FILED

Date 9/11/12 By Susan Saylor

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BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **MATTHIAS C. PETTYJOHN** **P.O. Box 2648** **Grass Valley, CA 95945** **Field Representative's License No. FR 44869** **Applicator License No. RA 49534** Respondent.	Case No. 2013-13 **ACCUSATION**

Susan Saylor ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Assistant Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation.

Field Representative's License

2. On or about October 26, 2009, the Board issued Field Representative's License Number FR 44869 to Matthias C. Pettyjohn ("Respondent"). The license was in full force and effect at all times relevant to the charges brought herein. The license expired on June 30, 2012, and has not been renewed.

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Applicator's License

3. On or about December 11, 2008, the Board issued Applicator License Number RA 49534 to Respondent. The license expired on December 11, 2011, and has not been renewed.

JURISDICTION

4. Business and Professions Code ("Code") section 8620 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.

5. Code section 8625 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

6. Code section 8649 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.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Registrar 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.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of Crimes)

8. Respondent is subject to discipline under Code section 8649, in that Respondent was convicted of the following crimes that are substantially related to the qualifications, functions, or duties of a field representative and applicator:

a. On or about February 16, 2012, in the case of *People v. Matthias Calvin Pettyjohn*, (Super. Ct. Nevada County, 2011, Case No. M11-0840C), Respondent was convicted by the Court on his plea of nolo contendere of violating Penal Code section 602(H) (trespass), an infraction. The circumstances of the crime were that on or about April 28, 2011, Respondent trespassed by entering and occupying real property or a structure located at East Bennet Street, Grass Valley, California, without the consent of the owner, the owner's agent, or the person in lawful possession.

b. On or about February 16, 2012, in the case of *People v. Matthias Calvin Pettyjohn*, (Super. Ct. Nevada County, 2011, Case No. F11-396), Respondent was convicted by the Court on his plea of nolo contendere of violating Penal Code section 485 (theft), a misdemeanor, and Penal Code section 594 (vandalism), a misdemeanor. The circumstances of the crimes were that on or about October 22, 2011, Respondent entered an uninhabited residence with the intent to commit larceny.

OTHER MATTERS

9. Code section 8620 provides, in pertinent part, that a Respondent may request that a civil penalty of not more than $5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not more than $10,000 for an actual suspension of 20 to 45 days. Such request must be made at the time of the hearing and must be noted in the proposed decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

10. Pursuant to Code section 8654, if discipline is imposed on Registered Applicator's License Number RA 49534 and/or Field Representative's License Number FR 44869, issued to Respondent, then Respondent shall be prohibited from serving as an officer, director, associate,

partner or responsible managing employee of a licensee, and any licensee which employs, elects, or associates Respondent shall be subject to disciplinary action.

PRAYER

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

1. Revoking or suspending Registered Applicator's License Number RA 49534, issued to Matthias C. Pettyjohn;

2. Revoking or suspending Field Representative's License Number FR 44869, issued to Matthias C. Pettyjohn;

3. Revoking or suspending any other license issued to Matthias C. Pettyjohn;

4. Prohibiting Matthias C. Pettyjohn from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Registered Applicator's License Number RA 49534 and/or Field Representative's License Number FR 44869, issued to Matthias C. Pettyjohn;

5. Ordering Matthias C. Pettyjohn 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; and,

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

DATED: 9/11/12

SUSAN SAYLOR
Assistant Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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