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

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

JEREMY PATRICK MOFFETT
43428 16th Street W., Apt 15
Lancaster, CA 93534

Applicator License No. RA 52776

Respondent.

Case No. 2014-63

DEFAULT DECISION AND ORDER

[Gov. Code §11520]

FINDINGS OF FACT

1. On or about June 2, 2014, Complainant Susan Saylor, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs, filed Accusation/Petition to Revoke Probation No. 2014-63 against Jeremy Patrick Moffett (Respondent) before the Structural Pest Control Board. (Accusation/Petition to Revoke Probation attached as Exhibit A.)

2. On or about December 23, 2011, the Structural Pest Control Board (Board) issued a probationary Applicator License No. RA 52776 to Respondent. The Applicator License was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 2014-63, but expired on December 23, 2014. This lapse in licensure, however,

1 pursuant to Business and Professions Code section 118(b) does not deprive the Board of its
2 authority to institute or continue this disciplinary proceeding.

3 3. On or about June 24, 2014, Respondent was served by Certified and First Class Mail
4 copies of the Accusation/Petition to Revoke Probation No. 2014-63, Statement to Respondent,
5 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
6 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
7 and Professions Code section 136, is required to be reported and maintained with the Board.

8 Respondent's address of record was and is:

9 12599 Telfair Avenue
10 Sylmar, CA 91342

11 On or about December 22, 2014, Respondent was served a second time by Certified and
12 First Class Mail copies of the Accusation/Petition to Revoke Probation No. 2014-63, Statement to
13 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
14 Code sections 11507.5, 11507.6, and 11507.7) at Respondent's residence address which, pursuant
15 to Business and Professions Code section 136, which was reported and maintained with the
16 Board. Respondent's residence address was:

17 43428 16th Street W., Apt 15
18 Lancaster, CA 93534.

19 4. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
20 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
21 Professions Code section 124.

22 5. On or about July 31, 2014, January 5, 2015, and January 8, 2015, the aforementioned
23 documents were returned by the U.S. Postal Service marked "Undeliverable as addressed. Unable
24 to Forward" and "Return to Sender. Unclaimed. Unable to Forward."

25 6. Government Code section 11506 states, in pertinent part:

26 (c) The respondent shall be entitled to a hearing on the merits if the respondent
27 files a notice of defense, and the notice shall be deemed a specific denial of all parts
28 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion

1 may nevertheless grant a hearing.

2 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
3 of the Accusation/Petition to Revoke Probation, and therefore waived his right to a hearing on the
4 merits of Accusation/Petition to Revoke Probation No. 2014-63.

5 8. California Government Code section 11520 states, in pertinent part:

6 (a) If the respondent either fails to file a notice of defense or to appear at the
7 hearing, the agency may take action based upon the respondent's express admissions
8 or upon other evidence and affidavits may be used as evidence without any notice to
9 respondent.

9 9. Pursuant to its authority under Government Code section 11520, the Board finds
10 Respondent is in default. The Board will take action without further hearing and, based on the
11 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
12 taking official notice of all the investigatory reports, exhibits and statements contained therein on
13 file at the Board's offices regarding the allegations contained in Accusation/Petition to Revoke
14 Probation No. 2014-63, finds that the charges and allegations in Accusation/Petition to Revoke
15 Probation No. 2014-63, are separately and severally, found to be true and correct by clear and
16 convincing evidence.

17 10. Taking official notice of its own internal records, pursuant to Business and
18 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
19 and Enforcement are \$2,215.

20 DETERMINATION OF ISSUES

21 1. Based on the foregoing findings of fact, Respondent Jeremy Patrick Moffett has
22 subjected his Applicator License No. RA 52776 to discipline.

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Structural Pest Control Board is authorized to revoke Respondent's Applicator
25 License based upon the following violations alleged in the Accusation/Petition to Revoke
26 Probation which are supported by the evidence contained in the Default Decision Evidence
27 Packet in this case:

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- 1 a. Business and Professions Code section 8649, in conjunction with CCR, title 16,
2 section 1937.1 – Conviction of Substantially Related Crime;
- 3 b. Violation of Probation Condition No. 1 – Failure to Obey All Laws and Rules
4 Relating to the Practice of Structural Pest Control;
- 5 c. Violation of Probation Condition No. 2 – Failure to Obey all Local, State and Federal
6 Laws; and
- 7 d. Violation of Probation Condition No. 3 – Failure to File Quarterly Reports.

8 ORDER

9 *IT IS SO ORDERED* that Applicator License No. RA 52776, heretofore issued to
10 Respondent Jeremy Patrick Moffett, is revoked.

11 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
12 written motion requesting that the Decision be vacated and stating the grounds relied on within
13 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
14 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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16 This Decision shall become effective on July 1, 2015.

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18 It is so ORDERED June 1, 2015

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22 FOR THE STRUCTURAL PEST CONTROL
23 BOARD DEPARTMENT OF CONSUMER
24 AFFAIRS

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27 Attachment:
28 Exhibit A: Accusation/Petition to Revoke Probation

Exhibit A

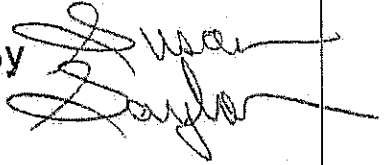
Accusation/Petition to Revoke Probation

(JEREMY PATRICK MOFFETT)

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7 *Attorneys for Complainant*

FILED

Date 6/2/14 By 

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

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

Case No. 2014-63

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

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

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

26 3. In a prior matter entitled, "*In the Matter of the Application of: Jeremy Patrick*
27 *Moffett*," the Board issued a Stipulation of a Probationary License and Order, effective December
28 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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1 ACCUSATION

2 FIRST CAUSE FOR DISCIPLINE

3 *(Conviction of Substantially Related Crime)*

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

7 a. On or about July 16, 2013, after pleading *nolo contendere*, Respondent was convicted
8 of one felony count of violating Vehicle Code section 2800.2, subdivision (a) [evade peace
9 officer], and one felony count of Health and Safety Code section 11379, subdivision (a)
10 [sale/offer to sell/transportation of a controlled substance], in the criminal proceeding entitled *The*
11 *People of the State of California v. Jeremy Patrick Moffett* (Super. Ct. Los Angeles County, 2013,
12 No. MA059112.) The Court sentenced Respondent to serve eight years in State Prison, and
13 denied probation.

14 b. The circumstances surrounding the conviction are that, on or about March 21, 2013,
15 Respondent failed to stop during a traffic enforcement stop by the Los Angeles County Sheriff's
16 Department. Respondent slowed down like he was going to yield, looked back at the officers,
17 accelerated, and proceeded on the right shoulder at a high rate of speed. A deputy sheriff followed
18 Respondent on the freeway and observed him as he drove his motorcycle at a high rate of speed,
19 passing several vehicles. Respondent exited the freeway and could be seen looking back. Within
20 seconds of him looking back, he lost control and crashed in a dirt area. Respondent was detained
21 by law enforcement. During a search of his person, a deputy recovered a clear plastic baggie that
22 contained a large amount of Methamphetamine from Respondent's left pant's pocket.

23 PETITION TO REVOKE PROBATION

24 16. Grounds exist to revoke Respondent's probationary Applicator License No. RA
25 52776, in that, Respondent failed to comply with his probation terms and conditions, as follows:

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1 FIRST CAUSE TO REVOKE PROBATION

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

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

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

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

11 SECOND CAUSE TO REVOKE PROBATION

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

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

15 "Obey all Local, State and Federal laws."

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

21 THIRD CAUSE TO REVOKE PROBATION

22 *(Failure to File Quarterly Reports)*

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

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

27 22. Respondent's probation is subject to revocation because he failed to comply with
28 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;

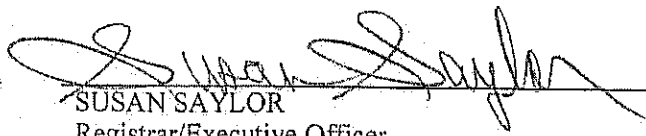
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4. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant section 125.3; and

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