FILED

Date 8/29/12 By

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

In the Matter of the First Amended Accusation Against: **SETH D. THOMAS** **P.O. Box 2466** **Bakersfield, CA 93303** **- and -** **1407 W. Thurman Avenue** **Porterville, CA 93257** **Field Representative's License No. FR 45034** **Applicator License No. RA 50224** Respondent.	Case No. 2011-72(h) **FIRST AMENDED** **ACCUSATION**

Susan Saylor ("Complainant") alleges:

PARTIES

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

2. On or about December 14, 2009, the Board issued Field Representative's License Number FR 45034 to Seth D. Thomas ("Respondent"). The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

3. On or about August 20, 2009, the Board issued Applicator License Number RA 50224 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and will expire on August 20, 2012, unless renewed.

STATUTORY PROVISIONS

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.

6. Code section 8641 states:

> Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action.

7. Code section 8651 states:

> The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of eliminating, exterminating, controlling, or preventing structural pests in branches of pest control other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

COST RECOVERY

8. Code section 125.3 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.

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CAUSE FOR DISCIPLINE

(Unlicensed Activity)

9. Respondent's field representative license and applicator license are subject to discipline under Code section 8651, in that between August 13, 2009, and December 14, 2009, while an applicator, Respondent engaged in pest control work in a branch other than that for which he was licensed.

OTHER MATTERS

10. 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.

11. Pursuant to Code section 8624, if Field Representative's License No. FR 45034, issued to Respondent, is suspended or revoked, the Board may suspend or revoke Registered Applicator's License No. RA 50224, issued to Respondent.

12. Pursuant to Code section 8654, if discipline is imposed on Field Representative's License No. FR 45034 and/or Registered Applicator's License No. RA 50224, 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 Field Representative's License Number FR 45034, issued to Seth D. Thomas;

2. Revoking or suspending Registered Applicator's License Number RA 50224, issued to Seth D. Thomas;

3. Revoking or suspending any other license for which Seth D. Thomas is furnishing the qualifying experience or appearance;

4. Prohibiting Seth D. Thomas 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 Field Representative's License Number FR 45034, issued to Seth D. Thomas;

5. Prohibiting Seth D. Thomas 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 50224, issued to Seth D. Thomas;

6. Ordering Seth D. Thomas 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,

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

DATED: 8/29/12

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

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