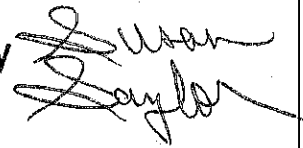


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FILED

Date 6/19/13 By 

9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2013-49

13 **JAMES EDWARD THORNTON**
14 **PAY IT FORWARD PEST CONTROL**
15 **5661 Chadbourne Avenue**
Riverside, CA 92505

A C C U S A T I O N

16 **Operator's License No. OPR 11803**
17 **Company Registration Certificate**
18 **No. PR 5899**

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
22 the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of
23 Pesticide Regulation.

24 2. On or about January 23, 2009, the Structural Pest Control Board issued Operator's
25 License Number OPR 11803, in Branch 2, to James Edward Thornton (Respondent), Owner and
26 Qualifying Manager of Pay it Forward Pest Control. The Operator's License was in full force and
27 effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless
28 renewed.

1 3. On or about August 11, 2009, the Structural Pest Control Board issued Company
2 Registration Certificate Number PR 5899, in Branch 2, to Pay it Forward Pest Control with James
3 Edward Thornton (Respondent) as Owner and Qualifying Manager. The Company Registration
4 Certificate was in full force and effect at all times relevant to the charges brought herein.

5 JURISDICTION

6 4. This Accusation is brought before the Structural Pest Control Board (Board),
7 Department of Pesticide Regulation, under the authority of the following laws. All section
8 references are to the Business and Professions Code (Code) unless otherwise indicated.

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

13 6. Section 8625 of the Code states:

14 The lapsing or suspension of a license or company registration by operation of
15 law or by order or decision of the board or a court of law, or the voluntary surrender
16 of a license or company registration shall not deprive the board of jurisdiction to
17 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.

18 STATUTORY PROVISIONS

19 7. Section 482 of the Code states:

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

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

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

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

1 9. Section 493 of the Code states:

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

12 As used in this section, "license" includes "certificate," "permit," "authority,"
13 and "registration."

14 10. Section 8624 of the Code states:

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

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

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

28 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
 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
 of the prohibited acts for which the license or registration was denied, suspended or

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

5 13. Section 8655 of the Code states:

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

18 REGULATORY PROVISIONS

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

20 For the purposes of denial, suspension or revocation of a license or company
21 registration pursuant to Division 1.5 (commencing with Section 475) of the code, a
22 crime or act shall be considered to be substantially related to the qualifications,
23 functions or duties of a licensee or registered company under Chapter 14 of Division
24 3 of the code if to a substantial degree it evidences present or potential unfitness of
25 such licensee or registered company to perform the functions authorized by the
26 license or company registration in a manner consistent with the public health, safety,
27 or welfare. Such crimes or acts shall include, but not be limited to, the following:

28 (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.

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

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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
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 **FIRST CAUSE FOR DISCIPLINE**

23 **(February 21, 2013 Criminal Conviction for**

24 **Possession of Stolen Property on August 23, 2010)**

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

28 ///

1 a. On or about February 21, 2013, in a criminal proceeding entitled *People of*
2 *the State of California v. James Edward Thornton, aka James E. Thornton*, in Riverside County
3 Superior Court, case number RIF1203930, Respondent was convicted on his plea of guilty of
4 violating Penal Code section 496, subdivision (a), possession of stolen property, a felony. The
5 court dismissed two additional counts of violating Penal Code section 496, subdivision (a),
6 pursuant to a plea agreement.

7 b. As a result of the conviction, on or about March 4, 2013, Respondent was
8 sentenced to the midterm of eight months in state prison, with credit for 169 days, to run
9 consecutively to the time to be served in case number RIF1205987, described in paragraph 18,
10 below. Respondent was also ordered to pay fines, fees, and restitution to the victim in the amount
11 of \$35,000.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(February 21, 2013 Criminal Convictions for First Degree Burglary on August 8, 2012** 14 **& Transportation of Methamphetamine for Sale on August 21, 2012)**

15 18. Respondent has subjected his license and certificate to disciplinary action under
16 sections 490 and 8649 of the Code in that he was convicted of crimes that are substantially related
17 to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

18 a. On or about February 21, 2013, in a criminal proceeding entitled *People of*
19 *the State of California v. James E. Thornton, aka James Edward Thornton*, in Riverside County
20 Superior Court, case number RIF1205987, Respondent was convicted on his plea of guilty of
21 violating Penal Code section 459, subdivision (a), burglary of an inhabited dwelling (Count 1);
22 and Health and Safety Code section 11379, subdivision (a), transportation of methamphetamine
23 (Count 2), felonies. The court found true as to Count 1 that Respondent committed the offense
24 while released from custody on bail, within the meaning of Penal Code section 12022.1. The
25 court dismissed an additional count of violating Health and Safety Code section 11357,
26 subdivision (c), possession of more than 28.5 grams of marijuana, pursuant to a plea agreement.

27 b. As a result of the convictions, on or about March 4, 2013, as to Count 1,
28 the court imposed the midterm sentence of four years in state prison. The court imposed an

1 additional term of two years for the enhancement. As to Count 2, the court imposed one-third of
2 the midterm sentence of three years for a total of one year in state prison. All terms imposed
3 were ordered to run consecutively, for a total term of seven years in state prison. Respondent's
4 sentence was to run consecutively to the time to be served in case number case number
5 RIF1203930, described in paragraph 17, above.

6 c. The circumstances that led to the convictions are that on or about the
7 afternoon of August 5, 2012, a resident of Corona contacted the Corona Police Department to
8 report that he had confronted a male (later identified as Respondent) who was about to break into
9 his residence. Respondent left the scene, but the resident was able to obtain the license plate
10 number of his vehicle. Officers were able to trace the license plate to a rental car agency, which
11 provided them with Respondent's name and contact information. The resident positively
12 identified Respondent from a photo array. The officers attempted to make contact with
13 Respondent at his residence, but were unsuccessful. On August 8, 2012, the Corona Police
14 Department responded to a call of a burglary in progress. Officers canvassed the area to locate
15 the vehicle and suspect described in the burglary, which matched Respondent, but were
16 unsuccessful. The victim told officers that he had returned home after running errands. Upon
17 arrival at his home, he saw Respondent's vehicle parked in his driveway. Not recognizing the
18 vehicle, he parked behind it blocking its escape. As the victim was exiting his vehicle,
19 Respondent emerged from the backyard carrying a white box. As the victim called 9-1-1,
20 Respondent jumped in his vehicle and drove over the victim's lawn to get away. The victim
21 surveyed his residence, and then discovered that Respondent had burglarized his guest house.
22 Electronic equipment had been staged on top of trash cans near the gate to the backyard. The
23 victim positively identified Respondent from a photo array. A warrant was issued for
24 Respondent's arrest.

25 d. On or about August 21, 2012, the Corona Police Department was informed
26 by an anonymous party that Respondent was at his residence. Officers converged on the
27 residence, but learned that Respondent had been stopped by the Riverside Police Department a
28 few blocks away. Respondent was taken to his residence and denied consent to search. While a

1 search warrant was being obtained, officers searched Respondent's vehicle. Inside Respondent's
2 vehicle, the officers found 30 grams of marijuana, two grams of methamphetamine, and a glass
3 pipe used for smoking methamphetamine. Also located were several checks, passports,
4 identifications, and credit cards belonging to other people. Many of the the victims were
5 contacted at the scene and they confirmed they had been recently burglarized. Respondent was
6 arrested on drug-related charges and for burglary.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(February 21, 2013 Criminal Conviction for Felon Possessing a Firearm on May 31, 2012)**

9 19. Respondent has subjected his license and certificate to disciplinary action under
10 sections 490 and 8649 of the Code in that he was convicted of a crime that is substantially related
11 to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

12 a. On or about February 21, 2013, in a criminal proceeding entitled *People of*
13 *the State of California v. James E. Thornton*, in Riverside County Superior Court, case number
14 RIF1204130, Respondent was convicted on his plea of guilty of violating Penal Code section
15 29800, subdivision (a)(1), a felon in possession of a handgun, a felony. The court dismissed an
16 additional count of violating Penal Code section 496, subdivision (a), receiving stolen property,
17 pursuant to a plea agreement.

18 b. As a result of the conviction, on or about March 4, 2013, the court imposed
19 one-third of the midterm sentence of two years, for a total of eight months in state prison, with
20 credit for 156 days, to run consecutive to the sentences imposed as described above.

21 c. The circumstances that led to the conviction are that on or about May 31,
22 2012, during the course of executing a search warrant on Respondent's residence, a deputy from
23 the Riverside County Sheriff's Department located a .357 Colt Python handgun loaded with four
24 live rounds of ammunition. The serial number of the handgun had been filed off. There were
25 also metal knuckles and a cane sword. Stolen designer jewelry and handbags were found in the
26 bedroom of Respondent's 18-year-old daughter. A records check revealed that Respondent had a
27 felony conviction in Nevada for possession of a controlled substance with intent to sell, which
28 prohibited Respondent from possessing firearms or dangerous weapons.

1 FOURTH CAUSE FOR DISCIPLINE

2 (February 21, 2013 Criminal Convictions for Possession of Stolen Property
3 & Possession of Methamphetamine for Sale on May 29, 2012)

4 20. Respondent has subjected his license and certificate to disciplinary action under
5 sections 490 and 8649 of the Code in that he was convicted of crimes that are substantially related
6 to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

7 a. On or about February 21, 2013, in a criminal proceeding entitled *People of*
8 *the State of California v. James E. Thornton*, in Riverside County Superior Court, case number
9 RIF120998, Respondent was convicted on his plea of guilty of violating Penal Code section 496,
10 subdivision (a), possession of stolen property (Count 2); and Health and Safety Code section
11 11379, subdivision (a), possession of methamphetamine for sale (Count 3), felonies. Pursuant to
12 a plea agreement, the court dismissed additional counts of violating Penal Code section 664/459,
13 attempted burglary of a dwelling; Health and Safety Code section 11377, subdivision (a),
14 possession of methamphetamine; Health and Safety Code section 11550, subdivision (a), under
15 the influence of a controlled substance; and two counts of violating Health and Safety Code
16 section 11364.1, possession of controlled substance paraphernalia.

17 b. As a result of the convictions, on or about March 4, 2013, as to Count 2,
18 the court imposed one-third of the midterm sentence of two years, for a total of eight months in
19 state prison. As to Count 3, the court imposed one-third of the midterm of three years for a total
20 of one year. Both terms were ordered to run consecutively, for a total term of one year eight
21 months in state prison. Respondent was given credit for 173 days. The term was ordered to run
22 consecutive to the sentence imposed in case number RIF1205987, as described in paragraph 18,
23 above.

24 c. The circumstances that led to the convictions are that on or about the
25 morning of May 29, 2012, a person observed Respondent attempting to break into the house of a
26 neighbor and contacted the Riverside County Sheriff's Department. When questioned by
27 deputies, Respondent claimed he was there to visit a doctor and denied attempting to open a
28 window. The deputies searched Respondent's vehicle and found jewelry, laptops, and burglary

1 tools. Respondent claimed he acquired the property through a purchase of a storage unit in
2 Chino. The deputy found a bagful of Tiffany Company and Coach jewelry which matched the
3 description of property stolen in a residential burglary on May 13, 2012. Inside the rear
4 passenger seat pocket, the deputy located two glass pipes used to smoke methamphetamine, two
5 small baggies containing 3.4 grams of methamphetamine, and a small black scale used for
6 weighing narcotics. Respondent was arrested and taken to Norco for further processing. The
7 deputy observed that Respondent appeared to be under the influence of either cocaine or
8 methamphetamine; he was unable to maintain eye contact, his pupils were dilated, and he was
9 acting very nervous. Respondent provided a blood sample for testing.

10 **OTHER MATTERS**

11 21. Pursuant to section 8654 of the Code, if discipline is imposed on Operator's License
12 No. OPR 11803 and/or Company Registration Certificate No. PR 5899 issued to Respondent,
13 James Edward Thornton shall be prohibited from serving as an officer, director, associate,
14 partner, qualifying manager, or responsible managing employee for any registered company
15 during the time the discipline is imposed, and any registered company which employs, elects, or
16 associates James Edward Thornton shall be subject to disciplinary action.

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1 **PRAYER**

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

4 1. Revoking or suspending Operator's License Number OPR 11803, issued to James
5 Edward Thornton;

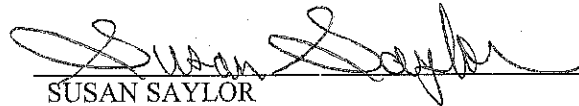
6 2. Revoking or suspending Company Registration Certificate Number PR 5899, issued
7 to Pay it Forward Pest Control;

8 3. Prohibiting James Edward Thornton from serving as an officer, director, associate,
9 partner, qualifying manager, or responsible managing employee of a registered company;

10 4. Ordering James Edward Thornton to pay the Structural Pest Control Board the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

13 5. Taking such other and further action as deemed necessary and proper.
14
15

16 DATED: 6/19/13
17


18 SUSAN SAYLOR
19 Interim Registrar/Executive Officer
20 Structural Pest Control Board
21 Department of Pesticide Regulation
22 State of California
23 Complainant

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