

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED

Date 10/9/13 By *Susan Saylor*

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

12 In the Matter of the Accusation Against:

Case No. 2014-24

13 **MARK STEVEN PATERSON**
14 **P.O. Box 880**
Parker, AZ 85344

ACCUSATION

15 **Operator's License No. OPR 11082,**

16 **and**

17 **POINTMAN PEST CONTROL**
18 **P.O. Box 968**
Parker, AZ 85344

19 **Company Registration Certificate**
20 **No. PR 4808**

21 Respondents.

22
23 Complainant alleges:

24 **PARTIES**

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

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1 2. On or about April 25, 2005, the Structural Pest Control Board issued Operator's
2 License Number OPR 11082 in Branch 2 and 3 to Mark Steven Paterson (Respondent). The
3 Operator's License expired on June 30, 2013, and has not been renewed.

4 3. On or about July 1, 2005, the Structural Pest Control Board issued Company
5 Registration Certificate Number PR 4808 in Branch 2 and 3 to Pointman Pest Control, with Mark
6 Steven Paterson as the Owner and Qualifying Manager (Respondent). The Company Registration
7 Certificate expired on June 30, 2013, suspended on July 9, 2013, for failure to maintain a surety
8 bond, and suspended on July 23, 2013 for failure to maintain general liability insurance.

9 **JURISDICTION**

10 4. This Accusation is brought before the Structural Pest Control Board (Board),
11 Department of Consumer Affairs, under the authority of the following laws. All section
12 references are to the Business and Professions Code (Code) unless otherwise indicated.

13 5. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or
14 revoke a license when it finds that the holder, while a licensee or applicant, has committed any
15 acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a
16 civil penalty.

17 6. Section 8625 of the Code states:

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

22 **STATUTORY PROVISIONS**

23 7. Section 482 of the Code states:

24 Each board under the provisions of this code shall develop criteria to evaluate
25 the rehabilitation of a person when:

- 26 (a) Considering the denial of a license by the board under Section 480; or
27 (b) Considering suspension or revocation of a license under Section 490.

28 Each board shall take into account all competent evidence of rehabilitation
 furnished by the applicant or licensee.

1 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime substantially
3 related to the qualifications, functions, or duties of the business or profession for which the
4 license was issued.

5 9. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or to
8 suspend or revoke a license or otherwise take disciplinary action against a person who
9 holds a license, upon the ground that the applicant or the licensee has been convicted
10 of a crime substantially related to the qualifications, functions, and duties of the
11 licensee in question, the record of conviction of the crime shall be conclusive
12 evidence of the fact that the conviction occurred, but only of that fact, and the board
13 may inquire into the circumstances surrounding the commission of the crime in order
14 to fix the degree of discipline or to determine if the conviction is substantially related
15 to the qualifications, functions, and duties of the licensee in question.

16 As used in this section, "license" includes "certificate," "permit," "authority,"
17 and "registration."

18 10. Section 8624 of the Code states:

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

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

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

 11. Section 8649 of the Code states:

 Conviction of a crime substantially related to the qualifications, 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.

 12. Section 8654 of the Code 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

1 suspension, or who has been a member, officer, director, associate, qualifying
2 manager, or responsible managing employee of any partnership, corporation, firm, or
3 association whose application for a company registration has been denied for any of
4 the reasons specified in Section 8568, or whose company registration has been
5 revoked as a result of disciplinary action, or whose company registration is under
6 suspension, and while acting as such member, officer, director, associate, qualifying
7 manager, or responsible managing employee had knowledge of or participated in any
8 of the prohibited acts for which the license or registration was denied, suspended or
9 revoked, shall be prohibited from serving as an officer, director, associate, partner,
10 qualifying manager, or responsible managing employee of a registered company, and
11 the employment, election or association of such person by a registered company is a
12 ground for disciplinary action.

13 13. Section 8655 of the Code states:

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

26 REGULATORY PROVISIONS

27 14. California Code of Regulations, title 16, section 1937.1 states:

28 For the purposes of denial, suspension or revocation of a license or company
registration pursuant to Division 1.5 (commencing with Section 475) of the code, a
crime or act shall be considered to be substantially related to the qualifications,
functions or duties of a licensee or registered company under Chapter 14 of Division
3 of the code if to a substantial degree it evidences present or potential unfitness of
such licensee or registered company to perform the functions authorized by the
license or company registration in a manner consistent with the public health, safety,
or welfare. Such crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

(b) Commission of any of the following in connection with the practice of
structural pest control:

(1) Fiscal dishonesty

(2) Fraud

(3) Theft

(4) Violations relating to the misuse of pesticides.

1 15. California Code of Regulations, title 16, section 1937.2 states:

2

3 (b) When considering the suspension or revocation of a structural pest control
4 license or company registration on the grounds that the licensee or registered
5 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:

6 (1) Nature and severity of the act(s) or offense(s).

7 (2) Total criminal record.

8 (3) The time that has elapsed since commission of the act(s) or offense(s).

9 (4) Whether the licensee or registered company has complied with any terms of
10 parole, probation, restitution or any other sanctions lawfully imposed against the
licensee or registered company.

11 (5) If applicable, evidence of expungement proceedings pursuant to Section
12 1203.4 of the Penal Code.

13 (6) Evidence, if any of rehabilitation submitted by the licensee or registered
14 company.

14

15 **COST RECOVERY**

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

22 **CAUSE FOR DISCIPLINE**

23 **(November 8, 2012 Criminal Conviction for Possession of Controlled Substances**

24 **While Armed on October 24, 2012)**

25 17. Respondent has subjected his Operator's License and Registration Certificate to
26 disciplinary action under sections 490 and 8649 of the Code in that he was convicted of a crime
27 that is substantially related to the qualifications, functions, and duties of a licensee. The
28 circumstances are as follows:

1 a. On or about November 8, 2012, in a criminal proceeding entitled *People of*
2 *the State of California v. Mark Steven Paterson*, in Riverside County Superior Court, case number
3 BLF1200278, Respondent was convicted on his plea of guilty of violating Health and Safety
4 Code section 11370.1, possession of a controlled substance while armed, a felony. As a result of
5 a plea agreement, the court dismissed additional felony counts of violating Health and Safety
6 Code section 11379, subdivision (a), import/sale/distribution of a controlled substance, and
7 Health and Safety Code section 11550, subdivision (e), under the influence of a controlled
8 substance while armed.

9 b. As a result of the conviction, on or about November 8, 2012, Respondent
10 was committed to the custody of the sheriff for 90 days, and granted formal probation for 36
11 months. Respondent was further ordered to abstain from the use and possession of controlled
12 substances, refrain from associating with known controlled substance users/possessors or those on
13 probation or parole, submit to chemical testing, submit to a Fourth Amendment waiver, register as
14 a drug offender, complete a drug treatment program, pay fines, fees, and restitution, and comply
15 with felony probation terms.

16 c. The facts that led to the conviction are that on or about the afternoon of
17 October 24, 2012, during a routine patrol, a Blythe Police Department officer observed a vehicle,
18 driven by Respondent, with an expired registration. After conducting a traffic stop, the officer
19 made contact with Respondent and learned that his driver's license was suspended for not having
20 mandatory liability insurance. After Respondent exited his vehicle, the officer observed blood on
21 Respondent's arm. Respondent reached into his back pocket and attempted to conceal something
22 in his fist. After several attempts, the officer was able to get Respondent to release the contents
23 of his fist, which was a piece of plastic containing methamphetamine. Respondent was arrested.
24 During a search of Respondent's vehicle, officers located a loaded .45 caliber pistol, with one
25 round in the chamber in a black bag behind the passenger seat. There was also a magazine loaded
26 with .22 caliber rounds in the backseat, and additional rounds in the front center console.
27 Respondent provided a blood sample during booking which subsequently tested positive for
28 amphetamines.

1 **OTHER MATTERS**

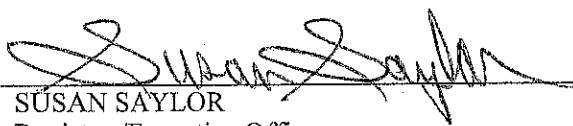
2 18. Pursuant to section 8654 of the Code, if discipline is imposed on Operator's License
3 No. OPR 11082 issued to Mark Steven Paterson, and/or Company Registration Certificate No. PR
4 4808 issued to Pointman Pest Control, with Mark Steven Paterson as the Owner and Qualifying
5 Manager, Mark Steven Paterson shall be prohibited from serving as an officer, director, associate,
6 partner, qualifying manager, or responsible managing employee for any registered company
7 during the time the discipline is imposed, and any registered company which employs, elects, or
8 associates Mark Steven Paterson shall be subject to disciplinary action.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Structural Pest Control Board issue a decision:

- 12 1. Revoking or suspending Operator's License Number OPR 11082, issued to Mark
13 Steven Paterson;
- 14 2. Revoking or suspending Company Registration Certificate Number PR 4808, issued
15 to Pointman Pest Control; with Mark Steven Paterson as the Owner and Qualifying Manager;
- 16 3. Ordering Mark Steven Paterson and/or Pointman Pest Control to pay the Structural
17 Pest Control Board the reasonable costs of the investigation and enforcement of this case,
18 pursuant to Business and Professions Code section 125.3;
- 19 4. Taking such other and further action as deemed necessary and proper.
- 20
21

22 DATED: 10/9/13

23 

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

SD2013705904