

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

In the Matter of the Petition for Reinstatement of:

MORRIS A. HIATT
Operator License No. OPR 20010

Petitioner.

Case No. 2016-71

OAH No. 2018030415

DECISION

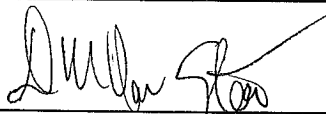
The Proposed Decision of Timothy J. Aspinwall, Administrative Law Judge, in Sacramento, California, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 1, in the caption, "License No. 20010" is stricken and replaced with "Operator License No. OPR 20010".
2. On page 1, paragraph number 1, insert the prefix "OPR" in front of "20010".
3. On page 1, paragraph number 2, insert the prefix "OPR" in front of "20010".

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

The Decision shall become effective on July 12, 2018.

IT IS SO ORDERED June 12, 2018.



DARREN VAN STEENWYK
President
Structural Pest Control Board
Department of Consumer Affairs

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This matter was heard on April 18, 2018, in Sacramento, California, before a quorum of the Structural Pest Control Board (Board). Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings, presided.

Tim McDonough, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Morris A. Hiatt (petitioner) appeared on his own behalf.

Evidence was received and the matter was submitted for decision on April 18, 2018.

FACTUAL FINDINGS

License and Disciplinary History

1. On or about October 20, 1999, the Board issued Operator's License No. 20010, Branch 2 to petitioner. Petitioner's Operator's License was upgraded to include Branch 3 on October 14, 2003. Petitioner's Operator's License was placed on inactive status on July 2, 2014.

2. On June 24, 2016, the Board filed Accusation No. 2016-71 (Accusation) against petitioner's Operator's License No. OPR 20010. The Accusation alleged that on or about September 22, 2014, petitioner submitted an application for renewal of Operator's License No. 20010, with a declaration under penalty of perjury falsely stating that he had completed 20 hours of continuing education required for the renewal of the license. Based in

part on this false information, the Board renewed petitioner's license for a period of three years. In a letter dated September 1, 2015, the Board informed petitioner that he had been selected for a continuing education audit, and directed him to provide the certificates of course completion to verify his compliance with the continuing education requirements for the period of July 1, 2011, through June 30, 2014. Petitioner sent a letter to the Board dated September 25, 2015, falsely stating he had already mailed the certificates of course completion with his renewal application, and that he was unable to obtain duplicate certificates because the continuing education provider had gone out of business. In a follow-up telephone call, petitioner falsely told the Board's analyst that he was unable to locate the records. Based on these underlying facts, the Board charged petitioner in the Accusation with: (1) securing a license by fraud, deceit, or knowing misrepresentation of material fact, and (2) failure to comply with the provisions of the Structural Pest Control Act.

4. On July 20, 2016, petitioner signed a Stipulated Surrender of License, by which he admitted the truth of each and every charge and allegation in the Accusation. The Board issued a Decision and Order effective November 13, 2016, by which it accepted the Stipulated Surrender of License.

Petition for Reinstatement

5. On December 1, 2017, petitioner filed his Petition for Reinstatement of Revoked Operator's License (Petition). At hearing, petitioner presented certificates showing that he completed 26 hours of continuing education in 2018, and one hour in 2017. He acknowledged the wrongfulness of his past conduct, and expressed a desire to move forward.

6. Petitioner currently works for a school district, helping maintain their lighting. He wants to get his license reinstated so he can help the school with pest control issues, and eventually work for a private business.

7. Petitioner appeared to be genuinely remorseful for his past misconduct. He has also taken positive steps, such as completion of significant continuing education, consistent with his desire to move forward.

Discussion

8. Based on the evidence as a whole, cause exists to grant the Petition for Reinstatement of a Revoked License submitted by petitioner based on clear and convincing evidence of rehabilitation. However, in order to protect the public, three (3) years of probation is appropriate.

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.

2. Petitioner bears the burden of establishing that he is sufficiently rehabilitated to justify reinstatement of his license. As set forth in the Factual Findings, petitioner submitted sufficient evidence of rehabilitation to support a finding that it would be consistent with the public interest to reinstate petitioner's operator's license with a three-year probationary period, under standard terms and conditions one through eight.

ORDER

The Petition for Reinstatement of Revoked Operator's License No. OPR 20010, filed by Morris A. Hiatt, is granted. Petitioner shall be issued an Operator's License. The Operator's License shall be revoked, the revocation of the license shall be immediately stayed, and the license placed on probation for a period of three (3) years, subject to the following terms and conditions:

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 licensure 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 (10) 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 the decision in case No. 2016-71, and the terms, conditions and restriction imposed on petitioner by said Decision. Within 30 days of the effective date of this Decision, 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 the employer has read the decision in case No. 2016-71.

5. 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.
6. Interview/Records: Board or Its Designees - Petitioner shall be available in person upon reasonable request for interviews and the review of records either at respondent's place of business, residence, or other agreed upon location throughout the term of probation.
7. 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/registration 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 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/registration 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.
8. Upon successful completion of probation, petitioner's license/certificate will be fully restored.

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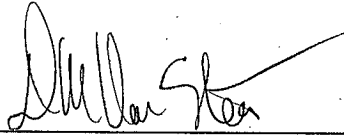
DECISION

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

This Decision shall become effective on July 12, 2018.

IT IS SO ORDERED.

Dated: June 12, 2018



DARREN VAN STEENWYK
President
Structural Pest Control Board.