

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804

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. 2016-47

12 **STEVEN MASON MARLEY**
10441 Palo Alto Street
13 Rancho Cucamonga, CA 91730

ACCUSATION

14 Operator's License No. OPR 11770

15 Field Representative License No. FR 23910

16 **and**

17 **BIG PINE PEST CONTROL;**
18 **STEVEN MASON MARLEY**
10441 Palo Alto Street
19 Rancho Cucamonga, CA 91730

20 Company Registration Certificate No. PR 7105

21 Respondent.

22 Complainant alleges:

23 **PARTIES**

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

27 2. On or about November 3, 2008, the Structural Pest Control Board ("Board") issued
28 Operator's License No. OPR 11770 in Branch 3 to Steven Mason Marley ("Respondent"). The

FILED

Date 3/25/16 By Susan Saylor

1 Operator's License was in full force and effect at all times relevant to the charges brought herein
2 and will expire on June 30, 2017, unless renewed.

3 Company Registration Certificate

4 3. On or about August 13, 2014, the Board issued Company Registration Certificate
5 No. PR 7105 in Branches 2 and 3 to Big Pine Pest Control as Steven Mason Marley as Owner.
6 The Company Registration Certificate was in full force and effect at all times relevant to the
7 charges brought herein.

8 Field Representative's License

9 4. On or about September 29, 1994, the Structural Pest Control Board issued Field
10 Representative's License No. FR 23910 in Branch 3 to Respondent. The Field Representative's
11 License was in full force and effect at all times relevant to the charges brought herein and will
12 expire on June 30, 2018, unless renewed.

13 JURISDICTION

14 5. This Accusation is brought before the Board under the authority of the following
15 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
16 indicated.

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

20 7. Section 8625 of the Code states, in pertinent part:

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

26 //

27 //

28 //

STATUTORY PROVISIONS

8. Section 8593 of the Code states:

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

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

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

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

10. Section 8641 of the Code states, in pertinent part:

"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."

11. Section 8654 of the Code states, in pertinent part:

"Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any

1 partnership, corporation, firm, or association whose application for a company registration has
2 been denied for any of the reasons specified in Section 8568, or whose company registration has
3 been revoked as a result of disciplinary action, or whose company registration is under
4 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
5 responsible managing employee had knowledge of or participated in any of the prohibited acts for
6 which the license or registration was denied, suspended or revoked, shall be prohibited from
7 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
8 employee of a registered company, and the employment, election or association of such person by
9 a registered company is a ground for disciplinary action."

10 REGULATORY PROVISIONS

11 12. California Code of Regulations, title 16, section 1950 states, in pertinent part:

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

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

23 "(c) Operators licensed in one branch of pest control shall complete 16 continuing
24 education hours during each three year renewal period. Operators licensed in two branches of pest
25 control shall complete 20 continuing education hours during each three year renewal period.
26 Operators licensed in three branches of pest control shall complete 24 continuing education hours
27 during each three year renewal period. In each case, a minimum of four continuing education
28 hours in a technical subject directly related to each branch of pest control held by the licensee

1 must be completed for each branch license, a minimum of two hours in Integrated Pest
2 Management as defined in section 1984 must be completed by Branch 2 and/or 3 licensees
3 renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board
4 approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest
5 control related agencies' rules and regulations. . . .”

6 **COST RECOVERY**

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

11 **FACTUAL ALLEGATIONS**

12 14. On or about May 10, 2014, Respondent submitted an Operator license renewal
13 application to the Board wherein Respondent certified under the penalty of perjury that he
14 successfully completed all required continuing education coursework during his last renewal
15 period. Specifically, Respondent signed a License Renewal Application for Operator, which
16 provided in pertinent part:

17 Continuing Education Certification – I have completed (20) hours of
18 continuing education required for renewal of my license. I DECLARE
19 UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE
OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

20 Respondent filled in the “20” for the number of hours, his signature by signing his name
21 below the above certification, and the date of “5-10-2014.”

22 15. On or about November 3, 2014, Respondent was notified that he had been selected
23 for a continuing education (“CE”) audit by the Board. Respondent was informed that he needed
24 to submit to the Board, copies of his certificates of completion that verify the CE hours for the
25 renewal period July 1, 2011, through June 30, 2014. Respondent was given 14 days to respond to
26 the Board’s request or risk disciplinary action being taken against his license. Respondent failed
27 to provide the Board with any certificates of completion of CE requirements for the renewal
28 period indicated.

16. Thereafter, on or about March 3, 2015, and May 18, 2015, Respondent was notified by "SECOND REQUEST" and "FINAL REQUEST" (respectively), that he had been selected for the 2014 continuing education (CE) audit. Each time, Respondent was given 14 days to respond to the Board's request. Respondent was advised that his failure to verify his CE hours or to supply the requested information could subject his operator's license to disciplinary action.

17. On or about June 9, 2015, the Board received a letter from Respondent stating that he could not locate the course completion certificates that would verify the CE hours.

FIRST CAUSE FOR DISCIPLINE

(Failure to Provide Proof of Continuing Education)

18. Respondent is subject to disciplinary action pursuant to Code sections 8641 and 8593 in conjunction with California Code of Regulations, title 16, section 1950 subdivision (a), in that Respondent failed to provide the Board with verifiable documentation to demonstrate that he completed all of the courses of continuing education requirements as a condition of renewal of his Operator License. Specifically, Respondent failed to produce documentation showing completion of twenty (20) hours of continuing education for the renewal period of July 1, 2011 through June 30, 2014. Complainant refers to and by this reference incorporates, the allegations set forth above in paragraphs 14 through 17, inclusive, as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Misrepresentation of Material Fact)

19. Respondent is subject to disciplinary action pursuant to Code section 8637, in that on or about May 10, 2014, Respondent misrepresented to the Board that he had completed twenty (20) hours of continuing education coursework in his license renewal application, when in fact he had failed to fulfill the Board's continuing education requirements as a condition of renewal of his license. Complainant refers to and by this reference incorporates, the allegations set forth above in paragraphs 14 through 17, inclusive, as though set forth fully.

OTHER MATTERS

20. Section 8620 provides, in pertinent part, that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not

1 more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the
2 time of the hearing and must be noted in the proposed decision. The proposed decision shall not
3 provide that a civil penalty shall be imposed in lieu of a suspension.

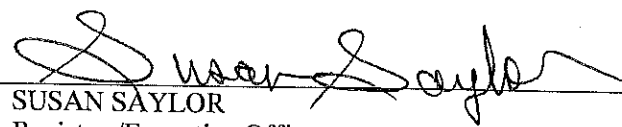
4 21. Pursuant to section 8654 of the Code, if discipline is imposed on Operator License
5 No. OPR 11770 and Field Representative License No. FR 23910 issued to Respondent, Steven
6 Mason Marley shall be prohibited from serving as an officer, director, associate, partner,
7 qualifying manager, or responsible managing employee for any registered company, such as Big
8 Pine Pest Control, during the time the discipline is imposed, and any registered company which
9 employs, elects, or associates Steven Mason Marley shall be subject to disciplinary action.

10 **PRAYER**

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

- 13 1. Revoking or suspending Operator's License No. OPR 11770, issued to Steven Mason
14 Marley;
- 15 2. Revoking or suspending Company Registration Certificate No. PR 7105, issued to
16 Big Pine Pest Control, with Steven Mason Marley as Owner;
- 17 3. Revoking or suspending Field Representative's License No. FR 23910, issued to
18 Steven Marley;
- 19 4. Ordering Steven Mason Marley and Big Pine Pest Control to pay the reasonable costs
20 of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 21 5 Taking such other and further action as deemed necessary and proper.
- 22
- 23

24 DATED: 3/25/16


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

LA2015604114/52023138_2.docx