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7

**FILED**

Date 4/23/15 By *Susan Saylor*

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

11 In the Matter of the Accusation and Petition to  
12 Revoke Probation Against:

Case No. 2015-49

13 **FERNANDO MAURICE TALLEY**  
14 **141 Eucalyptus Drive**  
**El Segundo, CA 90245**  
**Applicator License No. RA 55403**

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

15 Respondent.

16  
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 (Board).

22 2. On or about February 27, 2014, the Board issued Applicator License No. RA 55403  
23 to Fernando Maurice Talley (Respondent). The Applicator License was in full force and effect at  
24 all times relevant to the charges brought herein and will expire on June 30, 2017, unless renewed.

25 3. In a disciplinary action entitled *In the Matter of the Application of: Fernando*  
26 *Maurice Talley*, the Board issued a Stipulation for a Probationary License effective February 27,  
27 2014, in which Respondent's Applicator License was revoked. However, the revocation was  
28 stayed and Respondent's Applicator License was placed on probation for three (3) years with

1 certain terms and conditions. A copy of that Stipulation for a Probationary License is attached as  
2 Exhibit A and is incorporated by reference.

3 **ACCUSATION**

4 **JURISDICTION**

5 4. This Accusation is brought before the Board under the authority of the following  
6 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
7 indicated.

8 **STATUTORY PROVISIONS**

9 5. Section 8620 of the Code provides that the Board may suspend or revoke a license  
10 when it finds that the holder, while a licensee or applicant, has committed any acts or omissions  
11 constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

12 6. Section 8625 of the Code states, in pertinent part:

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

18 7. Section 8649 of the Code states, in pertinent part:

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

22 8. Section 8654 of the Code states, in pertinent part:

23 "Any individual who has been denied a license for any of the reasons specified in Section  
24 8568, or who has had his or her license revoked, or whose license is under suspension, or who has  
25 failed to renew his or her license while it was under suspension, or who has been a member,  
26 officer, director, associate, qualifying manager, or responsible managing employee of any  
27 partnership, corporation, firm, or association whose application for a company registration has  
28 been denied for any of the reasons specified in Section 8568, or whose company registration has

1 been revoked as a result of disciplinary action, or whose company registration is under  
2 suspension, and while acting as such member, officer, director, associate, qualifying manager, or  
3 responsible managing employee had knowledge of or participated in any of the prohibited acts for  
4 which the license or registration was denied, suspended or revoked, shall be prohibited from  
5 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
6 employee of a registered company, and the employment, election or association of such person by  
7 a registered company is a ground for disciplinary action."

8 9. Section 8655 of the Code states, in pertinent part:

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

19 **REGULATORY PROVISIONS**

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

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

28 ///

1 **COST RECOVERY**

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

6 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

7 12. Marijuana, hashish and tetrahydrocannabinols (concentrated marijuana) are  
8 hallucinogenic Schedule I controlled substances pursuant to Health and Safety Code section  
9 11054, subdivision (d)(13), and United States Code, title 21, section 812, and dangerous drugs  
10 pursuant to Business and Professions Code section 4022.

11 13. Norco, a trade name for the combination drug of hydrocodone bitartrate (opioid  
12 analgesic) and acetaminophen, is a Schedule III controlled substance pursuant to Health and  
13 Safety Code section 11056, subdivision (e)(4), and a dangerous drug pursuant to section 4022 of  
14 the Code.

15 **CAUSE FOR DISCIPLINE**

16 **(Conviction of a Substantially Related Crime)**

17 14. Respondent is subject to disciplinary action under section 8649, in conjunction with  
18 California Code of Regulations, title 16, section 1937.1, in that Respondent was convicted of a  
19 crime substantially related to the qualifications, functions or duties of an applicator, as follows:

20 a. On or about October 7, 2014, after pleading nolo contendere, Respondent was  
21 convicted of one felony count of violating Health and Safety Code section 11351 [possession of  
22 controlled substances for sale or purchase], in the criminal proceeding entitled *The People of the*  
23 *State of California v. Fernando Maurice Talley* (Super. Ct. L.A. County, 2014, No. YA089506.)  
24 The Court sentenced Respondent to 22 days in jail, placed him on three years formal probation,  
25 ordered him to complete 60 days CalTrans work, and to register as convicted narcotics offender.

26 b. The circumstances surrounding the conviction are that, on or about November 29,  
27 2013, Respondent was stopped by Torrance Police Department officers due to traffic violations.  
28 Upon contact, Respondent informed the officers that he had recently been released from jail after

1 serving time for possession of prescription pills with intent to sell. When the officers asked if  
2 Respondent had anything illegal on his person or in the vehicle, Respondent replied that he had  
3 marijuana. With Respondent's consent, the officers searched the vehicle and found a folded  
4 index card containing eight Norco 325 mg tablets inside a tampered air vent, and a plastic  
5 medicine container with marijuana. Respondent failed to provide the valid prescriptions for  
6 Norco and marijuana. After further investigation, the officers searched Respondent's cellular  
7 phone, which contained numerous texts between Respondent and various people referring to  
8 obtaining or selling controlled substances.

9 **PETITION TO REVOKE PROBATION**

10 **JURISDICTION**

11 15. This Petition to Revoke Probation is brought before the Board under Probation Term  
12 and Condition 8 of the Stipulation for a Probationary License *In the Matter of the Application of:*  
13 *Fernando Maurice Talley*. That term and condition states:

14 "Violation of Probation. Should Applicant violate probation in any respect, the Board, after  
15 giving Applicant notice and an opportunity to be heard, may revoke the probationary license."

16 16. Grounds exist to revoke Respondent's probationary Applicator License No.  
17 RA 55403, in that Respondent failed to comply with his probation terms and conditions, as  
18 follows:

19 **FIRST CAUSE TO REVOKE PROBATION**

20 **(Failure to Obey all Laws)**

21 17. At all times after the effective date of Respondent's probation, Condition 2 stated:  
22 "Obey all Local, State, and Federal Laws."

23 18. Respondent's probation is subject to revocation because he failed to comply with  
24 Probation Condition 2, referenced above. The facts and circumstances regarding this violation  
25 are that on or about October 7, 2014, Respondent failed to comply with state law when he was  
26 convicted of a crime substantially related to the qualification, function or duties of an applicator.  
27 Complainant refers to and by this reference incorporates, the allegations set forth above in  
28 paragraph 14, inclusive, as though set forth fully.

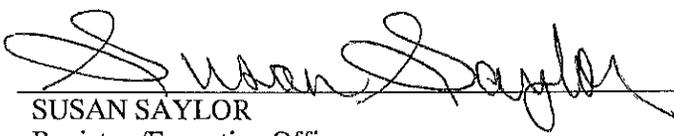
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Board issue a decision:

1. Revoking the probation that was granted by the Structural Pest Control Board and imposing the disciplinary order that was stayed thereby revoking Applicator License No. RA 55403 issued to Fernando Maurice Talley;
2. Revoking or suspending Applicator License No. RA 55403, issued to Fernando Maurice Talley;
3. Prohibiting Fernando Maurice Talley from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of any registered company during the period that discipline is imposed on Applicator License No. RA 55403, issued to Fernando Maurice Talley
4. Ordering Fernando Maurice Talley to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and
5. Taking such other and further action as deemed necessary and proper.

DATED: 4/22/15

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

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## **Exhibit A**

**Stipulation for a Probationary License**

**Structural Pest Control Board Case**

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

In the Matter of the Application of:

**Fernando Maurice Talley  
3910 W. 238<sup>th</sup> Street  
Torrance, CA 90505**

Applicator License

**STIPULATION FOR A  
PROBATIONARY LICENSE**

Fernando Maurice Talley, applicant for a structural pest control applicator's license (hereinafter Applicant), and Susan Saylor, Registrar/Executive Officer, Structural Pest Control Board (Board), hereby stipulate as follows:

1. This Applicant is not presently licensed as a structural pest control applicator, field representative or operator with the Board in the State of California.
2. On or about July 8, 2013, the Board received an Application for Structural Pest Control Applicator Examination and License from Fernando Maurice Talley.
3. Applicant was convicted on January 24, 2002 in Los Angeles County Superior Court of Vehicle Code section 12500(a), misdemeanor: driving without a license. Respondent was sentenced to 12 months of probation.
4. Applicant was convicted on October 11, 2005 in Los Angeles County Superior Court of Vehicle Code section 23103(a), misdemeanor: reckless driving: highway. Respondent was sentenced to 6 days in jail and 2 years of probation.
5. Applicant was convicted on November 3, 2005 in Los Angeles County Superior Court of Vehicle Code sections 23152(a), misdemeanor: DUI and 14601.5(a), misdemeanor: driving on suspended license and refused test. Respondent was sentenced to 96 hours in jail and 3 years probation.
6. Applicant was convicted on June 23, 2011 in Los Angeles County Superior Court of Health and Safety Code section 11351, felony: possession/purchase for sale narcotics/controlled substance. Respondent was sentenced to 180 days in jail and 3 years formal probation. Respondent was given credit for 27 days in custody (18 days actual custody and 9 days good time/work time). Probation was revoked due to arrest related to the 1/31/12 conviction and sentenced to 2 years in county jail.
7. Applicant was convicted on January 31, 2012 in Los Angeles County Superior Court of Health and Safety Code section 11375(b)(1), felony: possession for sale of controlled substance. Probation was denied and respondent was sentenced to the low term of 16 months in jail. Respondent was given credit for 185 days in custody (93 days actual custody and 92 days good time/work time). This sentence was to run currently with the June 23, 2011 conviction.

CERTIFIED COPY



## ORDER

Applicant, Fernando Maurice Talley is hereby granted a probationary Applicator's License. The license is placed on three (3) years probation upon the following terms and conditions:

1. **Compliance with all provisions of the Business and Professions Code, Division 3, Chapter 14, Structural Pest Control Act, and California Code of Regulations, Title 16, Professional and Vocational Regulations, Division 19.** Applicant shall obey all laws and rules relating to the practice of structural pest control.
2. Applicant shall obey all Local, State and Federal laws.
3. **Quarterly Reports.** Applicant shall file quarterly reports with the Board during the period of probation.
4. **Tolling of Probation.** Should Applicant leave California to reside outside this state, Applicant 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.
5. **Notice to Employers.** Applicant shall notify all present and prospective employers of the terms, conditions and restrictions imposed on Applicant by said Order. Within 30 days of the effective date of this Order, and within 15 days of Applicant undertaking new employment, Applicant shall cause his employer to report to the Board in writing acknowledging the employer has read the Order in this matter.
6. **Random Inspections.** Applicant shall reimburse the Board for one random inspection per quarter by the Board specialists during the period of probation not to exceed \$125 per inspection.
7. **Completion of Probation.** Upon successful completion of probation, Applicant's license will become fully restored.
8. **Violation of Probation.** Should Applicant violate probation in any respect, the Board, after giving Applicant notice and an opportunity to be heard, may revoke the probationary license.
9. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying Manager.** Applicant is prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company, during the period that probation is imposed on the applicator license.

CERTIFIED COPY



Susan Saylor  
Registrar/Executive Officer

11. **Future License.** Should Applicant apply for any additional license during probation, the Board shall issue the license, which shall be immediately placed on probation for the same duration and under the same terms and conditions as set forth in this Order.

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ACCEPTANCE

I have carefully read the Order. I understand the Order and the effect it will have on my Applicator's license. I enter into this Order voluntarily, knowingly, and intelligently, and agree to be bound by the Order of the Board.

DATED 1-10-14

Fernando Talley  
Fernando Maurice Talley  
Applicant

This Stipulation for a Probationary Applicator shall become effective

on February 27, 2014

David J. [Signature]  
FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

CERTIFIED COPY



Susan Saylor  
Registrar/Executive Officer