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**FILED**

*Date 10/3/11 By William H. Douglas*

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

In the Matter of the Accusation Against:  
**NATHAN M. BARROS**  
24323 Jackson Avenue #739  
Murrieta, CA 92564  
**Applicator License No. RA 51191**  
  
Respondent.

Case No. 2012-16  
**A C C U S A T I O N**

Complainant alleges:

**PARTIES**

1. William H. Douglas (Complainant) brings this Accusation solely in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.

2. On or about July 28, 2010, the Structural Pest Control Board issued Applicator License Number RA 51191 to Nathan M. Barros (Respondent). The Applicator License was in full force and effect at all times relevant to the charges brought herein and will expire on July 28, 2013, unless renewed.

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1 **JURISDICTION**

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

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

9 5. Section 8625 of the Code states:

10 The lapsing or suspension of a license or company registration by operation of  
11 law or by order or decision of the board or a court of law, or the voluntary surrender  
12 of a license or company registration shall not deprive the board of jurisdiction to  
13 proceed with any investigation of or action or disciplinary proceeding against such  
14 licensee or company, or to render a decision suspending or revoking such license or  
15 registration.

14 **STATUTORY PROVISIONS**

15 6. Section 482 of the Code states:

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

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

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

22 7. Section 490 of the Code states, in pertinent part, that the Board may suspend or  
23 revoke a license when it finds that the licensee has been convicted of a crime.

24 8. Section 8649 of the Code states:

25 Conviction of a crime substantially related to the qualifications, functions, and  
26 duties of a structural pest control operator, field representative, applicator, or  
27 registered company is a ground for disciplinary action. The certified record of  
28 conviction shall be conclusive evidence thereof.

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1 9. Section 8655 of the Code states:

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

### 14 REGULATORY PROVISIONS

15 10. California Code of Regulations, title 16, section 1937.1 states:

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

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

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

27 (1) Fiscal dishonesty

28 (2) Fraud

(3) Theft

(4) Violations relating to the misuse of pesticides.

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

.....  
24 (b) When considering the suspension or revocation of a structural pest control  
25 license or company registration on the grounds that the licensee or registered  
26 company has been convicted of a crime, the board, in evaluating the rehabilitation of  
27 such person or company and his or her or its present eligibility for a license or  
28 company registration will consider the following:

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

1 (2) Total criminal record.

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

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

5 (5) If applicable, evidence of expungement proceedings pursuant to Section  
6 1203.4 of the Penal Code.

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

8 (c) When considering a petition for reinstatement of a structural pest control  
9 license or company registration, the board shall evaluate evidence of rehabilitation  
submitted by the petitioner, considering those criteria specified in subsection (b).

#### 10 COSTS

11 12. Section 125.3 of the Code states, in pertinent part, that a Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case.

#### 15 CAUSE FOR DISCIPLINE

#### 16 (May 4, 2011 Criminal Conviction for Discharging a Firearm 17 into a Restaurant on January 1, 2011)

18 13. Respondent is subject to disciplinary action under sections 490 and 8649 of the  
19 Code in that Respondent was convicted of a crime substantially related to the qualifications,  
20 functions, and duties of an applicator. The circumstances are as follows:

21 a. On or about May 4, 2011, in a criminal proceeding entitled *People of the State of*  
22 *California v. Nathan Mitchell Barros*, in Riverside County Superior Court, case number  
23 SWF1100532, Respondent was convicted on his plea of guilty of violating Penal Code section  
24 246, discharging a firearm at an occupied building, a felony.

25 b. As a result of the conviction, on or about June 24, 2011, Respondent was  
26 sentenced to the upper term of seven years in state prison, suspended. Respondent was granted  
27 formal probation for 60 months and he was ordered to serve 180 days in the custody of the  
28 Riverside County Sheriff (with 60 days "straight time" imposed), and credit for two days.

1 Respondent was further ordered to abstain from alcoholic beverages and not frequent places  
2 where it is sold, to attend Anger Management classes followed by 52 Alcoholics Anonymous  
3 meetings or an approved alternative program, to enroll in and complete a substance abuse  
4 treatment program, to pay fees, fines, and restitution in the amount of \$5,593.45 plus the cost of  
5 probation, and to comply with felony probation terms (Fourth Amendment waiver, lifetime ban  
6 on the possession of a firearm/deadly weapon/ammunition, and a ban on associating with known  
7 gang members or felons).

8 c. The facts that led to the conviction are that on or about 3:45 a.m. on New Year's  
9 Day, January 1, 2011, the Murrieta Police Department was dispatched to a report of a gunshot  
10 fired at a Denny's restaurant. Upon arrival, the officers discovered the suspects had fled. In a  
11 subsequent investigation, it was learned that Respondent and his wife, along with a group of  
12 friends, had spent New Year's Eve at a casino on the Pechanga Indian Reservation. Respondent  
13 became angry when he could not get his wife, who was intoxicated, to leave the party; he left  
14 without her. Respondent's wife and her friends went to a Denney's restaurant. Respondent  
15 arrived later with a friend and they sat in Respondent's vehicle in the restaurant's parking lot.  
16 Respondent's wife refused to leave Denney's, so Respondent's friend went inside to coax her to  
17 leave. When she refused, Respondent fired a round into the restaurant, which was occupied by  
18 approximately 24 customers, plus employees. The round shattered the window. Respondent's  
19 wife fled with Respondent in his vehicle. Respondent was arrested at his residence on January  
20 27, 2011.

#### 21 OTHER MATTERS

22 14. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License  
23 Number RA 51191 issued to Respondent, Nathan M. Barros shall be prohibited from serving as  
24 an officer, director, associate, partner, qualifying manager, or responsible managing employee for  
25 any registered company during the time the discipline is imposed, and any registered company  
26 which employs, elects, or associates Nathan M. Barros 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 Applicator License Number RA 51191, issued to Nathan M.  
5 Barros;
- 6 2. Ordering Nathan M. Barros to pay the Structural Pest Control Board the reasonable  
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
8 Code section 125.3;
- 9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: 10/3/11

*William H. Douglas*  
12 WILLIAM H. DOUGLAS  
13 Interim Registrar/Executive Officer  
14 Structural Pest Control Board  
15 Department of Pesticide Regulation  
16 State of California  
17 *Complainant*

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