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FILED

Date 6/2/14 By

**BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

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

Case No. 2014-63

JEREMY PATRICK MOFFETT
12599 Telfair Ave.
Sylmar, CA 91342
Applicator License No. RA 52776

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Respondent.

Complainant alleges:

PARTIES

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

2. On or about December 23, 2011, the Structural Pest Control Board (Board) issued probationary Applicator License No. RA 52776 to Jeremy Patrick Moffett (Respondent). The Applicator License was in effect at all times relevant to the charges brought herein and will expire on December 23, 2014, unless renewed.

3. In a prior matter entitled, "*In the Matter of the Application of: Jeremy Patrick Moffett,*" the Board issued a Stipulation of a Probationary License and Order, effective December 23, 2011, in which Respondent's Applicator License was placed on probation for a period of five

1 (5) years under certain terms and conditions. A copy of the stipulation is attached as Exhibit A,
2 and is incorporated by reference.

3 **JURISDICTION**

4 4. This Accusation and Petition to Revoke Probation is brought before the Board under
5 the authority of the following laws. All section references are to the Business and Professions
6 Code unless otherwise indicated.

7 **STATUTORY PROVISIONS**

8 5. Section 8567 states:

9 "Should a field representative or applicator change his or her employment, or should an
10 operator enter the employ of a registered company, or being already employed by a registered
11 company change his or her employment, or being employed by a registered company leave that
12 employment and enter the pest control business on his or her own behalf, he or she shall notify
13 the registrar in writing, on a form prescribed by the board and issued by the registrar in
14 accordance with rules and regulations adopted by the board. Whereupon the registrar shall
15 register the change in his or her records."

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

20 7. Section 8625 states:

21 "The lapsing or suspension of a license or company registration by operation of law or by
22 order or decision of the board or a court of law, or the voluntary surrender of a license or
23 company registration shall not deprive the board of jurisdiction to proceed with any investigation
24 of or action or disciplinary proceeding against such licensee or company, or to render a decision
25 suspending or revoking such license or registration."

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1 8. Section 8649 states:

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

5 9. Section 8654 states:

6 "Any individual who has been denied a license for any of the reasons specified in Section
7 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
8 failed to renew his or her license while it was under suspension, or who has been a member,
9 officer, director, associate, qualifying manager, or responsible managing employee of any
10 partnership, corporation, firm, or association whose application for a company registration has
11 been denied for any of the reasons specified in Section 8568, or whose company registration has
12 been revoked as a result of disciplinary action, or whose company registration is under
13 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
14 responsible managing employee had knowledge of or participated in any of the prohibited acts for
15 which the license or registration was denied, suspended or revoked, shall be prohibited from
16 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
17 employee of a registered company, and the employment, election or association of such person by
18 a registered company is a ground for disciplinary action."

19 10. Section 8655 states:

20 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
21 charge substantially related to the qualifications, functions, and duties of a structural pest control
22 operator, field representative, applicator, or registered company is deemed to be a conviction
23 within the meaning of this article or Section 8568 of this chapter. The board may order the license
24 or registration suspended or revoked, or may decline to issue a license, when the time for appeal
25 has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting
26 probation is made suspending the imposition of sentence, irrespective of a subsequent order under
27 the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company

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1 to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,
2 or dismissing the accusation, information or indictment."

3 **REGULATORY PROVISIONS**

4 11. California Code of Regulations, title 16, section 1911, states:

5 "Each operator, field representative and applicator shall file his or her address of record
6 with the board and shall notify the board of any change in address within ten (10) days of such
7 change. The address of record of a field representative, an operator or an applicator shall be the
8 address of the registered company by which he or she is employed or with which he or she is
9 associated or his or her residence address if he or she is not employed and associated.

10 "Each licensee shall also file his or her address for mailing purposes with the board and
11 shall notify the board of any change in address within ten (10) days of such change."

12 12. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

13 "For the purposes of denial, suspension or revocation of a license or company registration
14 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
15 considered to be substantially related to the qualifications, functions or duties of a licensee or
16 registered company under Chapter 14 of Division 3 of the code if to a substantial degree it
17 evidences present or potential unfitness of such licensee or registered company to perform the
18 functions authorized by the license or company registration in a manner consistent with the public
19 health, safety, or welfare."

20 **COST RECOVERY**

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

24 14. **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

25 "Methamphetamine," is a Schedule II controlled substance as designated by Health and
26 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
27 section 4022.

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FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey all Laws and Rules Relating to The Practice of Structural Pest Control)

17. At all times after the effective date of Respondent's probation, Condition No. 1 stated:

"Applicant shall obey all laws and rules relating to the practice of structural pest control."

18. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 1, referenced above when he failed to comply with section 8567 and California Code of Regulations, title 16, section 1911. The facts and circumstances regarding this violation are that Respondent failed to notify on a form prescribed by the Board his change of employment and address of record.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Obey All Local, State, and Federal Laws)

19. At all times after the effective date of Respondent's probation, Probation Condition No. 2 stated:

"Obey all Local, State and Federal laws."

20. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 2 referenced above, when he was convicted of evading a peace officer and sale/offer to sell/transportation of a controlled substance on or about July 16, 2013. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, subparagraph (b), as though set forth fully.

THIRD CAUSE TO REVOKE PROBATION

(Failure to File Quarterly Reports)

21. At all times after the effective date of Respondent's probation, Condition No. 3 stated:

"Quarterly Reports. Applicant shall file quarterly reports with the Board during the period of probation."

22. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 3, referenced above when he failed to comply with California Code of

1 Regulations, title 16, section 1937.12, subdivision (a) (1). The facts and circumstances regarding
2 this violation are that Respondent failed to file Quarterly reports since June 2012.

3 **OTHER MATTERS**

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

9 24. Pursuant to section 8654, if discipline is imposed on Applicator License No. RA
10 52776 issued to Respondent, Respondent shall be prohibited from serving as an officer, director,
11 associate, partner, qualifying manager, or responsible managing employee for any registered
12 company during the time the discipline is imposed, and any registered company which employs,
13 elects, or associates Respondent shall be subject to disciplinary action.

14 **PRAYER**

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

- 17 1. Revoking the probation that was granted by the Board, and imposing the disciplinary
18 order that was stayed, thereby, revoking Applicator License No. RA 52776 issued to Respondent;
- 19 2. Revoking or suspending Applicator License No. RA 52776 issued to Respondent;
- 20 3. Prohibiting Respondent from serving as an officer, director, associate, partner,
21 qualifying manager, or responsible managing employee for any registered company during the
22 time that discipline is imposed pursuant to section 8654;

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4. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant section 125.3; and

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

DATED: 6/2/14



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

LA2013510084