

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

In the Matter of the Statement of Issues Against:

RYAN KAICHIRO NAMBA

Respondent.

Case No. 2014-10

OAH No. 2013100356

**DECISION**


The Proposed Decision of Cheryl R. Tompkin, Administrative Law Judge, dated February 26, 2014, in Oakland, 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. The proposed decision is amended as follows:

1. On page 1, paragraph 1, "Interim Registrar/Executive Officer" is stricken and replaced with "Registrar/Executive Officer".

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 May 2, 2014.

IT IS SO ORDERED April 2, 2014

  
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FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Statement of Issues  
Against:

RYAN KAICHIRO NAMBA,

Respondent.

Case No. 2014-10

OAH No. 2013100356

**PROPOSED DECISION**

Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings, heard this matter on January 27, 2014, in Oakland, California.

Deputy Attorney General Shana A. Bagley represented complainant Susan Saylor.

Respondent Ryan Kaichiro Namba represented himself.

The matter was submitted for decision on January 27, 2014.

**FACTUAL FINDINGS**

1. Complainant Susan Saylor made the statement of issues in her official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board (board).
2. On January 23, 2013, the board received an application for an applicator's license, branches 2 and 3, from Ryan Kaichiro Namba (respondent). On his application respondent disclosed that he had been convicted of crimes. The board denied the application on April 10, 2013.
3. On December 8, 2011, in the Santa Clara County Superior Court, respondent was convicted, upon a plea of nolo contendere, of violating Penal Code sections 484/488 (petty theft), and 148, subdivision (a)(1) (resisting arrest), misdemeanor crimes that are substantially related to the qualifications, functions or duties of a pest control applicator.<sup>1</sup>

Respondent was sentenced to three years of court probation on terms and conditions that included serving 34 days in jail and payment of fines and fees. He was also ordered to stay away from the Bowlmor Lanes in Cupertino. Respondent represents that he is in compliance with all terms and conditions of his probation.

The circumstances of the conviction are that on July 24, 2011, respondent and a friend left Bowlmor Lanes without paying their \$34 bar tab. They were subsequently detained by police. As his friend was being handcuffed, respondent began walking away from the scene. An officer pursued respondent and grabbed him. Respondent resisted and attempted to get away, but was taken down and handcuffed by the officer.

4. On December 8, 2011, in the Santa Clara County Superior Court, respondent was convicted, upon a plea of nolo contendere, of violating Penal Code sections 459/460, subdivision (b) (second degree burglary), a misdemeanor crime that is substantially related to the qualifications, functions or duties of a pest control applicator.

Respondent was sentenced to three years of court probation on terms and conditions that included serving 34 days in jail, 30 days of which he was permitted to complete through a work program, and payment of fines and fees. He was also ordered to stay away from Fry's Electronics in Sunnyvale. Respondent represents that he is in compliance with all terms and conditions of his probation.

The circumstances of the conviction are that on November 12, 2011, respondent stole a video game valued at \$59.96 from Fry's Electronics. Following his arrest, respondent admitted to stealing three other video games from Fry's earlier in the day. He promised to return the games.

5. At hearing respondent accepted responsibility for his convictions and expressed remorse for his conduct. With respect to his failure to pay his bar tab, respondent explained that he and a friend had been drinking before they went to the bar and were quite intoxicated. Respondent stepped outside to have a cigarette. His friend soon followed and said they could leave. Respondent thought his friend had paid for their drinks. When they were subsequently detained by the police, respondent thought it was a mistake and resisted. Respondent was upset with his friend for putting him in that situation and represents that shortly after this incident he stopped associating with the friend.

Respondent admits stealing the video game from Fry's. Although he told the arresting officer he stole the game to sell because he needed rent money, he actually stole the game to give as a birthday gift to a friend. Respondent explained he told the officer the rent money story because he thought it would result in a less harsh penalty.

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<sup>1</sup> See *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, holding there is a logical connection or nexus between convictions involving the consumption of alcohol and fitness to practice a profession.

6. Respondent maintains that he has changed and matured substantially since his convictions. He explained that in 2011 he was partying and hanging out with the wrong people. However, after experiencing life in jail, he realized he did not want that type of life. About that time he met his fiancé and she helped him begin to change course. And when he found out that his fiancé was pregnant, it was a turning point in his life, It inspired him to try to better himself so that he could support his family. He now has a four-month-old daughter, whom he adores, and he is dedicated to his family.

7. Respondent has worked for All Pest Pros for approximately a year. He seals up (rat proofs) homes to prevent rodent entry, answers customer questions, provides customer service as needed, and collects payment. He works six days per week. Respondent loves his job. He is seeking an applicator license in order to broaden his expertise in the pest control field.

8. At hearing several individuals testified on respondent's behalf. Alejandro Rojas is respondent's manager at All Pest Pros. Rojas testified that respondent is passionate about his job, that he gives 110 percent, that he always strives to ensure customer satisfaction, and that his work performance is "above par." Rojas is aware of respondent's convictions, but does not feel respondent poses any threat to the public safety. He believes respondent should be granted an applicator license so that respondent can expand his areas of expertise.

Angela Goytia, respondent's fiancé, submitted a letter of support and testified on respondent's behalf. Goytia has known respondent a little over two years. She testified that respondent has changed significantly since she met him. At first he was partying and going out a lot. He did not have a job, a car or any responsibilities. He lacked direction and focus. Now his family is his focus. Respondent works long hours to support the family and then returns home to them. He does not drink except for a beer or two when they go out to dinner. He has purchased a car. He pays all the bills, including rent and the cost of online courses for Goytia, and has done so since the birth of their daughter. This has allowed Goytia to be a stay at home mom. Goytia opines that respondent is not a threat to public safety and she supports his application for a license.

James Foster is respondent's stepfather. He has known respondent since respondent was 13 years old. Foster has observed that respondent has matured since his convictions and that he is now "super responsible." Foster accompanied respondent to his court appearances and respondent was always on time. Foster lent respondent his truck so that respondent could complete all of his court ordered community service and obtain a part-time job to pay off his fines. Respondent is now dedicated to and works hard to support his family. Foster opines that respondent is a "perfect family man" and that his character is now "excellent."

Scott Namba, respondent's father, submitted a letter of support and testified on respondent's behalf. Namba is aware of respondent's convictions, but opines that respondent has changed immensely since 2011. Respondent has become the person Namba always

wanted him to be and Namba is proud of respondent. Namba feels respondent's character is now "outstanding" and that he does not pose a threat to public safety. Namba requests that respondent be granted a license so that respondent can continue on the path of success and go as far as possible in his chosen field.

Karen Foster is respondent's mother. She testified that when respondent moved back home after his convictions in 2011, he started to grow as a person. He now has a job and is providing for his family. Foster opines that respondent's character is now excellent and that he is a good human being.

9. Respondent also submitted letters of support from David Sager, General Manager of All Pest Pros, and Diana Namba, respondent's stepmother. In a letter dated August 13, 2013, Sager states that respondent is a model employee who is great with customers, always on time to appointments, and a hard worker who easily follows strict company protocols. Sager notes that respondent is being prevented from growing with the company because he does not have a license to apply pesticides. Sager indicates that he is aware of respondent's convictions but nevertheless opines that if respondent is granted a license he will have a great career with All Pest Pros, and be an asset to the pest control field.

In her letter of April 3, 2013, Diana Namba states that she has been respondent's stepmother for 14 years. She acknowledges respondent has made "incredibly poor choices" but states that in the last couple of years he has admitted his mistakes, asked forgiveness and is making every effort to be a responsible adult. Namba believes respondent should be granted a license notwithstanding his convictions.

## LEGAL CONCLUSIONS

1. Cause for denial of respondent's application exists pursuant to Business and Professions Code sections 480, subdivision (a)(1) and 8568, in that respondent has been convicted of a crime that is substantially related to the qualifications, functions or duties of a pest control applicator, as set forth in Factual Findings 3 and 4.

2. Cause for denial of respondent's application exists pursuant to Business and Professions Code sections 480, subdivision (a)(3) and 8568, in that respondent has committed acts, which if done by a licensed pest control applicator, would constitute grounds for discipline pursuant to Business and Professions Code section 8649 (conviction of a substantially related crime), as set forth in Factual Findings 3 and 4.

3. California Code of Regulations, title 16, section 1937.2, sets forth criteria to be considered when evaluating an applicant's rehabilitation and his present eligibility for licensure. Among these criteria are:

- a. The nature and severity of the acts or crimes under consideration as grounds for denial;

- b. Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for denial, which also could be considered as grounds for denial under section 480 of the Business and Professions Code;
- c. The time that has elapsed since commission of the acts or crime referred to;
- d. The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant;
- e. Evidence, if any, of rehabilitation submitted by the applicant.

The criteria set forth in California Code of Regulations, title 16, section 1937.2, have been considered in making a decision in this case.

4. Notwithstanding respondent's relatively recent convictions, it is determined that it would not be against the public interest to grant respondent an applicator license upon appropriate terms and conditions. Respondent has accepted responsibility and expressed remorse for his past criminal conduct. He is in compliance with the terms of his criminal probation, which is scheduled to end this year. And respondent has presented substantial evidence of rehabilitation through his own testimony, the testimony of individuals close to him and letters of reference. This evidence establishes that respondent has matured and made a conscious effort to change the direction of his life to that of a valuable contributing member of society. He has developed a reputation in the pest control field as an excellent and conscientious worker. And, on a personal level, he has shown himself to be a dedicated family man, who seems motivated to improve his own life and the lives of those he loves. Respondent also has a substantial support network in place, as evidenced by the number of individuals who testified on his behalf at hearing. It thus appears unlikely that respondent will engage in criminal conduct in the future.

#### ORDER

The application of respondent Ryan Kaichiro Namba for a pest control applicator license, branches 2 and 3, is denied; however, a probationary license shall be issued to respondent for a period of three years, pursuant to the following terms and conditions:

- 1. Obey All Laws - Respondent shall obey all laws and rules relating to the practice of structural pest control.
- 2. Quarterly Reports - Respondent shall file quarterly reports with the board during the period of probation

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

4. Notice to Employers - Respondent shall notify all present and prospective employers of the decision in this matter and the terms, conditions and restrictions 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 employer to report to the board in writing acknowledging the employer has read the decision in this case.

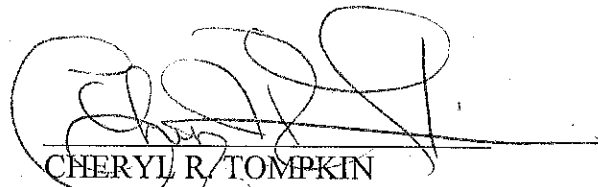
5. Prohibition from Serving as Officer, Director or Associate - Respondent is prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company during the probationary period.

6. No Interest In Any Registered Company - Respondent shall not have any legal or beneficial interest in a company currently or hereinafter registered by the board during the probationary period.

7. Violation of Probation - Should respondent violate probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order (license denial) which was stayed. If a petition to revoke probation is filed against respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

8. Completion of Probation - Upon successful completion of probation, respondent shall be granted an unrestricted applicator's license.

DATED: February 26, 2014

  
CHERYL R. TOMPKIN  
Administrative Law Judge  
Office of Administrative Hearings

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*Attorneys for Complainant*

**FILED**

Date 8/5/13 By *Susan Saylor*

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

In the Matter of the Statement of Issues  
Against:  
**RYAN KAICHIRO NAMBA**  
Applicator License, Branches 2 and 3,  
Applicant  
Respondent.

Case No. 2014-10

**STATEMENT OF ISSUES**

Complainant alleges:

**PARTIES**

1. Susan Saylor (Complainant) brings this Statement of Issues solely in her official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs.
2. On or about January 23, 2013, the Structural Pest Control Board, Department of Consumer Affairs received an application for an Applicator License, Branches 2 and 3, from Ryan Kaichiro Namba (Respondent). On or about January 22, 2013, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on April 10, 2013.

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1 **JURISDICTION**

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

5 **STATUTORY AND REGULATORY PROVISIONS**

6 4. Code section 480 provides, in part, that a board may deny a license if the applicant  
7 has been convicted of a crime substantially related to the qualifications, functions or duties of the  
8 business or profession for which application is made, has committed any act involving  
9 dishonesty, fraud or deceit, has committed any act which if done by a licentiate would be grounds  
10 for suspension or revocation of a license, or has knowingly made a false statement of fact  
11 required to be revealed in the application.

12 5. Code section 8568 provides, in part, that the Board may deny a license or registration  
13 if the applicant, while unlicensed or not registered, knowingly committed or aided or abetted the  
14 commission of any act for which a license or company registration is required, or has committed  
15 any act or omissions constituting grounds for discipline under Code section 480.

16 6. Code section 8649 provides:

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

20 7. Code section 8654 provides

21 Any individual who has been denied a license for any of the reasons specified  
22 in Section 8568, or who has had his or her license revoked, or whose license is under  
23 suspension, or who has failed to renew his or her license while it was under  
24 suspension, or who has been a member, officer, director, associate, qualifying  
25 manager, or responsible managing employee of any partnership, corporation, firm, or  
26 association whose application for a company registration has been denied for any of  
27 the reasons specified in Section 8568, or whose company registration has been  
28 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  
of the prohibited acts for which the license or registration was denied, suspended or  
revoked, shall be prohibited from serving as an officer, director, associate, partner,  
qualifying manager, or responsible managing employee of a registered company, and

1 the employment, election or association of such person by a registered company is a  
2 ground for disciplinary action.

3 8. California Code of Regulations, title 14, section 1937.1 provides, in part:

4 For the purposes of denial, suspension or revocation of a license or company  
5 registration pursuant to Division 1.5 (commencing with Section 475) of the code, a  
6 crime or act shall be considered to be substantially related to the qualifications,  
7 functions or duties of a licensee or registered company under Chapter 14 of Division  
8 3 of the code if to a substantial degree it evidences present or potential unfitness of  
9 such licensee or registered company to perform the functions authorized by the  
10 license or company registration in a manner consistent with the public health, safety,  
11 or welfare . . . .

12 **FIRST CAUSE FOR DENIAL OF APPLICATION**

13 **(Substantially Related Convictions)**

14 9. Respondent's application is subject to denial under Code sections 480, and 8568 in  
15 that he was convicted of offenses substantially related to the qualifications, functions, and duties  
16 of a Pest Control Applicator, within the meaning of California Code of Regulations, title 16,  
17 section 1937.1. The circumstances are as follows:

18 a. On or about February 8, 2011, in a criminal proceeding entitled *People v. Ryan*  
19 *Kaichiro Namba* in Santa Clara County Superior Court, Case Number B1155607, Respondent  
20 was convicted by plea of nolo contendere for violating Penal Code sections 484/488, (Theft) and  
21 148, subdivision (a)(1), (Resisting Arrest), misdemeanors. The court sentenced Respondent to  
22 serve 3 years of probation and 34 days in county jail, to pay fines, and to comply with other terms  
23 and conditions.

24 b. The underlying circumstances are as follows: on or about July 24, 2011, the Santa  
25 Clara County Sheriff's Office arrested Respondent and another man for leaving the Bowlmor  
26 Lanes bowling alley bar in Cupertino, California without paying for \$34.00 worth of alcoholic  
27 drinks.

28 c. On or about December 8, 2011, in a criminal proceeding entitled *People v. Ryan*  
*Kaichiro Namba* in Santa Clara County Superior Court, Case Number B11557099, Respondent  
was convicted by plea of nolo contendere for violating Penal Code section 459/460, subdivision  
(b), (Second Degree Burglary), a misdemeanor. The court sentenced Respondent to serve 3 years

1 of probation and 34 days in county jail, to pay fines, and to comply with other terms and  
2 conditions. Because of this conviction, Respondent violated his probation in Santa Clara County  
3 Superior Court, Case Number B1155607 and the court added 18 days of county jail to his original  
4 sentence.

5 d. The underlying circumstances are as follows: on or about November 12, 2011, the  
6 Sunnyvale Police Department arrested Respondent for entering Fry's Electronics in Sunnyvale,  
7 California, with the intent to commit the theft of a videogame valued at \$59.96. Respondent  
8 admitted to the arresting officer that he entered the store without any form of payment with the  
9 intent to steal a video game and resell it for cash. Respondent also admitted to stealing three  
10 other video games from the same store earlier that day.

11 **SECOND CAUSE FOR DENIAL OF APPLICATION**

12 (Act, Which if Done by Licentiate, Would be Grounds for Suspension or Revocation)

13 10. Respondent's application is subject to denial under Code sections 480, 8568, and  
14 8649 in that Respondent committed acts, which if done by a licentiate of the business or  
15 profession in question, would be grounds for suspension or revocation of license. The  
16 circumstances are more particularly set forth in paragraph 9 and its subparts, above.

17 **PRAYER**

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

20 1. Denying the application of Respondent Ryan Kaichiro Namba for a Pest Control  
21 Applicator License;

22 2. Prohibiting Respondent Ryan Kaichiro Namba from serving as an officer, director,  
23 associate, partner, qualifying manager or responsible managing employee of any licensee; and

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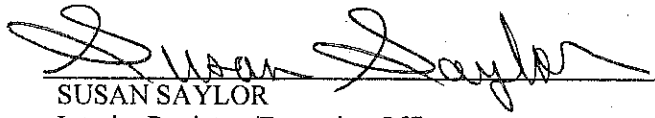
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3. Taking such other and further action as deemed necessary and proper.

DATED: 8/5/13



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

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