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FILED
Date 1/27/14 By Susan Saylor

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

In the Matter of the Accusation Against: **SELECT PEST CONTROL** **SOREN AXEL HOY, President** **1368 Lincoln Avenue, Suite 201** **San Rafael, CA 94901** **P.O. Box 150695** **San Rafael, CA 94915-0695** **Operator License No. OPR 6525** **Company Registration Certificate No. PR 170** Respondent.	Case No. 2014-36 **ACCUSATION**

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 ("Board"), Department of Consumer Affairs.

2. On or about September 12, 1981, the Structural Pest Control Board issued Operator License Number OPR 6525 to Soren Axel Hoy (Respondent). On March 16, 1982, Operator's License No. OPR 6525 was changed to President and Responsible Natural Person of Select Business Investment, Inc., DBA Select Pest Control. The license will expire on June 30, 2014,

unless renewed.

3. On or about February 3, 1987, the Structural Pest Control Board issued Company Registration Certificate Number PR 170 to Select Pest Control, Soren Axel Hoy, Owner (Respondent).

JURISDICTION

4. This Accusation is brought before the Structural Pest Control Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions 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 8652 of the Code states:

"Failure of a registered company to make and keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the executive officer of the board or his or her duly authorized representative during business hours."

8. Section 8650, subdivision (b) of the Code states, in pertinent part:

"Acting in the capacity of a licensee of registered company under any of the licenses or

registration issued hereunder except at the address and location or place or places of business as licensed or registered or as later changed as provided in this chapter is a ground for disciplinary action."

COST RECOVERY

9. 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.

FACTS

10. On or about September 21, 2011, a Board representative went to Respondent's address of record, which consisted of a multiple unit commercial building with many office suites and businesses. Respondent failed to list a suite number for his business on his address of record. Respondent's suite was not listed in the building directory. A business owner informed the Board's representative that Respondent's suite was directly above his business. The suite was vacant. Respondent advertised by using a post office box number as his business address.

On or about April 8, 2013, a Board representative went to Respondent's address of record as set forth above. Respondent had not listed a suite number for his business on his address of record. The business directory listed Respondent's suite number as "Suite 201 – Select Pest Control." The Board representative went to the same vacant suite as described above, and noted that there was no suite number on the door.

11. In early June, 2011, the Department of Pesticide Regulation's ("DPR") Northern Enforcement Branch, informed the Board's representative that Respondent had failed to comply with Marin County's Department of Agriculture's request to allow an inspection of its records. DPR informed the Board's representative that Respondent had become "defiant" and physically aggressive in his response to any enforcement inspections or requests from DPR or Marin County.

On December 13, 2011, the Board's representative approached Respondent at his address of

record and the representative informed Respondent that he was there to perform an inspection of his records and business activities. Respondent refused to allow the Board's representative to conduct an inspection and told him that he had to make an appointment. The Board's representative attempted to look into the office to see if Respondent's licenses were posted. Respondent physically blocked the Board's representative from entering the office and told him to stay out.

The Board's representative returned on December 14, 2011, and Respondent allowed him to enter the suite. Respondent refused to show where his licenses were displayed, refused to provide insurance and bond information, or other documents. Respondent became very aggressive and ordered the Board's representative to leave. Respondent slammed the door as the Board's representative left the suite, nearly striking him in the head with the door.

On or about April 17, 2013, the Board representative and two Investigators from the Division of Investigations attempted to perform an inspection of Respondent's records at his address of records. Respondent refused to allow an inspection and said that an appointment must first be made. The Board representative attempted to explain the consequences of not allowing an inspection and Respondent shouted for them to leave his property or he would call the police. The investigators showed their badges, which identified them as law enforcement officers. Both Respondent and the investigator contacted the local police department. Two San Rafael Police Department officers responded. The Board representative issued Respondent a Notice of Violation for failure to allow an inspection or to make business records available.

FIRST CAUSE FOR DISCIPLINE

(Failure to Make Records Available to Board)

12. Respondent has subjected his license to disciplinary action under Code section 8652, in that he failed to allow the Board representative to conduct an inspection or review his business records, as set forth in paragraph 11, above.

SECOND CAUSE FOR DISCIPLINE

(Address of Record)

13. Respondent has subjected his license to disciplinary action under Code section 8650, in

that he failed to provide his address of record to include his suite number, as set forth in paragraph 10, above.

DISCIPLINE CONSIDERATIONS

14. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges the following:

A. On or about December 11, 2012, in a prior action, the Structural Pest Control Board issued Citation Number CF 13-61, for violation of Code section 8652, and ordered Respondent to pay a fine in the amount of $1,500.00. The payment was due on January 12, 2013. The payment was received by the Board (ten months later) on November 13, 2013. That Citation is now final and is incorporated by reference as if fully set forth.

B. On or about May 16, 2002, the Marin County Agricultural Commission levied a fine against Respondent in the amount of $500.00, for violation of Food and Agricultural Code section 12973.

PRAYER

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

1. Revoking or suspending Operator License Number OPR 6525, issued to Soren Axel Hoy;

2. Revoking or suspending Company Registration Certificate Number PR 170, issued to Select Pest Control; Soren Axel Hoy;

3. Ordering Soren Axel Hoy 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;

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

DATED: 1/27/14

SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
Complainant