

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

In the Matter of the Accusation Against:

RICHARD J. SPERRY

Applicator License No. RA 52879,

Respondent.

Case No. 2013-25

OAH No. 2013010743

ORDER OF DECISION

**DECISION**

The Proposed Decision of James Ahler, Administrative Law Judge, dated December 10, 2013, in San Diego, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c) (2) (c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision and pursuant to Government Code section 11517 (c) (2) (B) to reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision. The proposed decision is amended as follows:

1. On page 1, in the heading, "DEPARTMENT OF PESTICIDE REGULATION" is stricken and replaced with "DEPARTMENT OF CONSUMER AFFAIRS".
2. On page 1, paragraph 2, "Interim Registrar/Executive Officer" is stricken and replaced with "Registrar/Executive Officer" and "Department of Pesticide Regulation" is stricken and replaced with "Department of Consumer Affairs".
3. On page 1, under Jurisdictional Matters, number 2, "Interim Registrar/Executive Officer" is stricken and replaced with "Registrar/Executive Officer".
4. On page 11, under ORDER, number 1, "RA 52870" is stricken and replaced with "RA 52879".
5. On page 12, term number 8, "Within 90 days from the effective date the decision, respondent shall pay to the SPCB the sum of \$1,542.50 for the SPCB's costs of enforcement" is stricken and replaced with "Respondent shall pay to the SPCB the sum of \$1,542.50 for the SPCB's costs of enforcement, the costs may be paid by a payment plan approved by the Board".

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

The Decision shall become effective on February 28, 2014.

IT IS SO ORDERED January 29, 2014

  
For the Structural Pest Control Board

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

In the Matter of the Accusation:

RICHARD J. SPERRY,

Respondent.

Case No. 2013-25

OAH No. 2013010743

**PROPOSED DECISION**

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on November 25, 2013, in San Diego, California.

Sherry L. Ledakis, Deputy Attorney General, Department of Justice, State of California, represented complainant, Susan Saylor, the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, State of California.

Respondent, Richard J. Sperry, represented himself and was present throughout the administrative hearing.

The matter was submitted on November 25, 2013.

**FACTUAL FINDINGS**

*Respondent's License History*

1. On March 8, 2012, the Structural Pest Control Board (the SPCB or the Board) issued Applicator License No. RA 52879 to respondent, Richard J. Sperry, also known as Richard Julian Sperry, also known as R.J. Sperry (respondent or Sperry).

Respondent's applicator's license expires on March 8, 2015, unless renewed, suspended or revoked. There is no history of any other discipline having been sought upon respondent's applicator's license.

*Jurisdictional Matters*

2. On December 10, 2012, complainant, Susan Saylor, the SPCB's Interim Registrar/Executive Officer, signed Accusation Case No. 2013-25 in her official capacity.

The accusation sought to impose discipline upon respondent's applicator's license as a result of an alleged petty theft conviction occurring on June 8, 2012. In addition, the accusation sought recovery of the SPCB's costs of investigation and enforcement. The accusation and other required documents were served on respondent.

Respondent timely filed a Notice of Defense. The matter was set for hearing.

On November 25, 2013 the administrative record was opened; jurisdictional documents were presented; sworn testimony and documentary evidence were received; closing arguments were given; the record was closed; and the matter was submitted.

*Respondent's Background, Education, Employment and Experience*

3. Respondent was born in May 1981 in San Diego, California. He attended El Cajon Valley High School through the 11<sup>th</sup> grade. He moved to Hawaii when he was 17 years old, where he worked in Maui as a busboy and a server. He returned to San Diego in 1999, but he did not finish high school or obtain a high school equivalency degree. He worked in the fast food industry, in construction, as a painter, and as a security guard. He obtained a security guard registration that was never suspended or revoked. Respondent then began working in a family business that involved the operation of approximately 100 dart machines at various entities located in San Diego County. Following that employment, he worked as a coast-to-coast and local mover and as a photo processor at Wal-Mart.

4. Respondent became interested in the pest control profession and began working for Lloyd Pest Control as a technician in February 2012. After his licensure, he helped spray homes, ridded structures of rodents and pests, and performed treatments inside homes and other structures. He has worked for Lloyd Pest Control continuously since February 2012. Respondent's employer has encouraged him to become licensed in Branch 2.

Respondent advised his employer of his conviction.

*Respondent's Conviction*

5. On June 8, 2012, respondent was convicted on his plea of no contest of violating Penal Code Section 484 (Petty Theft), a misdemeanor, in the Superior Court of California, County of San Diego, East County Division, in Case No. C317915. In the change of plea form he signed, respondent represented that he was pleading no contest to charges that he took the property of another without permission and with the intent to deprive.

Following the entry of respondent's no contest plea, the Superior Court suspended imposition of sentence and placed respondent on three years informal probation. Conditions of probation required respondent to serve one day in custody (involving his being booked and released), pay fines and fees of approximately \$800, and stay at least 100 yards away from a Wal-Mart store on Fletcher Parkway in El Cajon. While court documents do not indicate that respondent was required to make restitution, respondent testified that he made restitution in the amount of \$540 to Wal-Mart. Court documents do not indicate that

respondent was directed to perform public service, undergo therapy, or complete any type of educational course as conditions of probation.

Respondent has not violated any term or condition of probation. He was booked and released, paid his fines and fees, made restitution, and remains on summary probation through June 11, 2015.

### *Circumstances of the Offense*

6. Respondent testified that on Saturday, January 21, 2012, shortly before noon, he visited the Wal-Mart retail outlet in El Cajon. He said that while he was inside Wal-Mart, he put six Blu Ray discs onto the bottom of the shopping cart before he went to another area in the Wal-Mart where cat litter was stored. He said he put two relatively heavy bags of cat litter on top of the six discs lying on the bottom of his shopping cart. He shopped some more, and then went to a cash register to pay for the items in his cart. The clerk at the cash register did not ask respondent to remove the bags of cat litter while she was ringing up the sale. The clerk was not aware that six discs were lying underneath the cat litter, and respondent said he did not tell the clerk about them or pay for them because he had forgotten about them. Respondent paid cash for the items that were rung up and left the Wal-Mart. On his way out, the anti-theft device at the door sounded. Wal-Mart loss prevention officers detained respondent and investigated. The loss prevention officers contacted the El Cajon Police Department, and an El Cajon police officer issued to respondent a citation for petty theft and a notice to appear.

7. Respondent told the arresting police officer that he had selected the discs with the intent to purchase them; that he placed two containers of cat litter on top of the discs; when he checked out, the clerk scanned the cat litter containers while they were in the cart; that respondent forgot the discs were in the cart; that respondent had a bank card with sufficient funds on deposit to pay for all of the items that were in the cart.<sup>1</sup>

8. In complainant's evidence folder, a letter purportedly signed by Daniel Willard, which claimed Mr. Willard was a Wal-Mart Asset Protection Associate, was placed

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<sup>1</sup> This factual finding is based on respondent's admission to an investigating officer that is set forth in an arrest report that was prepared by a law enforcement officer who was employed by the El Cajon Police Department.

*Lake v. Reed* (1997) 16 Cal.4th 448 holds that portions of an investigative report that contain a public employee's percipient observations are admissible in an administrative proceeding over a hearsay objection. The observations are admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule. A party's admissions are admissible as admissions against interest under Evidence Code section 1220. Under Government Code section 11513, subdivision (c), the admissible hearsay in the arresting officer's report can support a factual finding; however, the remaining hearsay statements cannot be the basis of a factual finding, although they may be used to supplement or explain other evidence that was sufficient to support a factual finding.

under the same evidence tab as the investigative report. However, that letter was faxed to the Structural Pest Control Board on July 11, 2012, and was not a part of the investigative report. Mr. Willard's letter constituted pure hearsay, and it cannot be used to support or explain any factual finding.

#### *Other Evidence*

9. Respondent is married to a woman who is permanently disabled and can walk only with the assistance of a cane. His wife's disability prevents her from being employed. Respondent is the sole support of his wife, his 12-year-old daughter, and a nine-year-old stepson. The children live in his family home.

10. Respondent's mother and step-father live in East San Diego County. He sees them three or four times a week. In addition, respondent's older step-brother and younger sister live in East San Diego County. Respondent's many family members and friends living in San Diego County provide respondent with a strong support group.

11. Respondent was convicted of driving under the influence in 2004. He was placed on probation, which he successfully completed. He disclosed the fact of that DUI conviction in his application for licensure with the SPCB. He has been sober since May 18, 2010, which he accomplished to gain sole custody of his daughter. Respondent has no other convictions.

Respondent fully understands the SPCB's concern about a convicted thief being present in the home of another person. He said he pled no contest on advice of counsel and to avoid dragging out the legal proceedings.<sup>2</sup> He expressed remorse. He testified that he is the sole support of his family and that he is "trying to stay on the right side of the law." He is not aware of any customer complaints against him in his employment as an applicator, and he disclosed the fact of his conviction to his employer.

12. Two letters of reference were provided. Respondent's wife provided a lengthy letter that described her husband's satisfaction with his employment at Lloyd's Pest Control ("I have never seen him so happy and gratified with work in our five years together"), his love of his family, and his good moral character.

A letter from Lloyd Pest Control's human resources manager confirmed respondent's employment since February 2012, his licensure with the SPCB, his drug free status, and his consistent performance as an employee.

These letters supplemented and explained respondent's testimony.

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<sup>2</sup> In administrative disciplinary proceedings, an individual may not seek to impeach a prior criminal conviction by means of an inquiry into the circumstances surrounding the offense. But, the individual "should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

### *The Disciplinary Guidelines*

13. The SPCB's highest priority is to protect and benefit the public by regulating the pest control industry. In keeping with its mission, the SPCB established disciplinary guidelines to establish consistency in disciplinary penalties for similar offenses.

The SPCB recognizes that the penalties and conditions of probation set forth in its guidelines are merely guidelines, and that administrative law judges must be free to exercise their discretion in such cases. However, the SPCB desires that its guidelines be followed to the extent possible and requests that the administrative law judge hearing the case include some explanation for any departure or omission from the guidelines in the proposed decision so that the circumstances can be better understood by the Board during its review of the case for ultimate action.

The Board desires that matters in extenuation or mitigation, as well as those in aggravation, be fully considered and noted in the proposed decision. Of primary importance is the effect the licensee's/registrant's conduct had or can have on the public as consumers.

14. If a licensee suffers a substantially related conviction, the minimum penalty proposed under the guidelines is a revocation, stayed, with three years probation. Optional conditions of probation under the minimum sanction include payment of investigative and enforcement costs, serving a period of actual suspension, submitting to random inspections, the payment of inspection fees, and a prohibition from serving as an officer, director, associate, partner or qualifying manager of a licensee and from having any legal or beneficial interest in any company registered by the SPCB. The maximum penalty proposed under the guidelines is an outright revocation.

In determining whether the minimum, maximum or intermediate penalty is to be imposed in a given case, factors such as the following should be considered: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record; (4) number and/or variety of current violations; (5) mitigation evidence; (6) in case of a criminal conviction, compliance with terms of sentence; (7) overall criminal record; (8) whether the conduct was knowing, willful, reckless or inadvertent; (9) the financial benefit to the respondent; (10) evidence that the unlawful act was part of a pattern of practice; (11) whether the licensee is currently on probation.

The Board does not intend that any one of the above factors be required to justify the minimum or maximum penalty as opposed to an intermediate one.

### *Costs of Enforcement*

15. A certification of prosecution costs was signed by the deputy attorney general who prosecuted this disciplinary action. A schedule was attached to that declaration that described the dates legal services were provided, the types of task involved, the amount of work that was performed on that date, the professional's hourly rate, and a statement date for the services provided. The declaration and schedule met the requirements of California Code

of Regulations, title 1, section 1042. Prosecution costs in the amount of \$1,542.50 were established. There was no argument or evidence presented that suggested that the enforcement cost claimed was unreasonable.

### *Disciplinary Arguments*

16. Complainant's attorney argued that the evidence supported an outright revocation of respondent's license, that respondent failed to take responsibility for his crime, expressed no remorse, and provided little evidence in rehabilitation. In the alternative, complainant's attorney recommended a revocation, stayed, with three years probation.

17. Respondent acknowledged that his petty theft conviction supported the imposition of discipline against his license. He requested that a minimum sanction be imposed. He promised that he would be far more careful in the future and that similar conduct would never occur again.

### *Evaluation*

18. A licensed applicator often works alone and without direct supervision when providing services. SPCB licensees conduct their business under the imprimatur of the State of California, resulting in consumers reaching the justifiable conclusion that it is safe for them to trust the person they are allowing in and about their homes and businesses. The risk of harm to these consumers is substantial if a licensee is unfit for service for any reason.

19. On June 8, 2012, a little over a year ago, respondent was convicted of engaging in a misdemeanor petty theft that occurred on January 1, 2012. Respondent expressed remorse for the consequences of that theft, although he denied engaging in the theft itself. The theft offense is substantially related to the qualifications, functions and duties of a SPCB licensee, who holds a position of trust and often works in an unsupervised fashion in and around the homes and businesses of others. Respondent has no other criminal record that is substantially related to the qualifications, functions or duties of a SPCB licensee or registrant. He is the sole support of a disabled wife and two young children. He has a strong support network in San Diego County.

20. Imposition of the minimum sanction, coupled with a 15-day actual suspension, is warranted in this matter. Concerns about respondent's capacity to engage in theft-related crimes support a finding of potential harm to the public, although no actual harm to any consumer was established. Respondent has no prior disciplinary record. There is but one current violation, and it is relatively minor in nature. There was no substantial financial benefit to respondent in connection with the commission of the offense. No evidence suggested that respondent engaged in an unlawful pattern of misconduct. By reason of his no contest plea, it must be concluded that respondent intended to engage in theft, even though the record might support a finding that respondent's conduct was reckless or inadvertent. Respondent's criminal history indicates that he is an otherwise law-abiding individual. He has complied with all terms of his summary probation. He disclosed the fact of his

conviction to his employer. Respondent is the sole support of his disabled wife and two young children. Imposing an outright revocation is not required to protect the public.

Cause exists to impose discipline upon respondent's license. In connection with a period of probation, the SPCB has the right to be reimbursed for its costs of enforcement. Payment of costs and a 15-day actual suspension will serve to remind respondent that as a SPCB licensee, he must be honest and forthright in all his affairs. There is no evidence to support the imposition of any unique or optional conditions of probation.

The disciplinary order set forth hereafter is consistent with the SPCB's disciplinary guidelines, is in the public interest, and is amply supported by the evidentiary record.

## LEGAL CONCLUSIONS

### *Purpose of Disciplinary Action*

1. The object of an administrative proceeding aimed at revoking a professional or occupational license is to protect the public; that is, to determine whether a licensee has exercised his privilege in derogation of the public interest, and to keep the regulated business clean and wholesome. Such proceedings are not conducted for the primary purpose of punishing an individual. (*Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

### *Burdens of Proof*

2. When an administrative agency initiates an action to suspend or revoke an occupational or professional license, the burden of proving the facts necessary to support the disciplinary action rests with the agency making the allegation. Until the agency has met its burden of going forward with the evidence necessary to sustain a finding, the licensee has no duty to rebut or otherwise respond to the allegations. (*Kruger v. Department of Motor Vehicles* (1993) 13 Cal.App.4th 541, 547.)

3. In administrative disciplinary matters, the fundamental question is whether an individual is a fit to hold a professional or occupational license, and that question usually turns upon whether the individual has committed or is likely to continue to engage in substantially related misconduct. When an individual has committed acts of misconduct, he must demonstrate that he is rehabilitated and that he currently possesses the qualifications necessary to hold or retain a professional or occupational license. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 937.)

### *Disciplinary Statutes*

4. Business and Professions Code section 482 provides:

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



(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

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

5. Business and Professions Code section 490 provides in part:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued . . . .

6. Business and Professions Code section 8649 provides:

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.

7. Business and Professions Code section 8655 provides in part:

A . . . conviction following a plea of nolo contendere [no contest] to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked . . . when the time for appeal has elapsed . . . .

### *Substantial Relationship*

8. Whether the requirement tying the conduct to the fitness or competence to practice a profession is termed a "nexus" or a "relationship," the inherent meaning is the same. There must be a logical connection between the licensees' conduct to their present fitness or competence to practice the profession or to the qualifications, functions, or duties of the profession in question. (*Clare v. California State Board of Accountancy* (1992) 10 Cal.App.4th 294, 301-303.)

9. California Code of Regulations, title 16, section 1937.1 provides in part:

For the purposes of . . . suspension or revocation of a license . . . a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee . . . if to a substantial degree it evidences present or potential unfitness of such licensee . . . to perform the functions authorized by the license . . . in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

[¶] . . . [¶]

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

[¶] . . . [¶]

(3) Theft . . . .

*Rehabilitation*

10. California Code of Regulations, title 16, section 1937.2, subdivision (b), provides in part:

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

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

(2) Total criminal record.

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

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

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

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

11. Rehabilitation requires a consideration of those offenses from which one has allegedly been rehabilitated. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1048.) Rehabilitation is a state of mind, and the law looks with favor upon rewarding with the opportunity to serve one who has achieved reformation and regeneration. (*Id.*, at 1058.) The absence of a prior disciplinary record is a mitigating factor. (*Chefsky v. State Bar* (1984) 36 Cal.3d 116, 132, fn. 10.) Remorse and cooperation are mitigating factors. (*In re Demergian* (1989) 48 Cal.3d 284, 296.) While a candid admission of misconduct and full acknowledgment of wrongdoing may be a necessary step in the rehabilitation process, it is only a first step. A truer indication of rehabilitation is presented if an individual demonstrates by sustained conduct over an extended period of time that he is once again fit to practice. (*In re Trebilcock* (1981) 30 Cal.3d 312, 315-316.)

#### *Cause Exists to Impose Discipline*

12. Cause exists under Business and Professions Code sections 8649 and 8655 to impose discipline upon the applicator's license held by respondent. On June 8, 2012 respondent was convicted of a theft-related misdemeanor substantially related to the qualifications, functions, and duties of a structural pest control applicator. The SPCB's rehabilitation criteria and disciplinary guidelines were applied. Respondent remains on summary probation for a relatively minor offense. Imposition of the minimum sanction recommended in the disciplinary guidelines, coupled with a 15-day actual suspension, together with an order requiring respondent to pay enforcement costs, represents a reasonable resolution and will protect the public. Imposing such discipline is consistent with the SPCB's disciplinary guidelines, is in the public interest, and is amply supported by the evidentiary record.

#### *Payment of Enforcement Costs*

13. Business and Professions Code section 125.3 provides in part:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . upon request of the entity bringing the proceeding, the administrative law judge may 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.

[¶] . . . [¶]

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a) . . . .

14. Respondent did not contest costs. Evidence was not provided under *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 that supported a reduction of enforcement costs.

#### ORDER

Registered Applicator's License No. RA 52879, issued to respondent, Richard J. Sperry, is hereby revoked; provided, however, that the order of revocation shall be stayed and respondent shall be placed on probation for a period of five years on the following terms and conditions of probation.

1. **Actual Suspension.** Registered Applicator's License No. RA 52870 shall be actually suspended for a period of 15 calendar days on dates to be determined by the SPCB or its designee following the effective date of the decision herein.

2. **Obey All Laws.** Respondent shall obey all laws, and he shall obey all laws and rules relating to the practice of structural pest control.

3. **Notification of Arrest or Citation.** If, during the period of probation, respondent is arrested or cited for any crime or offense, respondent shall, within 72 hours, notify the SPCB of his arrest or citation in writing. Respondent's written notification must include: (1) the date of his arrest or citation; (2) the name and address of the arresting or citing agency; (3) the offense for which he was arrested or cited; (4) the date and location of any court or agency where he has been directed to appear to answer to any charges.

4. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during the period of probation.

5. **Notification to Employers.** Respondent shall notify all present and prospective employers of the decision in this case (Case No. 2013-25) and the terms, conditions and restriction imposed on respondent by said decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in Case No. 2013-25.

6. **Prohibition from Serving as Officer, Director, Associate, Partner or Qualifying Manager.** Respondent shall be prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company during the period that he is on probation in Case No. 2013-25.

7. **Prohibition from Having an Interest in Any Registered Company.** Respondent shall not have any legal or beneficial interest in any company currently or hereinafter registered by the Board during the period he is on probation in Case No. 2013-25.

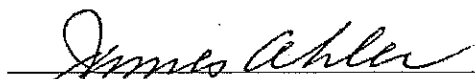
8. **Payment of Enforcement Costs.** Within 90 days from the effective date of this decision, respondent shall pay to the SPCB the sum of \$1,542.50 for the SPCB's costs of enforcement.

9. **Tolling of Probation.** Should respondent leave California to reside outside this state, respondent must notify the SPCB in writing of the dates of his departure and return. Periods of residency or practice outside the state of California shall not apply to reduction of the probationary period.

10. **Violation of Probation.** Should respondent violate probation in any respect, the SPCB, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order of revocation that was stayed. If a petition to revoke probation is filed against respondent during probation, the SPCB shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

11. **Completion of Probation.** Upon successful completion of probation, respondent's license will be fully restored.

DATED: December 10, 2013

  
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JAMES AHLER  
Administrative Law Judge  
Office of Administrative Hearings