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**FILED**

Date 5/28/14 By *Susan Saylor*

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

11 In the Matter of the Accusation Against:

Case No. 2014-60

12 **ANTHONY LEE HAFEY**  
13 P.O. Box 2466  
Bakersfield, CA 93303

**ACCUSATION**

14 Applicator License No. RA 53713

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the  
20 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs  
21 (Board).

22 2. On or about October 19, 2012, Applicator License No. RA 53713 was issued inactive  
23 in Branches 2 and 3 by the Board to Anthony Lee Hafey (Respondent). On March 4, 2013,  
24 License No. RA 53713 reflected employment with Clark Pest Control, Inc., 1700 K Street, Unit  
25 #200, Bakersfield, CA 93301. The Applicator License was in full force and effect at all times  
26 relevant to the charges brought herein and will expire on October 19, 2015, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following laws.  
3 All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender, or  
6 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
7 action during the period within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 490 states, in pertinent part, that the Board may suspend or revoke a license  
9 when it finds that the licensee has been convicted of a crime.

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

14 7. Section 8625 states:

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

21 8. Section 8649 provides that:

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

26 9. Section 8654 states:

27 Any individual who has been denied a license for any of the reasons  
28 specified in Section 8568, or who has had his or her license revoked, or whose license  
is under suspension, or who has failed to renew his or her license while it was under  
suspension, or who has been a member, officer, director, associate, qualifying  
manager, or responsible managing employee of any partnership, corporation, firm, or  
association whose application for a company registration has been denied for any of  
the reasons specified in Section 8568, or whose company registration has been  
revoked as a result of disciplinary action, or whose company registration is under  
suspension, and while acting as such member, officer, director, associate, qualifying  
manager, or responsible managing employee had knowledge of or participated in any

1 of the prohibited acts for which the license or registration was denied, suspended or  
2 revoked, shall be prohibited from serving as an officer, director, associate, partner,  
3 qualifying manager, or responsible managing employee of a registered company, and  
4 the employment, election or association of such person by a registered company is a  
5 ground for disciplinary action.

6 10. Section 8655 states:

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

### 19 REGULATORY PROVISIONS

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

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

### 28 COST RECOVERY

12. Section 125.3 states, in pertinent part, that a 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.

13. CONTROLLED SUBSTANCE

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

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1 **CAUSE FOR DISCIPLINE**

2 **(Convictions of Substantially Related Crimes)**

3 14. Respondent is subject to disciplinary action under Sections 8649 and 8655, in  
4 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent was  
5 convicted of crimes substantially related to the qualifications, function or duties of an applicator as  
6 follows:

7 a. On or about August 20, 2013, after pleading nolo contendere, Respondent was  
8 convicted of one felony count of violating Penal Code section 664/459 [attempted burglary] in the  
9 criminal proceeding entitled *The People of the State of California v. Anthony Lee Hafey* (Super.  
10 Ct. San Bernardino County, 2013, No. FVI1301665). Respondent admitted that he had a prior  
11 conviction, in Case No. FBA05977. The Court denied probation and sentenced Respondent to  
12 serve 24 months in State Prison, to run concurrently with the sentence imposed in Case No.  
13 FV11302021.

14 b. The circumstances surrounding the conviction are that, on or about June 9, 2013,  
15 Respondent entered a Sears Department Store in Victorville, CA, selected items and concealed  
16 them in his pockets. Respondent passed the cash registers and did not attempt to pay for the items  
17 as he walked out of the store. A Loss Prevention officer detained Respondent and called the San  
18 Bernardino County Sheriff's Department, and Respondent was subsequently arrested. Respondent  
19 stated to a Sheriff's Deputy that he did not have any money, wanted to give his wife a necklace,  
20 and concealed two necklaces in his pocket. He also stated that he wanted to trade or sell the items  
21 so he could eat and/or find a place to sleep for the night, since he is homeless and has had to sleep  
22 outside on the ground for the last three days.

23 c. On or about August 20, 2013, Respondent was convicted of one felony count of  
24 violating Penal Code section 664/ Health and Safety Code section 11378 [attempted sale of a  
25 controlled substance] in the criminal proceeding entitled *The People of the State of California v.*  
26 *Anthony Lee Hafey* (Super. Ct. San Bernardino County, 2013, No. FVI1302021). The Court  
27 denied probation and sentenced Respondent to serve 24 months in State Prison, to run  
28 concurrently with the sentence imposed in Case No. FVI1301665.

1 d. The circumstances surrounding the conviction are that, on or about July 6, 2013, while  
2 on patrol in a high narcotics area, a Sheriff's Deputy from the County of San Bernardino Sheriff's  
3 Department observed Respondent walking towards the Budget Inn Motel. The Deputy  
4 approached Respondent and identified himself as a police officer. Respondent continued to walk a  
5 few steps and threw a white tissue in the planter. Respondent appeared to be nervous and very  
6 apprehensive in answering the Deputy's questions. When asked what he threw in the planter, he  
7 responded, "I did not throw the bindles and I don't know where it came from." The officer  
8 searched the planter and found the white tissue rolled up, lying next to a bush. In the tissue was a  
9 hard, crystal-like substance in three separate bindles, suspected to be Methamphetamine.  
10 Respondent stated, "I did not throw the bindle's and I don't know where it came from." After a  
11 short time, Respondent admitted that the three bindles were his and they were Methamphetamine  
12 he was going to sell, because he was living on the street and was trying to make some extra  
13 money. Respondent told the Deputy he was staying at the Budget Inn with a friend and that there  
14 were additional narcotics in his room. The Deputy searched the motel room and located a green  
15 container under the bed which had six more separately packaged bindles containing a crystal-like  
16 substance suspected to be Methamphetamine, and several other packaging materials. Respondent  
17 admitted he was responsible for all of the narcotics and that he had packaged them separately, with  
18 the intention of selling them for financial gain. A sample of the suspected methamphetamine was  
19 tested in the field, and it immediately became a burnt orange color, which indicates the present of  
20 amphetamines.

21 **DISCIPLINE CONSIDERATIONS**

22 15. To determine the degree of discipline, if any, to be imposed on Respondent,  
23 Complainant alleges, as follows:

24 a. On or about June 8, 2009, after pleading guilty, Respondent was convicted of one  
25 misdemeanor count of violating Penal Code section 647(f) [disorderly conduct/public intoxication]  
26 in the criminal proceeding entitled *The People of the State of California v. Anthony Hafey* (Super.  
27 Ct. San Bernardino County, 2009, No. P128322AH). The Court sentenced Respondent to serve  
28 one day in the San Bernardino County Jail.

1           b.     The circumstances surrounding the conviction are that, on or about April 13, 2009,  
2 Respondent was under the influence of drugs and/or alcohol in public.

3           c.     On or about March 7, 2006, after pleading nolo contendere, Respondent was  
4 convicted of one felony count of violating Penal Code sections 664/12020(A)(1) [attempted  
5 possession/manufacture of a deadly weapon] in the criminal proceeding entitled *The People of the*  
6 *State of California v. Anthony Lee Hafey* (Super. Ct. San Bernardino County, 2006, No.  
7 FBA009108.) The Court sentenced Respondent to serve 16 months in State Prison and denied  
8 probation.

9           d.     The circumstances surrounding the conviction are that, on or are about February 27,  
10 2006, Respondent was observed by a Barstow Police Officer walking back and forth in front of a  
11 residence at approximately 4:15 a.m. He was acting erratically and wearing all black clothing and  
12 black gloves. When the Officer approached Respondent, he started walking away. The Officer  
13 made contact with Respondent and asked him what he was doing in the area so early in the  
14 morning. Respondent stated he was going to his friend's house to get a ride to work. While  
15 speaking to Respondent, the officer saw him holding a black beanie in his left hand which  
16 contained bulky items that caused the material to bulge. Respondent was asked to place the beanie  
17 on the ground. When he dropped it, the contents fell out of the beanie. The officer could see that  
18 it contained a double-sided knife, known to be dirk or dagger, and a small zip-lock baggie  
19 containing a white, powdery substance consistent with the appearance of Methamphetamine.  
20 Respondent was subsequently arrested. During the booking process, Respondent admitted to the  
21 officer that the baggie contained Methamphetamine and belonged to him. Respondent stated that  
22 the last time he used Methamphetamine was "last night around 5:00 P.M." A field test on the  
23 white substance was positive for the presence of Methamphetamine.

24           e.     On or about August 8, 2000, after pleading guilty, Respondent was convicted of one  
25 felony count of violating Penal Code section 459 [first degree burglary] in the criminal proceeding  
26 entitled *The People of the State of California v. Anthony Hafey* (Super. Ct. San Bernardino  
27 County, 2000, No. FBA05977). The Court sentenced Respondent to serve two years in State  
28 Prison and denied probation.

1 f. The circumstances surrounding the conviction are that, on or about July 28, 2000,  
2 Respondent entered another person's dwelling house/trailer coach, with the intent to commit  
3 larceny. Respondent was arrested.

4 **OTHER MATTERS**

5 16. Section 8620 provides, in pertinent part, that if a respondent elects to stipulate to a  
6 disciplinary action prior to an administrative hearing, the Board may impose a civil penalty.  
7 Respondent may request that a civil penalty of not more than \$5,000 be assessed, in lieu of an  
8 actual suspension of one to 19 days, or not more than \$10,000, for an actual suspension of 20 to  
9 45 days. Such request must be made at the time of the hearing and must be noted in the proposed  
10 decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a  
11 suspension which exceeds 45 days.

12 17. Pursuant to Section 8654, if discipline is imposed on Applicator's License No. RA  
13 53713, Respondent shall be prohibited from serving as an officer, director, associate, partner,  
14 qualifying manager, or responsible managing employee for any registered company, and any  
15 registered company which employees, elects, or associates Respondent shall be subject to  
16 disciplinary action.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board issue a decision:

20 1. Revoking or suspending Applicator License No. RA 53713, issued to Anthony Lee  
21 Hafey;

22 2. Prohibiting Anthony Lee Hafey from serving as an officer, director, associate, partner,  
23 qualifying manager, or responsible managing employee for any registered company;

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3. Ordering Anthony Lee Hafey to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED: 5/28/14



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

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