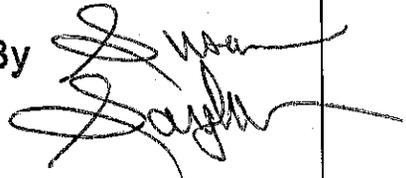


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

KAMALA D. HARRIS  
Attorney General of California  
ALFREDO TERRAZAS  
Senior Assistant Attorney General  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
State Bar No. 132645  
110 West "A" Street, Suite 1100  
San Diego, CA 92101  
P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2105  
Facsimile: (619) 645-2061  
*Attorneys for Complainant*

**FILED**

Date 4/15/14 By 

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

In the Matter of the Accusation Against:  
**A AAROW PEST CONTROL CO.,  
GARY MARINO,  
OWNER/QUALIFYING MANAGER  
518 West Bell Avenue  
Santa Ana, CA 92707**  
  
**Company Registration Certificate No. PR 2605,**  
  
**and**  
  
**GARY MARINO,  
PRESIDENT/QUALIFYING MANAGER  
518 West Bell Avenue  
Santa Ana, CA 92707**  
  
**Operator License No. OPR 8179**  
  
Respondents.

Case No. 2014-52  
**A C C U S A T I O N**

Complainant alleges:

**PARTIES**

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



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3 registration has been revoked as a result of disciplinary action, or whose company  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

## 8 STATUTORY PROVISIONS

9 8. Section 8593 of the Code states:

10 The board shall require as a condition to the renewal of each operator's  
11 and field representative's license that the holder submit proof satisfactory to the  
12 board that he or she has informed himself or herself of developments in the field  
13 of pest control either by completion of courses of continuing education in pest  
14 control approved by the board or equivalent activity approved by the board. In  
15 lieu of submitting that proof, the licenseholder, if he or she so desires, may take  
16 and successfully complete an examination given by the board, designed to test his  
17 or her knowledge of developments in the field of pest control since the issuance of  
18 his or her license.

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

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

21 9. Section 8637 of the Code states:

22 Misrepresentation of a material fact by the applicant in obtaining a license  
23 or company registration is a ground for disciplinary action.

24 10. Section 8641 of the Code states:

25 Failure to comply with the provisions of this chapter, or any rule or  
26 regulation adopted by the board, or the furnishing of a report of inspection  
27 without the making of a bona fide inspection of the premises for wood-destroying  
28 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.

1 **REGULATORY PROVISION**

2 11. Title 16, California Code of Regulations (“Regulation”), section 1950,  
3 subdivision (a), states:

4 Except as provided in section 1951, every licensee is required, as a  
5 condition to a renewal of a license, to certify that he or she has completed the  
6 continuing education requirements set forth in this article. A licensee who cannot  
7 verify completion of continuing education by producing certificates of activity  
8 completion, whenever required to do so by the Board, may be subject to  
9 disciplinary action under section 8641 of the code.

8 **COST RECOVERY**

9 12. Code Section 125.3 provides, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations  
11 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
13 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
14 may be included in a stipulated settlement.

15 **FACTS**

16 13. On July 30, 2012, Respondent Marino submitted a renewal application for his  
17 Operator License to the Board in which he certified to the Board that he had taken all required  
18 continuing education coursework. Specifically, Respondent Marino signed a License Renewal  
19 Application, which provided in pertinent part:

20 Continuing Education Certification – I have completed 16 hours of continuing education  
21 required for renewal of my license. I DECLARE UNDER PENALTY OF PERJURY UNDER  
22 THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND  
23 CORRECT.

24 Respondent Marino signed his name below the above certification, and dated his  
25 signature “7/30/2012.”

26 14. Thereafter, on November 18, 2012, Respondent Marino was notified that he had  
27 been selected for a continuing education (CE) audit by the Board. Respondent Marino was  
28 informed, in writing that he was to submit to the Board copies of his certificates of course

1 completion for the renewal period of July 1, 2009 through June 30, 2012. Respondent Marino  
2 was given 14 days to respond to the Board's request or risk disciplinary action being taken  
3 against his license. Respondent Marino failed to provide the Board with any certificates of  
4 completion of CE requirements for the renewal period of July 1, 2009 through June 30, 2012. On  
5 December 7, 2012, the Board received Respondent's response indicating that he had no CE hours  
6 for the renewal period of July 1, 2009 through June 30, 2012.

7 15. On April 22, 2013, and September 17, 2013, Respondent Marino was notified that  
8 he had been selected for a continuing education (CE) audit by the Board. Respondent Marino  
9 was informed, in writing that he was to submit to the Board copies of his certificates of course  
10 completion for the renewal period of July 1, 2009 through June 30, 2012. Respondent Marino  
11 was given 14 days to respond to the Board's request or risk disciplinary action being taken  
12 against his license. Respondent Marino failed to provide the Board with any certificates of  
13 completion of CE requirements for the renewal period of July 1, 2009 through June 30, 2012. On  
14 September 27, 2013, the Board received Respondent's response stating that he had no CE hours  
15 for the renewal period of July 1, 2009 through June 30, 2012.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Failure To Provide Proof Of Continuing Education)**

18 16. Respondent Marino's Operator License is subject to disciplinary action under  
19 Code section 8641, for failure to comply with Code section 8593 and Regulation section 1950,  
20 subdivision (a), in that Respondent Marino failed to provide the Board with verifiable  
21 documentation to demonstrate that he completed the continuing education requirements as a  
22 condition of renewal of his Operator's License, as set forth above in paragraphs 14, 15, and 16.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Misrepresentation of Fact Regarding Continuing Education)**

25 17. Respondent Gary Marino's Operator License and Respondent's Company  
26 Registration Certificate are subject to disciplinary action under Code sections 8637, in that  
27 Respondent Marino misrepresented that he had completed 16 hours of continuing education  
28 coursework in his license renewal application, when in fact he had failed to fulfill the Board's

1 continuing education requirements as a condition of renewal of his license as set forth above in  
2 paragraphs 14, 15, and 16.

3 **OTHER MATTERS**

4 18. Pursuant to section 8654 of the Code, if discipline is imposed on Operator License  
5 Number OPR 8179 issued to Respondent Gary Marino, also known as Gary Anthony Marino,  
6 shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or  
7 responsible managing employee for any registered company during the time the discipline is  
8 imposed, and any registered company which employs, elects, or associates Gary Marino, also  
9 known as Gary Anthony Marino, 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 Structural Pest Control Board issue a decision:

- 13 1. Revoking or suspending Company Registration Certificate Number PR 2605,  
14 issued to A Aarow Pest Control Co., with Gary Marino as Owner and Qualifying Manager;  
15 2. Revoking or suspending Operator License Number OPR 8179, issued to Gary  
16 Marino, President and Qualifying Manager of A Aarow Pest Control Co.;  
17 3. Ordering Gary Marino to pay the Structural Pest Control Board the reasonable  
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
19 Code section 125.3; and  
20 4. Taking such other and further action as deemed necessary and proper.

21  
22  
23  
24 DATED: 4/15/14

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

SD2014706607  
70841514.doc