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FILED
Date 6/19/13 By Susan Saylor

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

In the Matter of the Accusation Against: **JAMES EDWARD THORNTON** **PAY IT FORWARD PEST CONTROL** **5661 Chadbourne Avenue** **Riverside, CA 92505** **Operator's License No. OPR 11803** **Company Registration Certificate** **No. PR 5899** Respondent.	Case No. 2013-49 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about January 23, 2009, the Structural Pest Control Board issued Operator's License Number OPR 11803, in Branch 2, to James Edward Thornton (Respondent), Owner and Qualifying Manager of Pay it Forward Pest Control. The Operator's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless renewed.

3. On or about August 11, 2009, the Structural Pest Control Board issued Company Registration Certificate Number PR 5899, in Branch 2, to Pay it Forward Pest Control with James Edward Thornton (Respondent) as Owner and Qualifying Manager. The Company Registration Certificate was in full force and effect at all times relevant to the charges brought herein.

JURISDICTION

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

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

6. Section 8625 of the Code states:

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

STATUTORY PROVISIONS

7. Section 482 of the Code states:

> Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
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> (a) Considering the denial of a license by the board under Section 480; or
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> (b) Considering suspension or revocation of a license under Section 490.
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> Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

10. Section 8624 of the Code states:

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

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

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

11. Section 8649 of the Code states:

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

12. Section 8654 of the Code states:

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 partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or

revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

13. Section 8655 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or 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

14. California Code of Regulations, title 16, section 1937.1 states:

For the purposes of denial, suspension or revocation of a license or company registration pursuant to Division 1.5 (commencing with Section 475) of the code, 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 license or company registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

(b) Commission of any of the following in connection with the practice of structural pest control:

(1) Fiscal dishonesty

(2) Fraud

(3) Theft

(4) Violations relating to the misuse of pesticides.

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15. California Code of Regulations, title 16, section 1937.2 states:

. . . .

(b) When considering the suspension or revocation of a structural pest control license or company registration on the grounds that the licensee or registered company has been convicted of a crime, the board, in evaluating the rehabilitation of such person or company and his or her or its present eligibility for a license or company registration will consider the following:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee or registered company has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee or registered company.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any of rehabilitation submitted by the licensee or registered company.

. . . .

COST RECOVERY

16. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(February 21, 2013 Criminal Conviction for

Posssession of Stolen Property on August 23, 2010)

17. Respondent has subjected his license and certificate to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

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a. On or about February 21, 2013, in a criminal proceeding entitled *People of the State of California v. James Edward Thornton, aka James E. Thornton,* in Riverside County Superior Court, case number RIF1203930, Respondent was convicted on his plea of guilty of violating Penal Code section 496, subdivision (a), possession of stolen property, a felony. The court dismissed two additional counts of violating Penal Code section 496, subdivision (a), pursuant to a plea agreement.

b. As a result of the conviction, on or about March 4, 2013, Respondent was sentenced to the midterm of eight months in state prison, with credit for 169 days, to run consecutively to the time to be served in case number RIF1205987, described in paragraph 18, below. Respondent was also ordered to pay fines, fees, and restitution to the victim in the amount of $35,000.

SECOND CAUSE FOR DISCIPLINE

(February 21, 2013 Criminal Convictions for First Degree Burglary on August 8, 2012 & Transportation of Methamphetamine for Sale on August 21, 2012)

18. Respondent has subjected his license and certificate to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of crimes that are substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. On or about February 21, 2013, in a criminal proceeding entitled *People of the State of California v. James E. Thornton, aka James Edward Thornton,* in Riverside County Superior Court, case number RIF1205987, Respondent was convicted on his plea of guilty of violating Penal Code section 459, subdivision (a), burglary of an inhabited dwelling (Count 1); and Health and Safety Code section 11379, subdivision (a), transportation of methamphetamine (Count 2), felonies. The court found true as to Count 1 that Respondent committed the offense while released from custody on bail, within the meaning of Penal Code section 12022.1. The court dismissed an additional count of violating Health and Safety Code section 11357, subdivision (c), possession of more than 28.5 grams of marijuana, pursuant to a plea agreement.

b. As a result of the convictions, on or about March 4, 2013, as to Count 1, the court imposed the midterm sentence of four years in state prison. The court imposed an

additional term of two years for the enhancement. As to Count 2, the court imposed one-third of the midterm sentence of three years for a total of one year in state prison. All terms imposed were ordered to run consecutively, for a total term of seven years in state prison. Respondent's sentence was to run consecutively to the time to be served in case number case number RIF1203930, described in paragraph 17, above.

c. The circumstances that led to the convictions are that on or about the afternoon of August 5, 2012, a resident of Corona contacted the Corona Police Department to report that he had confronted a male (later identified as Respondent) who was about to break into his residence. Respondent left the scene, but the resident was able to obtain the license plate number of his vehicle. Officers were able to trace the license plate to a rental car agency, which provided them with Respondent's name and contact information. The resident positively identified Respondent from a photo array. The officers attempted to make contact with Respondent at his residence, but were unsuccessful. On August 8, 2012, the Corona Police Department responded to a call of a burglary in progress. Officers canvassed the area to locate the vehicle and suspect described in the burglary, which matched Respondent, but were unsuccessful. The victim told officers that he had returned home after running errands. Upon arrival at his home, he saw Respondent's vehicle parked in his driveway. Not recognizing the vehicle, he parked behind it blocking its escape. As the victim was exiting his vehicle, Respondent emerged from the backyard carrying a white box. As the victim called 9-1-1, Respondent jumped in his vehicle and drove over the victim's lawn to get away. The victim surveyed his residence, and then discovered that Respondent had burglarized his guest house. Electronic equipment had been staged on top of trash cans near the gate to the backyard. The victim positively identified Respondent from a photo array. A warrant was issued for Respondent's arrest.

d. On or about August 21, 2012, the Corona Police Department was informed by an anonymous party that Respondent was at his residence. Officers converged on the residence, but learned that Respondent had been stopped by the Riverside Police Department a few blocks away. Respondent was taken to his residence and denied consent to search. While a

search warrant was being obtained, officers searched Respondent's vehicle. Inside Respondent's vehicle, the officers found 30 grams of marijuana, two grams of methamphetamine, and a glass pipe used for smoking methamphetamine. Also located were several checks, passports, identifications, and credit cards belonging to other people. Many of the the victims were contacted at the scene and they confirmed they had been recently burglarized. Respondent was arrested on drug-related charges and for burglary.

THIRD CAUSE FOR DISCIPLINE

(February 21, 2013 Criminal Conviction for Felon Possessing a Firearm on May 31, 2012)

19. Respondent has subjected his license and certificate to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. On or about February 21, 2013, in a criminal proceeding entitled *People of the State of California v. James E. Thornton,* in Riverside County Superior Court, case number RIF1204130, Respondent was convicted on his plea of guilty of violating Penal Code section 29800, subdivision (a)(1), a felon in possession of a handgun, a felony. The court dismissed an additional count of violating Penal Code section 496, subdivision (a), receiving stolen property, pursuant to a plea agreement.

b. As a result of the conviction, on or about March 4, 2013, the court imposed one-third of the midterm sentence of two years, for a total of eight months in state prison, with credit for 156 days, to run consecutive to the sentences imposed as described above.

c. The circumstances that led to the conviction are that on or about May 31, 2012, during the course of executing a search warrant on Respondent's residence, a deputy from the Riverside County Sheriff's Department located a .357 Colt Python handgun loaded with four live rounds of ammunition. The serial number of the handgun had been filed off. There were also metal knuckles and a cane sword. Stolen designer jewelry and handbags were found in the bedroom of Respondent's 18-year-old daughter. A records check revealed that Respondent had a felony conviction in Nevada for possession of a controlled substance with intent to sell, which prohibited Respondent from possessing firearms or dangerous weapons.

FOURTH CAUSE FOR DISCIPLINE

(February 21, 2013 Criminal Convictions for Possession of Stolen Property & Possession of Methamphetamine for Sale on May 29, 2012)

20. Respondent has subjected his license and certificate to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of crimes that are substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. On or about February 21, 2013, in a criminal proceeding entitled *People of the State of California v. James E. Thornton,* in Riverside County Superior Court, case number RIF120998, Respondent was convicted on his plea of guilty of violating Penal Code section 496, subdivision (a), possession of stolen property (Count 2); and Health and Safety Code section 11379, subdivision (a), possession of methamphetamine for sale (Count 3), felonies. Pursuant to a plea agreement, the court dismissed additional counts of violating Penal Code section 664/459, attempted burglary of a dwelling; Health and Safety Code section 11377, subdivision (a), possession of methamphetamine; Health and Safety Code section 11550, subdivision (a), under the influence of a controlled substance; and two counts of violating Health and Safety Code section 11364.1, possession of controlled substance paraphernalia.

b. As a result of the convictions, on or about March 4, 2013, as to Count 2, the court imposed one-third of the midterm sentence of two years, for a total of eight months in state prison. As to Count 3, the court imposed one-third of the midterm of three years for a total of one year. Both terms were ordered to run consecutively, for a total term of one year eight months in state prison. Respondent was given credit for 173 days. The term was ordered to run consecutive to the sentence imposed in case number RIF1205987, as described in paragraph 18, above.

c. The circumstances that led to the convictions are that on or about the morning of May 29, 2012, a person observed Respondent attempting to break into the house of a neighbor and contacted the Riverside County Sheriff's Department. When questioned by deputies, Respondent claimed he was there to visit a doctor and denied attempting to open a window. The deputies searched Respondent's vehicle and found jewelry, laptops, and burglary

tools. Respondent claimed he acquired the property through a purchase of a storage unit in Chino. The deputy found a bagful of Tiffany Company and Coach jewelry which matched the description of property stolen in a residential burglary on May 13, 2012. Inside the rear passenger seat pocket, the deputy located two glass pipes used to smoke methamphetamine, two small baggies containing 3.4 grams of methamphetamine, and a small black scale used for weighing narcotics. Respondent was arrested and taken to Norco for further processing. The deputy observed that Respondent appeared to be under the influence of either cocaine or methamphetamine; he was unable to maintain eye contact, his pupils were dilated, and he was acting very nervous. Respondent provided a blood sample for testing.

OTHER MATTERS

21. Pursuant to section 8654 of the Code, if discipline is imposed on Operator's License No. OPR 11803 and/or Company Registration Certificate No. PR 5899 issued to Respondent, James Edward Thornton shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates James Edward Thornton shall be subject to disciplinary action.

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PRAYER

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

1. Revoking or suspending Operator's License Number OPR 11803, issued to James Edward Thornton;

2. Revoking or suspending Company Registration Certificate Number PR 5899, issued to Pay it Forward Pest Control;

3. Prohibiting James Edward Thornton from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company;

4. Ordering James Edward Thornton to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/19/13

SUSAN SAYLOR
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

SD2013705201