

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
4 State Bar No. 132645
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2105
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED

Date 4/20/15 By *Susan Saylor*

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

12 In the Matter of the Accusation Against:

Case No. 2015-48

13 **ANTHONY R. GARCIA**
14 **19402 Brookhurst Street**
Huntington Beach, CA 92646

A C C U S A T I O N

15 **Applicator License No. RA 55387**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On February 26, 2014, the Structural Pest Control Board issued Applicator
24 License Number RA 55387 to Anthony R. Garcia (Respondent). Respondent has also been
25 known as Anthony Roberto Garcia, Anthony Robert Garcia, and Anthony Garcia. The
26 Applicator License was in full force and effect at all times relevant to the charges brought herein
27 and will expire on June 30, 2017, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation 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 4. Section 8620 provides, in pertinent part, that the Board may suspend or revoke a
6 license when it finds that the holder, while a licensee or applicant, has committed any acts or
7 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
8 penalty.

9 5. Section 8625 states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 482 states:

16 Each board under the provisions of this code shall develop criteria to
17 evaluate the rehabilitation of a person when:

- 18 (a) Considering the denial of a license by the board under Section 480; or
- 19 (b) Considering suspension or revocation of a license under Section 490.

20 Each board shall take into account all competent evidence of rehabilitation
21 furnished by the applicant or licensee.

22 7. Section 490 provides, in pertinent part, that a board may suspend or revoke a
23 license on the ground that the licensee has been convicted of a crime substantially related to the
24 qualifications, functions, or duties of the business or profession for which the license was issued.

25 8. Section 8649 states:

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

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1 9. Section 8654 states:

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

18 10. Section 8655 states:

19 A plea or verdict of guilty or a conviction following a plea of nolo
20 contendere made to a charge substantially related to the qualifications, functions,
21 and duties of a structural pest control operator, field representative, applicator, or
22 registered company is deemed to be a conviction within the meaning of this
23 article or Section 8568 of this chapter. The board may order the license or
24 registration suspended or revoked, or may decline to issue a license, when the
25 time for appeal has elapsed, or the judgment of conviction has been affirmed on
26 appeal or when an order granting probation is made suspending the imposition of
27 sentence, irrespective of a subsequent order under the provisions of Section
28 1203.4 of the Penal Code allowing the individual or registered company to
withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the
verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1937.1 states:

 For the purposes of denial, suspension or revocation of a license or
company registration pursuant to Division 1.5 (commencing with Section 475) of
the code, a crime or act shall be considered to be substantially related to the
qualifications, functions or duties of a licensee or registered company under
Chapter 14 of Division 3 of the code if to a substantial degree it evidences present
or potential unfitness of such licensee or registered company to perform the
functions authorized by the license or company registration in a manner consistent
with the public health, safety, or welfare. Such crimes or acts shall include, but
not be limited to, the following:

1 (a) Any violation of the provisions of Chapter 14 of Division 3 of the
2 code.

3 (b) Commission of any of the following in connection with the practice of
4 structural pest control:

- 5 (1) Fiscal dishonesty
- 6 (2) Fraud
- 7 (3) Theft
- 8 (4) Violations relating to the misuse of pesticides.

9 12. California Code of Regulations, title 16, section 1937.2 states:

10

11 (b) When considering the suspension or revocation of a structural pest
12 control license or company registration on the grounds that the licensee or
13 registered company has been convicted of a crime, the board, in evaluating the
14 rehabilitation of such person or company and his or her or its present eligibility
15 for a license or company registration will consider the following:

- 16 (1) Nature and severity of the act(s) or offense(s).
- 17 (2) Total criminal record.
- 18 (3) The time that has elapsed since commission of the act(s) or
19 offense(s).
- 20 (4) Whether the licensee or registered company has complied with
any terms of parole, probation, restitution or any other sanctions lawfully imposed
against the licensee or registered company.
- 21 (5) If applicable, evidence of expungement proceedings pursuant
to Section 1203.4 of the Penal Code.
- 22 (6) Evidence, if any of rehabilitation submitted by the licensee or
23 registered company.

24 (c) When considering a petition for reinstatement of a structural pest
25 control license or company registration, the board shall evaluate evidence of
26 rehabilitation submitted by the petitioner, considering those criteria specified in
27 subsection (b).
28

24 COST RECOVERY

25 13. Section 125.3 provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations
27 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not

1 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
2 may be included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(October 7, 2014 Conviction for Annoying or Molesting a Child Under 18 Years of Age)**

5 14. Respondent has subjected his Applicator License to disciplinary action under
6 sections 490 and 8649 in that he was convicted of crimes that are substantially related to the
7 qualifications, duties, and functions of a licensed applicator. The circumstances are as follows:

8 a. On October 7, 2014, in a criminal proceeding entitled *The People of the*
9 *State of California v. Anthony Robert Garcia, aka Anthony Garcia*, in Orange County Superior
10 Court, Central Justice Center, Criminal Division Case Number 14CM04072, Respondent was
11 convicted of violating three counts of Penal Code (PC) section 647.6, subdivision (a)(1),
12 annoying or molesting a child under 18 years of age, and two counts of PC section 314,
13 subdivision (1), indecent exposure, all misdemeanors.

14 b. As a result of the convictions, Respondent was sentenced to serve 300
15 days in the Orange County Jail, with credit for 88 days served and 88 days for good behavior.
16 Respondent was granted three years formal probation under certain terms and conditions.
17 Respondent was ordered to pay fines, fees, restitution, and the cost of probation and to register as
18 a sex offender under PC section 290. Respondent was also ordered to submit to Acquired
19 Immune Deficiency Syndrome (AIDS) testing, complete an AIDS prevention program, and
20 provide deoxyribonucleic acid sample under PC section 296.1.

21 c. The circumstances that led to the convictions are that on March 31, 2014,
22 a female juvenile was walking to school in Santa Ana, California, when Respondent called her to
23 come over to him, while undoing his pants. The child recognized Respondent as the same person
24 who harassed her in a similar manner on two earlier occasions. During those two earlier
25 incidents, Respondent touched himself and exposed his private parts to the child. This time, the
26 child took a picture of Respondent's vehicle's license plates. Respondent walked aggressively
27 towards the child when he saw that she was taking a picture of his car's license plates. The child
28 ran to a house and knocked on the door while Respondent returned to his car and casually left.

1 The child was able to report the incident to the Santa Ana Police Department. Respondent was
2 identified through his car's license plates, which was registered in Respondent's name.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(October 7, 2014 Conviction for Domestic Violence on July 14, 2014)**

5 15. Respondent has subjected his Applicator License to disciplinary action under
6 sections 490 and 8649 in that he was convicted of a crime that is substantially related to the
7 qualifications, duties, and functions of a licensed applicator. The circumstances are as follows:

8 a. On October 7, 2014, in a criminal proceeding entitled *The People of the*
9 *State of California v. Anthony Robert Garcia, aka Anthony Roberto Garcia, aka Anthony R.*
10 *Garcia, aka Anthony Garcia*, in Orange County Superior Court, North Justice Center, criminal
11 Division Case Number 14NM07736, Respondent was convicted of violating PC section 243,
12 subdivision (e)(1), domestic violence battery, a misdemeanor. A misdemeanor charge for
13 violating PC section 273.5, subdivision (a), corporal injury on cohabitant, was dismissed under a
14 plea bargain.

15 b. As a result of the conviction, on October 7, 2014, Respondent was
16 sentenced to 172 days in the Orange County Jail, with credit for 86 days served and 86 days for
17 good behavior, to be served concurrently with the sentence in Case Number 14CM04072,
18 detailed in paragraph 14, above. Respondent was also ordered to pay fines, fees, assessments,
19 and restitution.

20 c. The circumstances that led to the conviction are that on July 14, 2014,
21 Respondent and his fiancée had a verbal altercation over their relationship at their residence in
22 Anaheim, California. Respondent had been drinking heavily and at one point during the verbal
23 altercation, Respondent grabbed his fiancée's arms and pulled them. Respondent then shoved her
24 and punched her in the face, head, and upper body about nine times. Respondent's fiancée waited
25 for him to fall asleep and called 911. Responding officers from the Anaheim Police Department
26 observed bruising on the fiancée's right eyelid and redness and swelling on her right cheek.

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1 **OTHER MATTERS**

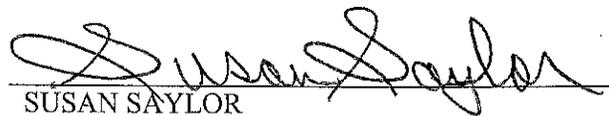
2 16. Pursuant to section 8654, if discipline is imposed on Applicator License Number
3 RA 55387 issued to Respondent, Anthony R. Garcia shall be prohibited from serving as an
4 officer, director, associate, partner, qualifying manager, or responsible managing employee for
5 any registered company during the time the discipline is imposed, and any registered company
6 which employs, elects, or associates Anthony R. Garcia shall be subject to disciplinary action.

7 **PRAYER**

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

- 10 1. Revoking or suspending Applicator License Number RA 55387, issued to
11 Anthony R. Garcia;
- 12 2. Prohibiting Anthony R. Garcia from serving as an officer, director, associate,
13 partner, qualifying manager, or responsible managing employee of any registered company
14 during the period that discipline is imposed on Applicator License Number RA 55387, issued to
15 Anthony R. Garcia;
- 16 3. Ordering Anthony R. Garcia to pay the Structural Pest Control Board the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3; and
- 19 4. Taking such other and further action as deemed necessary and proper.
- 20
21
22

23 DATED: 4/20/15



24 SUSAN SAYLOR
25 Registrar/Executive Officer
26 Structural Pest Control Board
27 Department of Consumer Affairs
28 State of California
Complainant

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