

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

In the Matter of the Accusation Against:

OPTIMAL TERMITE AND PEST SOLUTIONS,
INC.; JASON GRAYDON ANDERSON, SR.,
PRESIDENT AND QUALIFYING MANAGER
Company Registration Certificate No. PR 5272

and

OPTIMAL TERMITE AND PEST SOLUTIONS,
INC.; JASON GRAYDON ANDERSON, SR.,
Branch Office Supervisor
Branch Office Registration No. BR 5264,

and

JASON GRAYDON ANDERSON, SR.
Operator's License No. OPR 11840

Respondents.

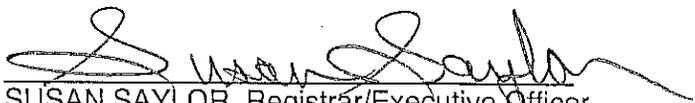
Case No. 2014-32

OAH No. 2014040011

ORDER OF DENIAL FOR PETITION FOR RECONSIDERATION

Respondent's Petition for Reconsideration is hereby denied. The Board's
Decision becomes effective on **January 13, 2016.**

IT IS SO ORDERED this 12th day of January 2016.


SUSAN SAYLOR, Registrar/Executive Officer
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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SOLUTIONS, INC.; JASON GRAYDON
ANDERSON, SR.,
Branch Office Supervisor
Branch Office Registration No. BR 5264,

and

JASON GRAYDON ANDERSON, SR.
Operator's License No. OPR 11840

Respondents.

Case No. 2014-32

OAH No. 2014040011

**ORDER GRANTING 10 DAY STAY TO CONSIDER PETITION FOR
RECONSIDERATION**

The Decision After Non-Adoption herein having been made and entered on December 4, 2015, to become effective on January 3, 2016, and respondent now having filed a Petition for Reconsideration of the Decision After Non-Adoption, and good cause appearing therefore,

IT IS HEREBY ORDERED that a stay for ten (10) days of the Decision After Non-Adoption is granted until January 13, 2016, for the purpose of considering respondent's Petition for Reconsideration.

DATED: December 31, 2015


SUSAN SAYLOR, Registrar/Executive Officer
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation Against:

No. 2014-32

OPTIMAL TERMITE AND PEST
SOLUTIONS, INC.; JASON GRAYDON
ANDERSON, SR., QM

OAH No. 2014040011

Company Registration Certificate No. PR 5272

and

OPTIMAL TERMITE AND PEST
SOLUTIONS, INC.; JASON GRAYDON
ANDERSON, SR.,
Branch Office Supervisor

Branch Office Registration No. BR 5264,

and

JASON GRAYDON ANDERSON, SR.

Operator's License OPR 11840,

Respondents.

DECISION AFTER NON-ADOPTION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on June 17, 2015, in Los Angeles, California. Complainant was represented by Kriththika Vasudevan, Deputy Attorney General. Optimal Termite and Pest Solutions, Inc. (Respondent Optimal), was represented by Jason Graydon Anderson, Sr. (Respondent Anderson).

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on June 17, 2015.

On July 10, 2015, Administrative Law Judge Julie Cabos-Owen issued her proposed decision on the matter. On July 22, 2015, the Structural Pest Control Board (Board) issued its Notice of Non Adoption of the Proposed Decision. On August 21, 2015 the Board issued its Order Fixing Date for Submission of Written Argument. Both parties timely submitted additional written argument. After review of the entire administrative record, including the transcript and written argument, the Board hereby renders and enters this decision in the matter.

FACTUAL FINDINGS.

1. On January 8, 2014, Complainant Susan Saylor filed the Accusation while acting in her official capacity as Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of Consumer Affairs, State of California.

2(a). On April 28, 2009, the Board issued Operator's License No. OPR 11840 in Branch 3 to Respondent Anderson, as an employee of Respondent Optimal. On August 23, 2010, the license was upgraded to include Branch 2. Respondent Anderson's Operator's License is renewed through June 30, 2017.

2(b). On March 14, 2007, the Board issued Company Registration Certificate No. PR 5272, in Branches 2 (general pest) and 3 (termite), to Respondent Optimal, with Respondent Anderson as President and Arthur Washington as Qualifying Manager (QM). On May 7, 2009, Respondent Anderson became the QM for Branch 3. On June 28, 2011, Respondent Anderson became QM of Branch 2.

2(c). On February 8, 2011, Branch Office Registration No. BR 5264 was issued to Respondent Optimal, with Respondent Anderson as Branch Office Supervisor.

3. On February 7, 2013, in the Superior Court of California, County of Los Angeles, Case Number 3CA04624, Respondent Anderson was convicted on his plea of nolo contendere of violating Penal Code section 261.5, subdivision (c)(sexual intercourse with a minor), a misdemeanor.

4. Respondent Anderson was placed on three years' summary probation and ordered to serve 45 days in jail, or in lieu of jail to perform 30 days of community labor. He was also ordered to complete 36 Sexual Compulsive Anonymous meetings (one per week).

5(a). The facts and circumstances surrounding Respondent Anderson's conviction are as follows:

(1). Respondent Anderson met the female victim at church, and they began to contact each other via Facebook. At some point, they agreed that Respondent Anderson would purchase the victim a cellphone in exchange for her engaging in sexual acts with him. In June of 2013, Respondent Anderson picked up the victim from her friend's house and took her to his home, where they engaged in consensual sexual acts, including oral sex and vaginal intercourse. Thereafter, Respondent Anderson took the victim to a Metro PCS store where he gave her money and she purchased a cellular phone. Respondent Anderson was about 38 years old at the time of the crime. The victim's parents later discovered the phone and questioned the victim about it, believing that she had stolen it. She informed them that she had engaged in sexual acts with Respondent Anderson in exchange for the phone.

5(b). In December 2013, the victim's stepfather contacted Respondent Anderson and informed him that the victim was 17 years old. Respondent Anderson later found a

business card from the Los Angeles Police Department left on his doorstep, with a request that he contact them. He called the LAPD and voluntarily scheduled an interview, which he attended on January 9, 2013.

5(c). The police report documenting Respondent Anderson's interview stated that he "admitted to having prior knowledge of the victim being an underage minor." (Exhibit 3, p. DISC-65.) Since the victim's father had informed him earlier, Respondent Anderson did have knowledge of the victim's true age prior to the police interview. The police report was ambiguous regarding whether Respondent Anderson had admitted to having "prior knowledge" of the victim's true age before engaging sexual acts with her or whether he had merely admitted to having "prior knowledge" of her true age before to the police interview.

5(d). At the administrative hearing, Respondent Anderson denied having any knowledge of the victim's true age prior to engaging in sexual acts with her. He testified that a couple of days prior to his crime, he asked her how old she was because he "wanted to make sure." The victim told him she was 18 years old. When asked what prompted him "to make sure" of her age, he replied, "Nothing. She looked very mature at the time." This testimony was insincere, and it was apparent that Respondent Anderson suspected the victim may have been underage but sought some basis for deniability via her untruthful confirmation of her adult status. Respondent Anderson's assertion that he had no idea that she was underage prior to engaging in sexual relations with her was not convincing.¹

5(e). Additionally, regardless of his denial, by way of his plea of nolo contendere to, and conviction of, violating Penal Code section 261.5, subdivision (c), Respondent Anderson is guilty of the crime of sexual intercourse with a minor.²

6. Respondent Anderson's conviction demonstrates his willingness to engage in unlawful behavior, including sexual acts with a minor and the use of money/material goods to entice the minor to engage in those sexual acts. Since licensed operators appear in public and have some contact with members of the public including minors present in and around the homes/buildings being serviced, the operators are expected to comport themselves

¹ Respondent Anderson was also questioned at length about whether he provided alcohol and marijuana to the victim prior to engaging in sexual acts with her. He admitted that he had consumed alcohol and smoked marijuana, but denied that the victim had ingested either at his home. Although the victim's statement to police contradicted Respondent Anderson's direct testimony and admission to police, the victim's statement could not be used to refute Respondent Anderson's assertions. Her statements were admitted only as administrative hearsay to supplement or explain other direct evidence, but were insufficient by themselves to support any finding of fact. (*Lake v. Reed* (1997) 16 Cal.4th 448; Gov. Code, § 11513, subd. (d).)

² (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449 (holding that "[r]egardless of the various motives which may have impelled the plea, the conviction which was based thereon stands as conclusive evidence of appellant's guilt of the offense charged."))

professionally and respectably. The inability to conduct oneself with propriety evidences a present or potential unfitness to perform the functions authorized by a pest control operator's license in a manner consistent with the public health, safety, or welfare. Consequently, Respondent Anderson's conviction is substantially related to the qualifications, functions and duties of a pest control licensee. (Cal. Code Regs., tit.16, §1937.1.)

7. As required by the criminal probation order, Respondent Anderson has completed the community labor and the sexual compulsion meetings.

8. Respondent Anderson is scheduled to remain on criminal probation until February 2016.

9. Respondent Anderson has suffered no prior convictions nor any further convictions since 2013.

10. Despite his implausible denial of suspecting the victim's true age, Respondent Anderson appeared sincere and credible during the remainder of his testimony. He understood the Board's position and its concerns. He admitted that his crime evidenced "very poor judgment on his part." However, he noted that he has been "in and out of [pest control clients'] houses" and has been in contact with their children, but has never "preyed on" or "victimized" any of his customers. Respondent Anderson always strives to conduct himself in a proper manner when dealing with customers and has never had any customer lodge a complaint against him with the Board. He also noted that he was cooperative with police when they requested that he contact them for an interview.

11. Respondent Anderson assured the Board that he is striving to ensure he never makes such "poor decisions again." He denied having any remaining impulse control problems. However, he continues to voluntarily attend sexual compulsion meetings once per week to demonstrate to his wife that he remembers the severity of his crime and how harmful it was to his family.

12. Respondent Anderson recognizes that his conviction can jeopardize his continued licensure and his ability to work. He is trying to provide for his family, and he has four children, ages 17, 15 (twins), and eight.

13(a). Complainant submitted as evidence of the costs of the prosecution of this matter a Certification of Costs and Declaration of Kriththika Vasudevan (Costs Declaration). The Costs Declaration indicated that the Board had been billed \$5,485 for the Attorney General's legal services.

13(b). There was no evidence that any of the costs were unreasonable.

13(c). The evidence established that Complainant incurred total costs of \$5,495, all of which are deemed reasonable.

LEGAL CONCLUSIONS

1(a). Cause exists to revoke or suspend Respondent Anderson's structural pest control operator's license, pursuant to Business and Professions Code sections 8649 and 490, and California Code of Regulations, title 16, section 1937.1, for his criminal conviction, which is substantially related to the duties, qualifications, and functions of a structural pest control licensee, as set forth in Factual Findings 3, 4, 5 and 6.

1(b). Cause exists to revoke or suspend Respondent Optimal's company registration certificate, pursuant to Business and Professions Code section 8624, based on the discipline imposed on Respondent Anderson's operator's license, as set forth in Factual Findings 2, 3, 4, 5 and 6, and Legal Conclusion 1(a).

1(c). Cause exists to revoke or suspend Respondent Optimal's branch office registration, pursuant to Business and Professions Code section 8624, based on the discipline imposed on Respondent Anderson's operator's license, as set forth in Factual Findings 2, 3, 4, 5 and 6, and Legal Conclusion 1(a).

2. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover reasonable costs of prosecution of this matter in the amount of \$5,495, as set forth in Factual Finding 13.

3(a). According to the criteria set forth in California Code of Regulations, title 16, section 1937.2, subdivision (b), Respondent Anderson has established some rehabilitation.³

³ California Code of Regulations, title 16, section 1937.2, subdivision (b), provides:

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.

3(b). Respondent Anderson's crime, although a misdemeanor, is an offense involving a concerning lack of propriety. Pursuant to his criminal probation order, Respondent Anderson has completed community labor and sexual compulsion sessions. His conviction appears to be the sole criminal transgression in an otherwise law abiding life. Furthermore, he cooperated with the police investigation. Additionally, over two years have passed since his conviction, and he has not sustained any further convictions since his criminal conviction. However, rehabilitation is a multi-element process in which one recognizes and accepts his or her responsibility in the misconduct at issue. In addition, rehabilitation would encompass an expression of remorse for the act in question. Last but not least, rehabilitation also would involve demonstrable evidence of a change in conduct over a substantial period of time. In this instance, Respondent Anderson's statement of not knowing the age of the victim reflects an unwillingness to truly accept his responsibility in the matter. Also, while acknowledging that his act was a "poor judgment" on his part, he failed to express remorse for the act itself. His statement that he is in counseling only because of his wife only serves to reinforce that notion. Further, Respondent Anderson did not provide substantial evidence of a change in conduct since the conviction. He did not provide the Board with evidence of attending other counseling sessions on his own initiative or of helping and educating others about the dangers of sexual compulsion problems. The Board particularly is troubled that Respondent Anderson only would attend counseling sessions only to assuage his spouse as opposed to a recognition of his error and the need to reform his conduct. While he has not sustained any further criminal convictions since the conviction at issue, because people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is generally placed on the fact that a person has engaged in good behavior while on probation. (See, *In re Gossage* (2000) 23 Cal.4th 1080.) Respondent Anderson is scheduled to remain on probation for another seven months (until February 2016). Further, only two years have elapsed since his conviction. Thus, insufficient time has passed since the conviction. Consequently, Respondent Anderson has not established rehabilitation outside the constraints of the criminal justice system.

3(c). The serious nature of the act in question and the lack of full rehabilitation mandate that outright revocation be imposed. Structural Pest Control licensees have access to homes and to the members of the public's families. As such, licensees must comport themselves with propriety that would evidence a present or potential unfitness to perform the functions authorized by a pest control operator's license in a manner consistent with the public health, safety, or welfare. Respondent's poor judgment reflects a potential unfitness to perform those functions in a manner that would protect the welfare, safety and health of the public.

Business and Professions Code section 8520.1 states: "Protection of the public shall be the highest priority for the Structural Pest Control Board in exercising its licensing, regulatory, and disciplinary functions. Whenever protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." Given Respondent's failure to show full rehabilitation, it would be inconsistent with the goal of the protection of the public to allow Respondent to keep his license and work in private homes. Since protection of the public is paramount to all other interests, the Board is of the opinion that revocation is necessary to honor that obligation.

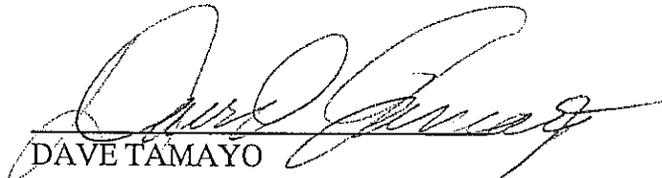
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Operator's License No. OPR 11840, issued to Respondent Anderson, Company
Registration Certificate No. PR 5272, issued to Respondent Optimal, and Branch Office
Registration No. BR 5264 issued to Respondent Optimal, are hereby revoked.

This Decision shall become effective on January 3, 2016.

DATED: December 4, 2015.


DAVE TAMAYO
Structural Pest Control Board President

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
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STATE OF CALIFORNIA

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Branch Office Registration No. BR 5264,

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Operator's License No. OPR 11840

Respondents.

Case No. 2014-32

OAH No.: 2014040011

ORDER FIXING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The transcript of the hearing in the above-entitled matter having now become available, the parties are hereby notified, in accordance with the Order of Non-adoption of Proposed Decision dated August 12, 2015, that any written argument, including any argument as to the sufficiency of the level of discipline to protect the public, that they wish to submit pursuant to said Order shall be filed with the Structural Pest Control Board, 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815, on or before September 16, 2015. Arguments must be limited to the facts presented in the record and no new evidence may be submitted.

It is so ordered this 21st day of August, 2015.


SUSAN SAYLOR, Registrar/Executive Officer
Structural Pest Control Board

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Operator's License No. OPR 11840

Respondents.

Case No. 2014-32

OAH No.: 2014040011

**ORDER OF NON-ADOPTION OF
PROPOSED DECISION**

Pursuant to Section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is not adopted. The Structural Pest Control Board (Board) will decide the case upon the record.

The Board has requested that the transcript be prepared. Once received by the Board, a copy of the transcript will be available to the parties. The Board may require payment of fees covering the direct costs of making the copy.

After the transcript is received, the Board will send notice of the deadline date to file written argument, should the parties wish to do so. The parties may submit argument on any matter, however, the Board is particularly interested in arguments directed to why they think the level of discipline is appropriate. Arguments must be limited to the facts presented in the record and no new evidence may be submitted.

IT IS SO ORDERED this 12th day of August, 2015.


David Tamayo
President Structural Pest Control Board

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STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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No. 2014-32

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JASON GRAYDON ANDERSON, SR.

Operator's License OPR 11840,

Respondents.

PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on June 17, 2015, in Los Angeles, California. Complainant was represented by Kriththika Vasudevan, Deputy Attorney General. Optimal Termite and Pest Solutions, Inc. (Respondent Optimal), was represented by Jason Graydon Anderson, Sr. (Respondent Anderson).

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on June 17, 2015.

FACTUAL FINDINGS.

1. On January 8, 2013, Complainant Susan Saylor filed the Accusation while acting in her official capacity as Interim Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of Consumer Affairs, State of California.

2(a). On April 28, 2009, the Board issued Operator's License No. 11840 in Branch 3 to Respondent Anderson, as an employee of Respondent Optimal. On August 23, 2010, the license was upgraded to include Branch 2. Respondent Anderson's Operator's License is renewed through June 30, 2017.

2(b). On March 14, 2007, the Board issued Company Registration Certificate No. 5272, in Branches 2 (general pest) and 3 (termite), to Respondent Optimal, with Respondent Anderson as President and Arthur Washington as Qualifying Manager (QM). On May 7, 2009, Respondent Anderson became the QM for Branch 3. On June 28, 2011, Respondent Anderson became QM of Branch 2.

2(c). On February 8, 2011, Branch Office Registration No. BR 5264 was issued to Respondent Optimal, with Respondent Anderson as Branch Office Supervisor.

3. On February 7, 2013, in the Superior Court of California, County of Los Angeles, Case Number 3CA04624, Respondent Anderson was convicted on his plea of nolo contendere of violating Penal Code section 261.5, subdivision (c)(sexual intercourse with a minor), a misdemeanor.

4. Respondent Anderson was placed on three years' summary probation and ordered to serve 45 days in jail, or in lieu of jail to perform 30 days of community labor. He was also ordered to complete 36 Sexual Compulsives Anonymous meetings (one per week).

5(a). The facts and circumstances surrounding Respondent Anderson's conviction are as follows:

(1). Respondent Anderson met the female victim at church, and they began to contact each other via Facebook. At some point, they agreed that Respondent Anderson would purchase the victim a cellphone in exchange for her engaging in sexual acts with him. In June of 2013, Respondent Anderson picked up the victim from her friend's house and took her to his home, where they engaged in consensual sexual acts, including oral sex and vaginal intercourse. Thereafter, Respondent Anderson took the victim to a Metro PCS store where he gave her money and she purchased a cellular phone. Respondent Anderson was about 38 years old at the time of the crime. The victim's parents later discovered the phone and questioned the victim about it, believing that she had stolen it. She informed them that she had engaged in sexual acts with Respondent Anderson in exchange for the phone.

5(b). In December 2013, the victim's stepfather contacted Respondent Anderson and informed him that the victim was 17 years old. Respondent Anderson later found a

business card from the Los Angeles Police Department left on his doorstep, with a request that he contact them. He called the LAPD and voluntarily scheduled an interview, which he attended on January 9, 2013.

5(c). The police report documenting Respondent Anderson's interview stated that he "admitted to having prior knowledge of the victim being an underage minor." (Exhibit 3, p. DISC-65.) Since the victim's father had informed him earlier, Respondent Anderson did have knowledge of the victim's true age prior to the police interview. The police report was ambiguous regarding whether Respondent Anderson had admitted to having "prior knowledge" of the victim's true age before engaging sexual acts with her or whether he had merely admitted to having "prior knowledge" of her true age before to the police interview.

5(d). At the administrative hearing, Respondent Anderson denied having any knowledge of the victim's true age prior to engaging in sexual acts with her. He testified that a couple of days prior to his crime, he asked her how old she was because he "wanted to make sure." The victim told him she was 18 years old. When asked what prompted him "to make sure" of her age, he replied, "Nothing. She looked very mature at the time." This testimony was insincere, and it was apparent that Respondent Anderson suspected the victim may have been underage but sought some basis for deniability via her untruthful confirmation of her adult status. Respondent Anderson's assertion that he had no idea that she was underage prior to engaging in sexual relations with her was not convincing.¹

5(e). Additionally, regardless of his denial, by way of his plea of nolo contendere to, and conviction of, violating Penal Code section 261.5, subdivision (c), Respondent Anderson is guilty of the crime of sexual intercourse with a minor.²

6. Respondent Anderson's conviction demonstrates his willingness to engage in unlawful behavior, including sexual acts with a minor and the use of money/material goods to entice the minor to engage in those sexual acts. Since licensed operators appear in public and have some contact with members of the public including minors present in and around the homes/buildings being serviced, the operators are expected to comport themselves

¹ Respondent Anderson was also questioned at length about whether he provided alcohol and marijuana to the victim prior to engaging in sexual acts with her. He admitted that he had consumed alcohol and smoked marijuana, but denied that the victim had ingested either at his home. Although the victim's statement to police contradicted Respondent Anderson's direct testimony and admission to police, the victim's statement could not be used to refute Respondent Anderson's assertions. Her statements were admitted only as administrative hearsay to supplement or explain other direct evidence, but were insufficient by themselves to support any finding of fact. (*Lake v. Reed* (1997) 16 Cal.4th 448; Gov. Code, § 11513, subd. (d).)

² (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449 (holding that "[r]egardless of the various motives which may have impelled the plea, the conviction which was based thereon stands as conclusive evidence of appellant's guilt of the offense charged."))

professionally and respectably. The inability to conduct oneself with propriety evidences a present or potential unfitness to perform the functions authorized by a pest control operator's license in a manner consistent with the public health, safety, or welfare. Consequently, Respondent Anderson's conviction is substantially related to the qualifications, functions and duties of a pest control licensee. (Cal. Code Regs., tit.16, §1937.1.)

7. As required by the criminal probation order, Respondent Anderson has completed the community labor and the sexual compulsion meetings.

8. Respondent Anderson is scheduled to remain on criminal probation until February 2016.

9. Respondent Anderson has suffered no prior convictions nor any further convictions since 2013.

10. Despite his implausible denial of suspecting the victim's true age, Respondent Anderson appeared sincere and credible during the remainder of his testimony. He understood the Board's position and its concerns. He admitted that his crime evidenced "very poor judgment on his part." However, he noted that he has been "in and out of [pest control clients'] houses" and has been in contact with their children, but has never "preyed on" or "victimized" any of his customers. Respondent Anderson always strives to conduct himself in a proper manner when dealing with customers and has never had any customer lodge a complaint against him with the Board. He also noted that he was cooperative with police when they requested that he contact them for an interview.

11. Respondent Anderson assured the Board that he is striving to ensure he never makes such "poor decisions again." He denied having any remaining impulse control problems. However, he continues to voluntarily attend sexual compulsion meetings once per week to demonstrate to his wife that he remembers the severity of his crime and how harmful it was to his family.

12. Respondent Anderson recognizes that his conviction can jeopardize his continued licensure and his ability to work. He is trying to provide for his family, and he has four children, ages 17, 15 (twins), and eight.

13(a). Complainant submitted as evidence of the costs of the prosecution of this matter a Certification of Costs and Declaration of Kriththika Vasudevan (Costs Declaration). The Costs Declaration indicated that the Board had been billed \$5,485 for the Attorney General's legal services.

13(b). There was no evidence that any of the costs were unreasonable.

13(c). The evidence established that Complainant incurred total costs of \$5,495, all of which are deemed reasonable.

LEGAL CONCLUSIONS

1(a). Cause exists to revoke or suspend Respondent Anderson's structural pest control operator's license, pursuant to Business and Professions Code sections 8649 and 490, and California Code of Regulations, title 16, section 1937.1, for his criminal conviction, which is substantially related to the duties, qualifications, and functions of a structural pest control licensee, as set forth in Factual Findings 3, 4, 5 and 6.

1(b). Cause exists to revoke or suspend Respondent Optimal's company registration certificate, pursuant to Business and Professions Code section 8624, based on the discipline imposed on Respondent Anderson's operator's license, as set forth in Factual Findings 2, 3, 4, 5 and 6, and Legal Conclusion 1(a).

1(c). Cause exists to revoke or suspend Respondent Optimal's branch office registration, pursuant to Business and Professions Code section 8624, based on the discipline imposed on Respondent Anderson's operator's license, as set forth in Factual Findings 2, 3, 4, 5 and 6, and Legal Conclusion 1(a).

2. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover reasonable costs of prosecution of this matter in the amount of \$5,495, as set forth in Factual Finding 13.

3(a). According to the criteria set forth in California Code of Regulations, title 16, section 1937.2, subdivision (b), Respondent Anderson has established some rehabilitation.³

³ California Code of Regulations, title 16, section 1937.2, subdivision (b), provides:

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.

3(b). Respondent Anderson's crime, although a misdemeanor, is an offense involving a concerning lack of propriety. Pursuant to his criminal probation order, Respondent Anderson has completed community labor and sexual compulsion sessions. Additionally, over two years have passed since his conviction, and he has not sustained any further convictions. However, since people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is generally placed on the fact that a person has engaged in good behavior while on probation. (See, *In re Gossage* (2000) 23 Cal.4th 1080.) Respondent Anderson is scheduled to remain on probation for another seven months (until February 2016). Consequently, Respondent Anderson has not established rehabilitation outside the constraints of the criminal justice system. Nevertheless, Respondent Anderson's conviction appears to be the sole criminal transgression in an otherwise law-abiding life. Furthermore, he cooperated with the police investigation and has voluntarily continued his sexual compulsion sessions in an effort to avoid recidivism.

3(c). Given the totality of the evidence, outright revocation would be unduly harsh. However, a period of probation is warranted in order to ensure compliance with the law for a period of time after Respondent Anderson is released from criminal probation. Therefore, the order that follows is necessary for protection of the public.

ORDER

WHEREFORE, THE FOLLOWING ORDERS are hereby made:

Operator's License No. 11840, issued to Respondent Anderson, Company Registration Certificate No. 5272, issued to Respondent Optimal, and Branch Office Registration No. BR 5264 issued to Respondent Optimal, are hereby revoked. However, the revocations shall be stayed, and Respondents' licenses shall be placed on probation for three years on the following terms and conditions:

(1) Obey All Laws

Respondents shall obey all laws and rules relating to the practice of structural pest control.

(2) Quarterly Reports

Respondents shall file quarterly reports with the Board during the period of probation.

(3) Tolling of Probation

Should Respondent Anderson leave California to reside outside this state, Respondent Anderson must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

(4) Notice to Employers

Respondent Anderson shall notify all present and prospective employers of the Decision in this Case No. 2014-32 (OAH No. 2014040011) and the terms, conditions and restrictions imposed on Respondent Anderson by the Decision. Within 30 days of the effective date of this Decision, and within 15 days of Respondent Anderson undertaking new employment, Respondent Anderson shall cause his employer to report to the Board in writing acknowledging the employer has read the Decision in Case No. 2014-32 (OAH No. 2014040011).

(5) Payment of Costs

Within 90 days of the effective date of this Decision, Respondents shall, jointly and severally, reimburse the Board the sum of \$5,495 for its costs of prosecution. However, Respondents may make payments in installments upon written request to, and written approval by, the Board. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

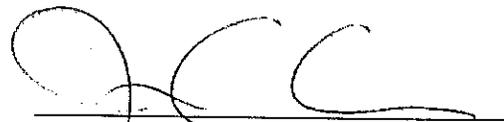
(6) Violation of Probation

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

(8) Completion of Probation

Upon successful completion of probation, Respondents' licenses will be fully restored.

DATED: July 10, 2015



JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings