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FILED

Date 10/10/14 By *Susan Saylor*

7 *Attorneys for Complainant*

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

11 In the Matter of the Second Amended
Accusation Against:
12 **QUALITY RODENTS & PEST CONTROL;**
ELPIDIO MARTINEZ ZAMORA
13 1975 Idaho Drive
Ventura, CA 93003
14 Company Registration Certificate No. PR 6943,
15 **and**
16 **ELPIDIO MARTINEZ ZAMORA**
2180 Wankel Way, Apt # 2100
17 Oxnard, CA 93030
Operator's License No. OPR 11405
18
19 Respondent.

Case No. 2014-55
SECOND AMENDED ACCUSATION

20 Complainant alleges:

21 **PARTIES**

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

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1 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
2 penalty.

3 9. Section 8624 states:

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

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

10 The performance by any partnership, corporation, firm, association, or
11 registered company of any act or omission constituting a cause for disciplinary
12 action, likewise constitutes a cause for disciplinary action against any licensee who,
13 at the time the act or omission occurred, was the qualifying manager, a partner,
14 responsible officer, or owner of the partnership, corporation, firm, association, or
15 registered company whether or not he or she had knowledge of, or participated in, the
16 prohibited act or omission.

17 10. Section 8625 states:

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

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

26 12. Section 8649 states:

27 Conviction of a crime substantially related to the qualifications,
28 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.

13. Section 8654 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

1 of the prohibited acts for which the license or registration was denied, suspended or
2 revoked, shall be prohibited from serving as an officer, director, associate, partner,
3 qualifying manager, or responsible managing employee of a registered company, and
4 the employment, election or association of such person by a registered company is a
5 ground for disciplinary action.

6 14. Section 8655 states:

7 A plea or verdict of guilty or a conviction following a plea of nolo
8 contendere made to a charge substantially related to the qualifications, functions, and
9 duties of a structural pest control operator, field representative, applicator, or
10 registered company is deemed to be a conviction within the meaning of this article or
11 Section 8568 of this chapter. The board may order the license or registration
12 suspended or revoked, or may decline to issue a license, when the time for appeal has
13 elapsed, or the judgment of conviction has been affirmed on appeal or when an order
14 granting probation is made suspending the imposition of sentence, irrespective of a
15 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
16 the individual or registered company to withdraw a plea of guilty and to enter a plea
17 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
18 information or indictment.

19 REGULATORY PROVISIONS

20 15. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

21 For the purposes of denial, suspension or revocation of a license or
22 company registration pursuant to Division 1.5 (commencing with Section 475), a
23 crime or act shall be considered to be substantially related to the qualifications,
24 functions or duties of a licensee or registered company under Chapter 14 of Division
25 3 of the code if to a substantial degree it evidences present or potential unfitness of
26 such licensee or registered company to perform the functions authorized by the
27 license or company registration in a manner consistent with the public health, safety,
28 or welfare.

1 COST RECOVERY

2 16. Section 125.3 states, in pertinent part, that a Board may request the administrative
3 law judge to direct a licentiate found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction of Substantially Related Crimes)

8 17. Respondent is subject to disciplinary action under sections 8649 and 8655, in
9 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has
10 been convicted of crimes substantially related to the qualifications, functions or duties of a
11 licensed operator, as follows:

1 a. On or about August 20, 2014, after pleading guilty, Respondent was convicted of one
2 misdemeanor count of violating Vehicle Code section 14601.2, subdivision (a) [driving while
3 driving privileges are suspended or revoked as a result of, and with knowledge of, a conviction
4 for violating Vehicle Code Section 23152 or 23153] in the criminal proceeding entitled *The*
5 *People of the State of California v. Elpidio Zamora* (Ventura Superior Court, Case No.
6 2014004416.) The Court placed Respondent on thirty six months probation. The circumstances
7 are that on or about January 28, 2014, Respondent was stopped by the Ventura County Sheriff's
8 Department after Respondent drove his vehicle over a dividing section of the highway. A records
9 check revealed that Respondent was driving with a suspended license.

10 b. On or about June 19, 2014, after pleading no contest, Respondent was convicted of
11 one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
12 having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The*
13 *People of the State of California v. Elpidio Zamora* (Los Angeles Superior Court, Case No.
14 4MP00111). The Court sentenced Respondent to serve forty-five (45) days in Los Angeles
15 County Jail and placed him on five years formal probation, with payment of restitution and
16 penalties, and other terms and conditions. The court ordered that Respondent install an ignition
17 interlock device on all vehicles he owns and/or operates. The court also ordered Respondent to
18 enroll and complete an eighteen month second offender alcohol and other drug education and
19 counseling program. The circumstances surrounding the conviction are that on or about
20 December 26, 2013, Respondent drove a vehicle while having 0.08% or more of alcohol in his
21 blood.

22 c. On or about September 30, 2013, after pleading guilty, Respondent was convicted of
23 one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) [driving without
24 a license] in the criminal proceeding entitled *The People of the State of California v. Elpidio*
25 *Martinez Zamora* (Ventura County Superior Court, Case No. 2013027111). The Court ordered
26 Respondent to pay a fine. The circumstances surrounding the conviction are that on or about
27 August 17, 2013, the Ventura Police Department responded to a traffic collision report. When
28 the officer contacted Respondent and requested his driver's license, Respondent stated he did not

1 have a driver's license. A records check revealed that Respondent was driving with a suspended
2 license and had knowledge of it being suspended. Respondent was cited, given a court date, and
3 released. On September 23, 2013, the Ventura County Sheriff's Department arrested Respondent
4 on a warrant issued as a result of Respondent's failure to appear at the arraignment hearing on
5 September 17, 2013. Respondent was ordered discharged from custody on September 24, 2013.

6 d. On or about July 19, 2013, after pleading nolo contendere, Respondent was convicted
7 of (1) one misdemeanor count of violating Penal code section 484, subdivision (a) [petty theft];
8 (2) one misdemeanor count of Vehicle Code section 20002, subdivision (a) [hit and run: property
9 damage]; (3) one misdemeanor count of Vehicle Code section 23152, subdivision (a) [driving
10 under the influence of alcohol or drugs]; (4) one misdemeanor count of Vehicle Code section
11 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood]
12 and; (5) one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a)
13 [driving while driving privileges are suspended or revoked with knowledge] in the criminal
14 proceeding entitled *The People of the State of California v. Elpidio Martinez Zamora* (Ventura
15 County Superior Court, No. 2013013519). The Court sentenced Respondent to serve 10 days in
16 Ventura County Jail and placed him on 36 months probation, with terms and conditions. The
17 circumstances surrounding the conviction are that on or about April 27, 2013, Respondent took
18 boxes of fruit from a man selling them out of his vehicle in the parking lot of a business.
19 Respondent advised the vendor that he was going into the business to get change in order to pay
20 for the fruit. However, when Respondent exited the business, he got into his vehicle, backed out
21 of the parking stall hitting the car parked behind him, and then he then pulled forward and side
22 swiped the vendor as he drove away from the parking lot. The Oxnard Police Officers were
23 called to the scene. While at the scene, officers were watching the video the vendor had capture
24 on his cell phone when they observed Respondent, who was the same driver on the video, slowly
25 drive by and glance towards the parking lot. Respondent was subsequently arrested. Respondent
26 displayed symptoms consistent with alcohol intoxication. He had slurred speech, red, watery
27 eyes and an odor of alcohol on his breath. During the booking procedure, Respondent submitted
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1 to a breath test that resulted in a breath-alcohol content level of 0.11% on the first reading and
2 0.10% on the second.

3 e. On or about August 21, 2000, after being found guilty by the Court, Respondent was
4 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
5 [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal
6 proceeding entitled *The People of the State of California v. Elpidio Martinez Zamora* (Ventura
7 County Superior Court, Case No. 99S004345). The Court sentenced Respondent to serve two
8 days in Ventura County Jail and placed him on three years formal probation, with terms and
9 conditions. The circumstances surrounding the conviction are that on or about December 15,
10 1999, Respondent drove a vehicle while having 0.08% or more of alcohol in his blood.

11 f. On or about May 8, 2000, after being found guilty by the Court, Respondent was
12 convicted of one misdemeanor count of violating Vehicle Code section 14601.5, subdivision (a)
13 [driving while driving privileges are suspended or revoked] in the criminal proceeding entitled
14 *The People of the State of California v. Elpidio Martinez Zamora* (Ventura County Superior
15 Court, Case No. 00M019671). The Court placed Respondent on 36 months probation, with terms
16 and conditions. The circumstances surrounding the conviction are that on or about February 7,
17 2000, Respondent drove a vehicle while knowing that his driving privileges were suspended.

18 g. On or about June 18, 1998, after pleading nolo contendere, Respondent was convicted
19 of one misdemeanor count of violating Penal Code section 532 subdivision (a)(1) [false pretense]
20 in the criminal proceeding entitled *The People of the State of California v. Elpidio Martinez*
21 *Zamora* (Ventura County Superior Court, Case No. 98C003646). The Court sentenced
22 Respondent to serve 10 days in Ventura County Jail and placed him on 36 months probation, with
23 terms and conditions. The circumstances surrounding the conviction are that on or about
24 November 8, 1997, Respondent presented a false social security number at a dealership in order
25 to purchase a new car. On or about January 14, 1998, during an investigation by the Simi Valley
26 Police Department, Respondent admitted to using a false social security number at the dealership
27 because he was desperate to buy a new vehicle and his real social security number would show he
28 had poor credit. Respondent was subsequently arrested.

1 h. On or about August 21, 1990, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Penal Code section 166.4 [failed to obey court
3 order] in the criminal proceeding entitled *The People of the State of California v. Elpidio*
4 *Martinez Zamora* (Ventura County Superior Court, Case No. 90C003870). The circumstances
5 surrounding the conviction are that on or about August 1, 1989, Respondent failed to obey a court
6 order.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Misrepresentation to Licensing Authority)**

9 18. Respondent's application is subject to disciplinary action under section 8637, in that
10 Respondent misrepresented to the Board that he had not been convicted of a crime. On or about
11 November 4, 2013, Respondent applied for a Company Registration Certificate to the Board.
12 Respondent checked "No," to question No. 11, in the application, which asked if he had ever
13 been convicted of a criminal offense. Complainant refers to, and by this reference incorporates,
14 the allegations set forth above in paragraph 14, subparagraphs c through h, as though set forth
15 fully.

16 **OTHER MATTERS**

17 19. Pursuant to section 8624, if Operator's License No. OPR 11405 issued to Respondent
18 is suspended or revoked, the Board may suspend or revoke Company Registration Certificate No.
19 PR 6943, issued to Quality Rodents & Pest Control with Elpidio Martinez Zamora as owner.

20 20. Pursuant to section 8654, if discipline is imposed on Operator's License No. OPR
21 11405 issued to respondent, respondent shall be prohibited from serving as an officer, director,
22 associate, partner, qualifying manager, or responsible managing employee for any registered
23 company during the time the discipline is imposed, and any registered company which employs,
24 elects, or associates respondent shall be subject to disciplinary action.

25 21. Section 8620 provides, in pertinent part, that a respondent may request that a civil
26 penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not
27 more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the
28

1 time of the hearing and must be noted in the proposed decision. The proposed decision shall not
2 provide that a civil penalty shall be imposed in lieu of a suspension.

3 **PRAYER**

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

6 1. Revoking or suspending Company Registration Certificate No. PR 6943, issued to
7 Quality Rodents & Pest Control; Elpidio Martinez Zamora;

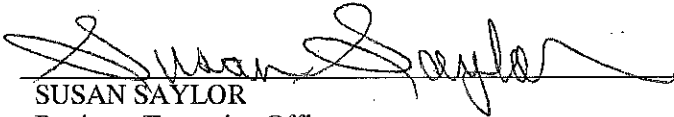
8 2. Revoking or suspending Operator's License No. OPR 11405, issued to Elpidio
9 Martinez Zamora;

10 3. Prohibiting Elpidio Martinez Zamora from serving as an officer, director, associate,
11 partner, qualifying manager or responsible managing employee of any registered company during
12 the period that discipline is imposed on Operator License No. OPR 11405, issued to Elpidio
13 Martinez Zamora.

14 4. Ordering Elpidio Martinez Zamora to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to section 125.3; and

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

17 DATED: 10/10/14

18 
19 SUSAN SAYLOR
20 Registrar/Executive Officer
21 Structural Pest Control Board
22 Department of Consumer Affairs
23 State of California
24 Complainant

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