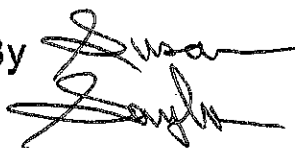


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FILED

Date 5/17/13 By 

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

11 In the Matter of the Accusation/Petition to
12 Revoke Probation Against,

Case No. 2013-46

13 **NAPOLEON DOWTHARD**
14 **1555 Yosemite Avenue, #46**
15 **San Francisco, CA 94124**

ACCUSATION AND PETITION TO
REVOKE PROBATION

16 **Applicator License No. RA 51779, Branches**
17 **2 and 3**

Respondent.

18 Complainant alleges:

19 PARTIES

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

23 2. On or about February 24, 2011, the Structural Pest Control Board issued probationary
24 Applicator License Number RA 51779, Branches 2 and 3, to Napoleon Dowthard (Respondent).
25 The Applicator License was in effect at all times relevant to the charges brought in this
26 Accusation and will expire on February 24, 2014, unless renewed.

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1 FIRST CAUSE FOR DISCIPLINARY ACTION

2 (Substantially Related Conviction)
3 (Bus. & Prof. Code §§ 8649 and 490)

4 13. Respondent has subjected his Applicator License to disciplinary action under Code
5 sections 8649 and 490, in that he was convicted of a crime substantially related to the
6 qualifications, functions, or duties of an applicator. Specifically, on or about April 28, 2011, in
7 the Superior Court of California, County of San Mateo, Case No. SC073302A, entitled *The*
8 *People of the State of California v. Napoleon Dowthard*, Respondent was convicted of violating
9 Penal Code section 496, subdivision (a) (receive/etc known stolen property), a felony. The
10 imposition of sentence was suspended, and Respondent was placed on probation for 36 months on
11 terms and conditions, which included, but were not limited to, the following: serve 90 days in jail,
12 and do not obtain or possess any firearms.

13 FIRST CAUSE TO REVOKE PROBATION

14 (Quarterly Reports)

15 14. At all times after the effective date of Respondent's Probation Condition 2 stated:
16 "Quarterly Reports: Respondent shall file quarterly reports with the Board during the
17 period of probation."

18 15. Respondent's probation is subject to revocation because he failed to comply with
19 Probation Condition 2 by not submitting Quarterly Reports. Specifically, Respondent last filed a
20 Quarterly Report on or about November 24, 2011, and subsequently missed filing Quarterly
21 Reports, which were due on February 24, 2012, May 24, 2012, August 24, 2012, and November
22 24, 2012. Further, on or about July 11, 2012, the Board sent Respondent a letter at his address of
23 record and his mailing address informing him of his failure to meet Probation Condition 2.
24 Specifically, as of July 11, 2012, Respondent had failed to file Quarterly Reports due on February
25 24, 2012, and May 24, 2012. The letter sent via certified mail was addressed to Respondent's
26 mailing address of 920 Myrtle Street, Oakland, CA 94607, and was returned by the United States
27 Postal Service as "undeliverable." On or about this time, a Board representative made several
28 attempts to contact Respondent by telephone and found Respondent's telephone to be

1 disconnected, or with a message that was followed by a busy signal that said "NSS 02, call cannot
2 be completed."

3 SECOND CAUSE TO REVOKE PROBATION

4 (Notice to Employers)

5 16. At all times after the effective date of Respondent's Probation Condition 4 stated:

6 "Notice to Employers: Respondent shall notify all present and prospective employers
7 of the decision in case No. 2011-6 and the terms, conditions and restrictions imposed on
8 respondent by said decision.

9 " Within 30 days of the effective date of this decision, and within 15 days of respondent
10 undertaking new employment, respondent shall cause his employer to report to the Board in
11 writing acknowledging the employer has read the decision in case No. 2011-6."

12 17. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 4. Specifically, within 30 days of the decision's effective date or thereafter,
14 Respondent failed to have his present employer, Pestec¹, report to the Board in writing that the
15 employer has read the decision.

16 OTHER MATTERS

17 18. Under Code section 8654, if Applicator License No. RA 51779, issued to Respondent
18 is revoked or suspended, Napoleon Dowthard shall be prohibited from serving as an officer,
19 director, associate, partner or responsible managing employee of a licensee, and any registered
20 company which employs, elects, or associates Napoleon Dowthard shall be subject to disciplinary
21 action.

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27 ¹ On April 4, 2011, Respondent told a Board representative that he had been working for
28 Pestec for about one year.

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 the probation that was granted by the Structural Pest Control Board in Case
5 No. 2011-6 and imposing the disciplinary order that was stayed thereby revoking Applicator
6 License No. RA 51779, issued to Napoleon Dowthard;

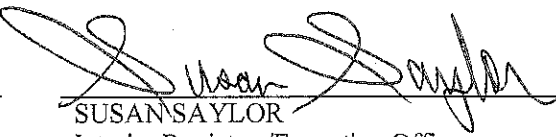
7 2. Revoking or suspending Applicator License No. RA 51779, issued to Napoleon
8 Dowthard;

9 3. Prohibiting Napoleon Dowthard from serving as an officer, director, associate,
10 partner or responsible managing employee of any registered company;

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

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

15 DATED: 5/17/13

16 
17 SUSAN SAYLOR
18 Interim Registrar/Executive Officer
19 Structural Pest Control Board
20 Department of Pesticide Regulation
21 State of California
22 Complainant

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