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FILED

Date 12/29/15 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. 2016-32

13 **THOMAS LEE MORRIS**
14 **4259 Layla Court**
San Diego, CA 92154

A C C U S A T I O N

15 **Applicator's License No. RA 56339**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 16, 2014, the Board issued Applicator's License Number RA
24 56339 to Thomas Lee Morris (Respondent). The Applicator's License was in full force and effect
25 at all times relevant to the charges brought herein and will expire on June 30, 2018, unless
26 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 (Code) unless otherwise
4 indicated.

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

9 5. Section 8625 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 482 of the Code states:

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

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

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

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

25 8. Section 493 of the Code states:

26 Notwithstanding any other provision of law, in a proceeding conducted by a board
27 within the department pursuant to law to deny an application for a license or to suspend
28 or revoke a license or otherwise take disciplinary action against a person who holds a
license, upon the ground that the applicant or the licensee has been convicted of a crime
substantially related to the qualifications, functions, and duties of the licensee in question,
the record of conviction of the crime shall be conclusive evidence of the fact that the

1 conviction occurred, but only of that fact, and the board may inquire into the
2 circumstances surrounding the commission of the crime in order to fix the degree of
3 discipline or to determine if the conviction is substantially related to the qualifications,
4 functions, and duties of the licensee in question.

5 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
6 'registration.'

7 9. Section 8649 of the Code states:

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

12 10. Section 8654 of the Code states:

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

27 11. Section 8655 of the Code states:

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

12. 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

1 duties of a licensee or registered company under Chapter 14 of Division 3 of the code if to
2 a substantial degree it evidences present or potential unfitness of such licensee or

3 registered company to perform the functions authorized by the license or company
4 registration in a manner consistent with the public health, safety, or welfare. Such crimes
5 or acts shall include, but not be limited to, the following:

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

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

9 (1) Fiscal dishonesty

10 (2) Fraud

11 (3) Theft

12 (4) Violations relating to the misuse of pesticides.

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

14 ...

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

20 (1) Nature and severity of the act(s) or offense(s).

21 (2) Total criminal record.

22 (3) The time that has elapsed since commission of the act(s) or offense(s).

23 (4) Whether the licensee or registered company has complied with any terms of
24 parole, probation, restitution or any other sanctions lawfully imposed against the licensee
25 or registered company.

26 (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4
27 of the Penal Code.

28 (6) Evidence, if any of rehabilitation submitted by the licensee or registered company.

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1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **CAUSE FOR DISCIPLINE**

9 **(January 30, 2015 Criminal Conviction for Battery on an Elder on January 28, 2015)**

10 15. Respondent has subjected his license to disciplinary action under sections 490 and
11 8649 of the Code in that he was convicted of a crime that is substantially related to the
12 qualifications, functions, and duties of a licensee. The circumstances are as follows:

13 a. On or about January 30, 2015, in a criminal proceeding entitled *People of*
14 *the State of California v. Thomas Lee Morris*, in San Diego County Superior Court, case number
15 S277202, Respondent was convicted on his plea of guilty of violating Penal Code section 243.25,
16 willfully and unlawfully used force and violence against a person of elder, a misdemeanor.
17 Pursuant to the plea agreement, the court dismissed the additional counts of Penal Code section
18 245, subdivision (a)(4), assault of a person by means of force likely to produce great bodily injury,
19 and Penal Code section 368, subdivision (c) willfully cruel to an elder/dependent adult.

20 b. As a result of the conviction, Respondent was granted three years
21 probation, committed to the custody of the Sheriff for one day, pay fees, fines and comply with the
22 terms of probation.

23 c. The circumstances that led to the conviction are that on or about January
24 28, 2015, officers with the San Diego Police Department responded to a call in the city of San
25 Diego. Upon arrival, the officers located the witness who made the call and identified Respondent
26 as the person who assaulted an elderly lady outside his home. The witness reported he saw
27 Respondent grab the victim and throw her to the ground of the sidewalk causing minor injuries.
28 Upon contact with Respondent, the officers placed Respondent under arrest and he was booked

1 into jail. It was determined that Respondent was under the influence of Phencyclidine (PCP).

2 **DISCIPLINARY CONSIDERATIONS**

3 16. To determine the degree of discipline, if any, to be imposed on Respondent,
4 pursuant to California Code of regulations, title 16, section 2522, Complainant alleges the
5 following:

6 a. On August 29, 2000, in a criminal proceeding entitled *The People of the*
7 *State of California v. Thomas Lee Morris*, in San Diego Superior Court, case number CE206706,
8 Respondent was convicted of violating Penal Code sections 484 and 488, petty theft.

9 b. On June 28, 2007, in a criminal proceeding entitled *The People of the State*
10 *of California v. Thomas Lee Morris*, in San Diego Superior Court, case number M008104,
11 Respondent was convicted of violating Vehicle Code Section 14601.1(a), driving with a suspended
12 license, Respondent was granted summary probation for three years and ordered to pay fees and
13 fines.

14 c. On December 4, 2009, in a criminal proceeding entitled *The People of the*
15 *State of California v. Thomas Lee Morris*, in San Diego Superior Court, case number M082952,
16 Respondent was convicted of violating Vehicle Code Section 14601.1(a), driving with a suspended
17 license. Respondent was granted summary probation for three years and ordered to pay fees and
18 fines.

19 d. On June 19, 2013, in a criminal proceeding entitled *The People of the State*
20 *of California v. Thomas Lee Morris*, in San Diego Superior Court, case number M164312,
21 Respondent was convicted of violating Health and Safety Code Section 11550(a), under the
22 influence of a controlled substance, to wit: Phencyclidine (PCP). Respondent was granted
23 deferred entry under Penal Code section 1000 for 18 months and ordered to pay fees and fines.
24 On December 19, 2014, Respondent completed the Penal Code 1000 program and the case was
25 dismissed.

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28 **PRAYER**

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

1. Revoking or suspending Applicator's License Number RA 56339, issued to Thomas Lee Morris;
2. Ordering Thomas Lee Morris to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/29/15



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

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