

BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of:  
ALONZO G. CONTRERAS, III,

Petitioner.

Case No. 2016-9

OAH No. 2019061038

**ORDER OF DECISION**

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Structural Pest Control Board as its Decision in the above-entitled matter.

The Decision shall become effective on September 20, 2019

IT IS SO ORDERED August 21, 2019

By: 

BEFORE THE  
STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

**In the Matter of the Petition for Reinstatement of:**

**ALONZO G. CONTRERAS, III, Petitioner**

**Operator's License No. OPR 11760**

**OAH Case No. 2019061038**

**DECISION**

This matter was heard on July 17, 2019 in Sacramento, California before a quorum of the Structural Pest Control Board (Board). Administrative Law Judge Wim van Rooyen, Office of Administrative Hearings, State of California, presided.

Timothy McDonough, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General, and appeared pursuant to Government Code section 11522.

Alonzo G. Contreras, III (petitioner) appeared on his own behalf.

The record was closed, and the matter submitted for decision on July 17, 2019.

## FACTUAL FINDINGS

### License and Disciplinary History

1. On October 10, 2008, the Board issued Operator's License No. OPR 11760, Branch 3 to petitioner.<sup>1</sup> Beginning in June 2009, through January 2016, the Board took numerous actions against petitioner's license, including the following: (1) suspension and reinstatement of petitioner's license on five separate occasions pursuant to Family Code section 17520, for failure to comply with child support orders; (2) suspension and reinstatement of petitioner's license on four separate occasions pursuant to Business and Professions Code section 8690, for failure to maintain general liability insurance; and imposition of fines on six separate occasions. Petitioner paid all fines except for a \$150 fine levied by the Los Angeles County Agricultural Commissioner on January 19, 2016.

2. On November 12, 2013, the Board issued Company Registration Certificate No. PR 6902 to Blackout Termite and Pest Control (Blackout) in Branches 2 and 3. Company Registration Certificate No. PR 6902 is not a party to this petition for reinstatement, but was a party in Accusation No. 2016-9, discussed below, which resulted in the revocation of petitioner's Operator's License No. OPR 11760.

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<sup>1</sup> Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination. The practice of pest control is classified into the following three branches: Fumigation (Branch 1), General Pest Control (Branch 2), and Termite (Branch 3). (Bus. & Prof. Code § 8560, subs. (a) and (b).)

3. On April 6, 2016, the Board filed First Amended Accusation No: 2016-9 (Accusation) against petitioner's Operator's License No. OPR 11760; Blackout's Company Registration Certificate No. PR 6902; and Marcos Gastelum Morales's (Morales) Operator's License No. OPR 12089 and Field Representative's License No. FR 47056. The Accusation alleged 10 causes for discipline with respect to a "Newmark Avenue Project," and 10 causes for discipline with respect to a "Blix Street Project."

The Newmark Avenue Project involved a four-unit condominium complex which petitioner inspected on behalf of Blackout in August 2014. Petitioner prepared an inspection report which included findings of termite infestations and recommendations for repair work totaling \$10,049. Some but not all of the recommended repair work was done. Occupants of the condominiums complained regarding numerous issues including untimely and inadequate repairs. Board Specialists conducted their own investigation of the project and found numerous deficiencies.

The resulting causes for discipline regarding the Newmark Avenue Project set forth in the Accusation are as follow : failure to issue a timely and proper .completion notice; gross negligence and fraud; disregard of building laws; aiding and abetting unlicensed activity; negligent handling of poisonous exterminating agent; failure to maintain evidence of an insurance policy; false and misleading advertising; failure to provide notice of pesticides; failure to maintain proper -records; and failure to comply with report of findings.

The Blix Street Project involved a single-family home which petitioner inspected in January 2016. Petitioner recommended treatment for termites by either spraying or tenting the house. The homeowner opted for spray treatments, for a sum of \$2,335. The homeowner complained to petitioner regarding numerous issues including failure

to spray certain areas of the house, and failure to trench around the house for treatment of subterranean termites. Petitioner offered to return to work on the home; the homeowner declined and asked for a refund of the money allocated for subterranean treatments. Petitioner issued a partial refund of \$960. The homeowner again contacted petitioner regarding his dissatisfaction with all of the work done on his home; petitioner agreed to refund the remaining \$1,375. In March 2016, a Board Specialist inspected the residence and found evidence of active termite infestations.

The resulting causes for discipline regarding the Blix Street Project set forth in the Accusation are as follows: improper branch office; failure to provide report; failure to issue a timely and proper completion notice; failure to provide notice of pesticides; failure to properly supervise; disregard of safety laws; aiding and abetting unlicensed activity; gross negligence and fraud; negligent handling of poisonous exterminating agent; and fraud or misrepresentation.

4. On May 6, 2016, petitioner signed on his own behalf and on behalf of Blackout a Stipulated Surrender of License, by which both parties admitted the truth of each and every charge and allegation in the Accusation. The parties also stipulated that prior to the issuance of a new or reinstated license or company registration, petitioner and Blackout shall pay the Board its costs of investigation and enforcement in the amount of \$6,000, and restitution to four separate consumers in an aggregate amount of \$6,924. On July 18, 2016, the Board issued a Decision and Order effective August 17, 2016, by which it accepted the Stipulated Surrender of License.

5. On July 14, 2017, the Board levied a \$2,500 fine against petitioner's Operator's License No. OPR 11760 for unlicensed practice of structural pest control in violation of Business and Professions Code section 8550, subdivisions (a) and (e). Petitioner paid that fine on February 15, 2018.

## **February 15, 2018 Petition for Reinstatement**

6. On February 15, 2018, petitioner filed a Petition for Reinstatement of Revoked or Surrendered Operator's License (February 2018 Petition). That petition was heard by the Board on April 18, 2018.

7. In a May 30, 2018 decision, which became effective on June 29, 2018, the Board denied the February 2018 Petition. The Board found that petitioner had submitted insufficient evidence of rehabilitation. More specifically, petitioner had failed to pay restitution to past customers, demonstrate that he had learned how to run a business and be better organized, provide letters of support acknowledging his past misconduct and attesting to his improved ethics and sense of responsibility, and show active contributions to his community.

## **Current Petition for Reinstatement**

8. On April 9, 2019, petitioner signed and subsequently filed his Petition for Reinstatement of Revoked or Surrendered Operator's License No. OPR 11760, Branch 3 (Current Petition). That same day, petitioner also signed an acknowledgement that he had received and reviewed the Board's Guidelines for Petitions for Reinstatement or Reduction of Penalty (Guidelines).

9. Petitioner testified that he accepts full responsibility for his past mistakes. He acknowledged that he was disorganized, made some very poor choices, and made bad business decisions. For example, he hired unlicensed friends to work on projects to provide them with employment. He now realizes that he should have helped his friends in a proper way by encouraging them to be trained and licensed first, to ensure their safety and quality work for customers. According to petitioner, he is a "whole new

person now" and took to heart the comments made by the Board in denying the February 2018 petition.

10. Petitioner has paid all outstanding fees and fines, including the Board's costs of investigation and enforcement in the amount of \$6,000; the Board's \$2,500 fine assessed for petitioner's practice without a license; and the \$150 fine levied by the Los Angeles County Agricultural Commissioner. Additionally, petitioner has paid restitution to the four consumers in an aggregate amount of \$6,924. Petitioner explained that it took him some time to make the restitution payments, because he has four children, limited financial resources, his family lost their home and had to move in with his wife's parents, and he needed time to save the money. However, he felt good about making the payments, making the consumers whole, and getting them what they deserved.

11. In addition to having completed a Pre-Operator's Course for Wood Destroying Organisms, Branch 3, through Young's Seminars on March 9, 2018, petitioner also successfully completed numerous online business courses through Alison since denial of the February 2018 Petition. Those courses included topics such as fundamentals of operations- management, fundamentals of, economics, customer relationship management in business services, service management, management skills, sales management, and business ethics. The courses ranged from about 3 hours to a few days each. Testing was required after each section of a course to progress to the next section, and each course had a final quiz at the end, requiring a score of at least 70% to pass. Petitioner paid between \$20 and \$40 per course. Petitioner found the operations management course particularly helpful, because it taught him to better organize a business by having established procedures, proper calendaring, and effective management of supplies. He also found the business ethics course valuable,

because it taught him methods to market and sell with integrity. Finally, petitioner has kept himself updated on the structural pest control business by reading industry magazines and publications.

12. Since denial of the February 2018 Petition, petitioner, along with his son, engaged in significant and meaningful community service. In August 2018, they solicited donations for Operation Gratitude, a charity compiling boxes to be sent to troops abroad. In September 2018, they packed boxes of food at a warehouse for the Children's Hunger Fund. In November 2018, they performed cleaning services at Hope's Garden Family Center. In December 2018, they participated in an Adopt a Family Christmas service project, buying gifts for a 13-year-old girl. Additionally, they created Christmas gift bags for men and women at a charity named Hope of the Valley. In March 2019, they volunteered time to socialize with a disabled child through Shane's Inspiration, an organization which develops playgrounds for children with disabilities. Finally, petitioner continues to coach football teams at his children's schools.

13. Petitioner presently works as a security guard at Chase Protective Services and has recently been promoted to supervising operations for various events and buildings. About six to eight months ago, petitioner obtained a firearm permit for his security work at special events. Petitioner has received no discipline as a security guard, and has not engaged in any unlicensed structural pest control work since he was fined by the Board on July 14, 2017. Petitioner has no criminal convictions, except for a driving under the influence (DUI) conviction in 2011, and has no pending criminal charges. Petitioner submitted eight letters of support from long-time friends and family members. Many of the letters acknowledge his past mistakes and difficulties,



but note his transformation, improvement, energy, drive to succeed, integrity, and commitment to his family and community.

14. If he were to regain his license, petitioner hopes to open his own structural pest control business. He is ready and eager to get back into the business and be an asset to the industry. He believes that he can practice safely and competently, and is willing to abide by whatever conditions the Board imposes.

## **Discussion**

15. Under the Guidelines, the Board considers, in addition to other appropriate and relevant matters, the following factors in evaluating a petition for reinstatement

(a) The original violation(s) for which action was taken against the petitioner's license including:

1. The type, severity, number, and length of violation(s)
2. Whether the violation(s) involved intentional, negligent or other unprofessional conduct.
3. Actual or potential harm to the public.
4. The length of time since the violation(s) was committed.

(b) Prior disciplinary and criminal actions also taken against the petitioner by the Board, any State, local or Federal agency or court including:

1. The petitioner's compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanctions including any order of restitution.
  2. Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.
  3. The petitioner's legal and regulatory history prior to and since the violation(s).
- (c) The petitioner's attitude toward his or her commission of the original violation(s) and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts.
- (d) The petitioner's documented rehabilitative efforts including:
1. Efforts to maintain and/or upgrade professional skills and knowledge through continuing education or other methods.
  2. Efforts to establish safeguards to prevent repetition of the original violation(s).
  3. Service to community or charitable groups.

4. Voluntary restitution to those affected by the original violation(s).
  5. Use of appropriate professional medical or psychotherapeutic treatment.
  6. Participation in appropriate self-help and/or rehabilitation groups.
- (e) Assessment of the petitioner's rehabilitation and corrective efforts including:
1. Whether the efforts relate to the original violation(s).
  2. The date rehabilitative efforts were initiated.
  3. The length, time and expense associated with rehabilitative efforts or corrective actions.
  4. The assessment and recommendations of qualified professionals directly involved in the petitioner's rehabilitative efforts or acting at the request of the Board, including their description of the petitioner's progress and their prognosis of the petitioner's current ability to practice structural pest control.
  5. The petitioner's reputation for truth, professional ability and good character since the commission of the original violation(s).

6. The nature and status of ongoing and continuing rehabilitative efforts.

16. The evidence shows that petitioner took meaningful steps to address the specific deficiencies previously identified by the Board. He has taken ownership and responsibility for his past misconduct by paying all costs, fines; and restitution. Furthermore, petitioner has demonstrated insight and understanding of his past mistakes, and has a concrete plan to prevent them in the future. He took various business courses designed to teach him how to properly run a business and be better organized. He has also kept himself updated on the structural pest control business through taking a Pre-Operator's Course for Wood Destroying Organisms, Branch 3 in March 2018 and continuing to read industry magazines and publications. Finally, petitioner engaged in meaningful community service and letters of support attest to his improved ethics and sense of responsibility. Consequently, it would not be against the public interest to grant petitioner's Current Petition and reinstate his license on a probationary basis.

## **LEGAL CONCLUSIONS**

1. Government Code section 11522 provides that:

A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the

Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

2. In a proceeding to restore a revoked or surrendered license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. (~~Flora~~ *Flora v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) An individual seeking reinstatement must present strong proof of rehabilitation, which must be sufficient to overcome the former adverse determination. (~~Husman~~ *Husman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.)'

3. Petitioner has the burden of demonstrating that he has the necessary and current qualifications and skills to safely engage in the practice of structural pest control within the scope of current law, and accepted standards of practice. Based on the Factual Findings as a whole, and Factual Findings 15 and 16 in particular, it would not be against the public interest to grant petitioner's Current Petition and reinstate his license on a probationary basis.

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## ORDER

The Petition for Reinstatement of Revoked Operator's License No. OPR 11760, Branch 3, filed by petitioner Alonzo G. Contreras, III, is GRANTED. Such a license shall be ISSUED to petitioner. Such license shall immediately be REVOKED, the order of revocation STAYED, and petitioner placed ON PROBATION for a period of three years on the following terms and conditions:

### SEVERABILITY CLAUSE

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

#### 1. OBEY ALL LAWS

Petitioner shall obey all federal, state and local laws including all laws and rules relating to the practice of structural pest control.

Petitioner shall submit a completed California Department of Justice and federal Livescan fingerprint form, unless previously submitted as part of the petition for reinstatement application process. Fingerprint forms shall be submitted within thirty (30) calendar days of the effective date of the Decision and Order.

#### 2. QUARTERLY REPORTS

Petitioner shall file quarterly reports with the Board during the period of probation, no later than ten days after the end of the quarter.

### 3. TOLLING OF PROBATION

In the event petitioner should leave California to reside or practice outside the state, prior to departing, petitioner must provide written notification to the Board of the dates of departure and anticipated return to the state. Petitioner's probation is tolled if and when he ceases practicing in California. Periods of practice outside of California will not apply to the reduction of the probationary period. For purposes of this condition, non-practice due to Board ordered suspension, or in compliance with any other Board ordered condition of probation, shall not be considered a period of non-practice.

### 4. NOTICE TO EMPLOYERS

Petitioner shall notify all present and prospective employers of this Decision and Order, and the terms, conditions and restriction imposed on petitioner by said Decision and Order. Within 30 days of the effective date of this Decision and Order, and within 15 days of petitioner undertaking new employment, petitioner shall cause his employer, owner and qualifying manager to report to the Board in writing acknowledging he/she has read this Decision and Order.

### 5. NOTICE TO EMPLOYEES

Petitioner shall, upon or before the effective date of this Decision and Order, post and circulate a notice to all employees involved in structural pest control operations which accurately recite the terms and conditions of probation. Petitioner shall be responsible for said notice being immediately available to said employees. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during

probation. The notice shall be posted in a conspicuous place where employees can see it and shall remain posted the entire term of probation.

6. VIOLATION OF PROBATION

Should petitioner violate probation in any respect, the Board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter has been acted upon by the Board.

7. INTERVIEW/RECORDS: BOARD OR ITS DESIGNEES

Petitioner shall be available in person upon reasonable request for interviews and the review of records either at petitioner's place of business, residence, or other agreed upon location throughout the term of probation.

8. LICENSE SURRENDER

Following the effective date of this decision, if petitioner ceases practicing in the pest control industry due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request the voluntary surrender of petitioner's license to the Board. The Board reserves the right to evaluate the petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon the Board's acceptance of the surrender, petitioner shall within fifteen (15) days deliver to the Board's offices his wall and pocket license and company registration wall certificate. Petitioner will no longer be subject to the terms and conditions of



probation and the surrender of petitioner's license shall be deemed a disciplinary action. However, if petitioner re-applies for a license or registration, the application shall be treated as a petition for reinstatement of a revoked license/registration.

9. COMPLETION OF PROBATION

Upon successful completion of probation, petitioner's license will be fully restored.

10. COST RECOVERY

At the time of the hearing on the Current Petition, it appeared that petitioner had fully reimbursed the Board's investigation and enforcement costs. Nevertheless, to the extent that any such costs remain unpaid, petitioner shall pay those costs within 90 days of the effective date of the decision or through a payment plan approved by the Board. Failure to make a timely payment, and/or failure to complete payment of cost recovery, shall constitute a violation of probation.

Periods of non-practice by petitioner shall not relieve petitioner of his obligation to reimburse the Board for its investigative and enforcement costs. Probation shall not be terminated until all costs are paid in full.

11. CONTINUING EDUCATION COURSE - BRANCH 3

Petitioner shall complete a continuing education course of a minimum of eight hours for rules and regulations of pest control in Branch 3 (wood destroying pests and organisms) within six months of the effective date of this decision. Such course hours may count toward existing license renewal continuing education requirements.

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12. RANDOM INSPECTIONS

Petitioner shall reimburse the Board for one random inspection per quarter by Board specialists during the period of probation not to exceed \$125 per inspection.

13. INSPECTION FEES

Petitioner shall pay to the registrar, or designee, an inspection fee of \$50 within thirty (30) days from the effective date of this decision.

This Decision is hereby adopted by the Structural Pest Control Board.

This Decision shall become effective on September 20, 2019

IT IS SO ORDERED.

DATE: August 21, 2019

DARREN VAN STEENWYK  
President  
Structural Pest Control Board