

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

In the Matter of the Petition for Reinstatement of:

RODNEY J. OVERSTREET, JR.,

Petitioner.

Case No. 2014-20

OAH No. 2016030370

**ORDER OF DECISION**

**DECISION**

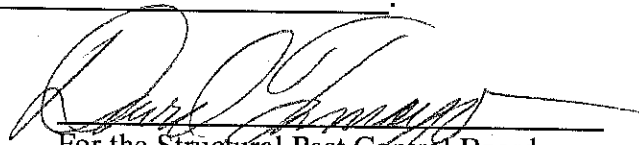
The Proposed Decision of Timothy J. Aspinwall, Administrative Law Judge, in Sacramento, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 4, the prefix "RA" is inserted in front of "51309".

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 June 24, 2016.

IT IS SO ORDERED May 25, 2016

  
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 Petition for  
Reinstatement of:

RODNEY J. OVERSTREET, JR.  
Diamond Bar, California

Petitioner.

OAH No. 2016030370

**DECISION**

This matter was heard on April 6, 2016, in Sacramento, California, before a quorum of the Structural Pest Control Board (Board) comprised of Dave Tamayo, President, Curtis Good, Vice President, Clifford Utley, Marisa Quiroz, and Mike Duran. Administrative Law Judge Timothy J. Aspinwall, Office of Administrative Hearings, sat with the Board.

Tim McDonough, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General, and appeared pursuant to Government Code section 11522.

Rodney J. Overstreet, Jr. (petitioner) appeared on his own behalf.

The matter was submitted on April 6, 2016.

**FACTUAL FINDINGS**

*License and Disciplinary History*

1. On September 3, 2010, the Board issued Applicator's License No. RA 51309, Branches 2 and 3, to Rodney J. Overstreet, Jr, as an employee of GMC Pest Control. Applicator's License No. RA 51309 was canceled on September 3, 2013, due to non-renewal.

2. On September 26, 2013, the Board filed an accusation against the applicator's license in Case No. 2014-20, alleging that petitioner had been convicted of a crime substantially related to the qualifications, functions or duties of a licensed applicator. Specifically, on or about June 11, 2013, in Orange County Superior Court Case No.

12WM08835, petitioner was convicted on his plea of guilty to misdemeanor violations of Penal Code sections 496, subdivision (a) (receiving known stolen property), 484, subdivision (a) (petty theft); and Vehicle Code section 10852 (unlawful tampering with a vehicle). The circumstances surrounding the convictions are that on or about August 4, 2012, respondent was observed pulling on door handles of multiple vehicles parked near Huntington Beach. When petitioner was detained by the Huntington Beach Police Department, he admitted to having stolen property from one of the parked vehicles and was in possession of the stolen property. The accusation in Case No. 2014-20 also alleged that on or about December 27, 2012, petitioner failed to appear at the Orange County Superior Court for a scheduled hearing in the criminal case, and that the court issued a bench warrant which was exonerated following petitioner's appearance for sentencing on or about June 11, 2013.

3. The Board issued a Default Decision and Order revoking petitioner's license, effective January 16, 2014. The basis for the default was that on October 3, 2013, the Board served petitioner by Certified and First Class Mail with copies of the Accusation No. 2014-20, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes at petitioner's address of record which petitioner is required to maintain with the Board. On or about October 11, 2013, the documents were returned to the Board by the U.S. Postal Service marked "No Forwarding Address." Petitioner failed to maintain an updated address with the Board, and thus made himself unavailable for service of process. Petitioner thus failed to avail himself of his right to have a hearing on the merits of the accusation in Case No. 2014-20.

#### *Petition for Reinstatement*

4. On February 10, 2016, petitioner filed his petition for reinstatement of revoked applicator's license. At hearing, petitioner openly admitted that he had engaged in the unlawful conduct leading to his conviction. He complied with the terms of his criminal probation. He has not, however, taken steps to demonstrate rehabilitation consistent with the Board's Guidelines for Petitions for Reinstatement (Guidelines). Also, petitioner has not had the conviction expunged pursuant to Penal Code section 1203.4.

5. Petitioner wants to have his license reinstated so he can help his father with his business. He testified credibly that his father and other family elders have taught him the values of honesty and hard work. He feels he owes it to his father to help him in his business. Petitioner testified credibly that his criminal conduct was not characteristic of his normal behavior or his ethical values.

6. The Attorney General took no position on the petition.

#### *Conclusion*

7. Cause exists to deny the Petition for Reinstatement of Revoked Applicator's License submitted by petitioner in that he failed to submit clear and convincing evidence of

rehabilitation. It would therefore be inconsistent with the public interest to grant the petition at this time.

### LEGAL CONCLUSIONS

1. Government Code section 11522 states:

A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

2. Petitioner bears the burden of establishing that he is now fit to engage in the structural pest control activities for which he seeks a license. Petitioner did not submit sufficient evidence of rehabilitation to support a finding that it would be consistent with the public interest to grant the petition at this time. The petition must therefore be denied. In the event that petitioner wishes to file another petition for reinstatement when he is eligible to do so, he is referred to the Guidelines discussed in Factual Finding 4 for guidance in demonstrating rehabilitation.

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ORDER

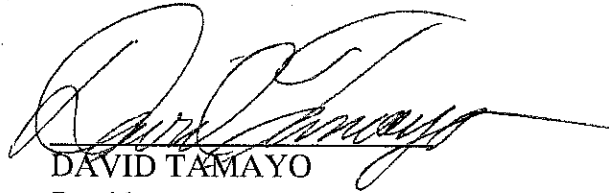
The Petition for Reinstatement of Revoked Applicator's License No. 51309, filed by petitioner Rodney J. Overstreet, Jr., is DENIED.

This Decision is hereby adopted by the Structural Pest Control Board.

This Decision shall become effective on June 24, 2016.

IT IS SO ORDERED.

Dated: May 25, 2016

A handwritten signature in black ink, appearing to read 'David Tamayo', is written over a horizontal line.

DAVID TAMAYO  
President  
Structural Pest Control Board.