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**FILED**

Date 5/20/15 By *Susan Saylor*

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 2015-56

12 **FRANK JAVIER NEGRETE**  
13 **aka FRANCISCO JAVIER NEGRETE**  
3454 1/2 Whistler Avenue  
14 El Monte, CA 91732

**A C C U S A T I O N**

15 Applicator License No. RA 53877

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about December 18, 2012, the Board issued Applicator License No. RA 53877  
24 to Frank Javier Negrete also known as Francisco Javier Negrete (Respondent). The Applicator  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on June 30, 2016, unless renewed.

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1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
11 discipline a licensee for conviction of a crime that is independent of the authority granted under  
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
13 of the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
18 made suspending the imposition of sentence, irrespective of a subsequent order under the  
19 provisions of Section 1203.4 of the Penal Code."

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

24 6. Section 8625 states:

25 "The lapsing or suspension of a license or company registration by operation of law or by  
26 order or decision of the board or a court of law, or the voluntary surrender of a license or  
27 company registration shall not deprive the board of jurisdiction to proceed with any investigation

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1 of or action or disciplinary proceeding against such licensee or company, or to render a decision  
2 suspending or revoking such license or registration."

3 7. Section 8649 states:

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

7 8. Section 8654 states:

8 "Any individual who has been denied a license for any of the reasons specified in Section  
9 8568, or who has had his or her license revoked, or whose license is under suspension, or who has  
10 failed to renew his or her license while it was under suspension, or who has been a member,  
11 officer, director, associate, qualifying manager, or responsible managing employee of any  
12 partnership, corporation, firm, or association whose application for a company registration has  
13 been denied for any of the reasons specified in Section 8568, or whose company registration has  
14 been revoked as a result of disciplinary action, or whose company registration is under  
15 suspension, and while acting as such member, officer, director, associate, qualifying manager, or  
16 responsible managing employee had knowledge of or participated in any of the prohibited acts for  
17 which the license or registration was denied, suspended or revoked, shall be prohibited from  
18 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
19 employee of a registered company, and the employment, election or association of such person by  
20 a registered company is a ground for disciplinary action."

21 9. Section 8655 states:

22 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
23 charge substantially related to the qualifications, functions, and duties of a structural pest control  
24 operator, field representative, applicator, or registered company is deemed to be a conviction  
25 within the meaning of this article or Section 8568 of this chapter. The board may order the license  
26 or registration suspended or revoked, or may decline to issue a license, when the time for appeal  
27 has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting  
28 probation is made suspending the imposition of sentence, irrespective of a subsequent order under

1 the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company  
2 to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,  
3 or dismissing the accusation, information or indictment."

4 **REGULATORY PROVISIONS**

5 10. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

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

13 **COST RECOVERY**

14 11. Section 125.3 states, in pertinent part, that a Board may request the administrative law  
15 judge to direct a licentiate found to have committed a violation or violations of the licensing act to  
16 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Conviction of Substantially Related Crime)**

19 12. Respondent is subject to disciplinary action under sections 8649 and 490, in  
20 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has  
21 been convicted of a crime substantially related to the qualifications, functions or duties of a  
22 licensed applicator, as follows:

23 a. On or about June 18, 2014, after pleading nolo contendere, Respondent was convicted  
24 of one felony count of violating Penal code section 459 [second degree: commercial burglary]  
25 and one felony count of Penal Code section 594 [vandalism] in the criminal proceeding entitled  
26 *The People of the State of California v. Frank Javier Negrete* (Super. Ct. L.A. County, 2014, No.  
27 KA106107). The Court sentenced Respondent to serve 360 days in Los Angeles County Jail and  
28 placed him on 3 years probation, with terms and conditions.



1 **DISCIPLINE CONSIDERATIONS**

2 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges, as follows:

4 a. On or about June 8, 2001, after pleading nolo contendere, Respondent was convicted  
5 of one misdemeanor count of violating Business and Professions Code section 23300 [selling  
6 liquor without a license] in the criminal proceeding entitled *The People of the State of California*  
7 *v. Frank Javier Negrete* (Super. Ct. L.A. County, 2001, No. 1RH02787). The Court placed  
8 Respondent on 2 years probation, with terms and conditions.

9 **OTHER MATTERS**

10 15. Section 8620 provides, in pertinent part, that a respondent may request that a civil  
11 penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not  
12 more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the  
13 time of the hearing and must be noted in the proposed decision. The proposed decision shall not  
14 provide that a civil penalty shall be imposed in lieu of a suspension.

15 16. Pursuant to section 8654, if discipline is imposed on Applicator 's License No. RA  
16 53877, issued to Respondent, Respondent shall be prohibited from serving as an officer, director,  
17 associate, partner, qualifying manager, or responsible managing employee for any registered  
18 company, and any registered company which employees, elects, or associates Respondent shall be  
19 subject to disciplinary action.

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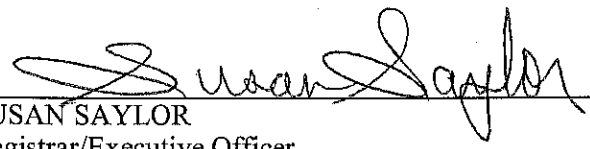
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**PRAYER**

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

1. Revoking or suspending Applicator License No. RA 53877, issued to Frank Javier Negrete also known as Francisco Javier Negrete
2. Ordering Frank Javier Negrete to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/20/15

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

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