully.

2 **OTHER MATTERS**

3 16. Pursuant to section 8624, if Operator's License No. OPR 11405 issued to respondent
4 is suspended or revoked, the Board may suspend or revoke Company Registration Certificate No.
5 PR 6943, issued to Quality Rodents & Pest Control with Elpidio Martinez Zamora as owner.

6 17. Pursuant to section 8654, if discipline is imposed on Operator's License No. OPR
7 11405 issued to respondent, respondent shall be prohibited from serving as an officer, director,
8 associate, partner, qualifying manager, or responsible managing employee for any registered
9 company during the time the discipline is imposed, and any registered company which employs,
10 elects, or associates respondent shall be subject to disciplinary action.

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

16 **PRAYER**

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

19 1. Revoking or suspending Company Registration Certificate No. PR 6943, issued to
20 Quality Rodents & Pest Control; Elpidio Martinez Zamora;

21 2. Revoking or suspending Operator's License No. OPR 11405, issued to Elpidio
22 Martinez Zamora;

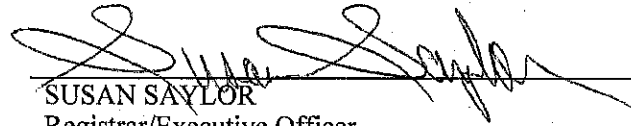
23 3. Prohibiting Elpidio Martinez Zamora from serving as an officer, director, associate,
24 partner, qualifying manager or responsible managing employee of any registered company during
25 the period that discipline is imposed on Operator License No. OPR 11405, issued to Elpidio
26 Martinez Zamora.

27 4. Ordering Elpidio Martinez Zamora to pay the Board the reasonable costs of the
28 investigation and enforcement of this case, pursuant to section 125.3; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 4/24/14



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

LA2014511164
51476987_3.doc
mc (4/11/14)cf