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

In the Matter of the Petition to Revoke Probation Against: **MARCO A. BARRIGA** **10118 Otis Street** **South Gate, CA 90280** **Applicator's License No. RA 56935, Branch 3** **Field Representative's License No. FR 55198, Branch 2** Respondent.	Case No. 2017-59 **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

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

2. On or about May 27, 2015, the Structural Pest Control Board (Board) issued Applicator's License Number RA 56935, Branch 3 to Marco A. Barriga (Respondent). The Applicator's License was in effect at all times relevant to the charges brought herein and will expire on June 30, 2023, unless renewed.

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3. On or about June 11, 2018, the Board issued Field Representative's License Number FR 55198, Branch 2 to Respondent. The Field Representative's License was in effect at all times relevant to the charges brought herein and will expire on June 30, 2023, unless renewed.

4. In a disciplinary action titled *In the Matter of the Accusation: Against Marco A. Barriga, Case No. 2017-59*, the Structural Pest Control Board, issued a decision, effective November 18, 2017, in which Respondent's Applicator's License was revoked. However, the revocation was stayed and Respondent's Applicator's License was placed on probation for a period of four (4) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

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

6. Section 8625 of the Code states:

"The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to 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."

7. This Petition to Revoke Probation is brought before the Board under the authority of the Board's Decision and Order *In the Matter of the Accusation: Against Marco A. Barriga, Case No. 2017-59.*

8. Condition 6 of the Decision and Order *In the Matter of the Accusation: Against Marco A. Barriga, Case No. 2017-59* titled "Violation of Probation," states: Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have

continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

9. Grounds exist to revoke Respondent's probation under the authority of Condition 6 of the Decision and Order *In the Matter of the Accusation: Against Marco A. Barriga, Case No. 2017-59*. Respondent did not comply with the terms and conditions of his probation, as more particularly set forth below.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

10. At all times after the effective date of Respondent's probation, Condition 1 stated: OBEY ALL LAWS. Respondent shall obey all laws and rules relating to structural pest control.

11. Respondent's probation is subject to revocation, because he failed to comply with Probation Condition 1, referenced above. Respondent failed to notify the Board of a change of employment on a form prescribed by the Board, form number 43L-10 (Notice of Transfer of Employment) within ten (10) days. Respondent listed Homeshield Pest Control, Inc. as his employer on the License Renewal Application dated, June 29, 2020. On or about January 22, 2019, the Board received written notification from Eco Shield Pest Control that Respondent was no longer employed, as of May 6, 2018. As of March 23, 2021, the Board has not received a Notice of Transfer of Employment form from Respondent to reflect when he became employed with Homeshield Pest Control, Inc.

SECOND CAUSE TO REVOKE PROBATION

(Failure to File Quarterly Reports)

12. At all times after the effective date of Respondent's probation, Condition 2 stated: QUARTERLY REPORTS. Respondent shall file quarterly reports with the Board during the period of probation.

13. Respondent's probation is subject to revocation, because he failed to comply with Probation Condition 2, referenced above. Respondent failed to file quarterly reports with the Board for the following dates: August 18, 2018, November 18, 2018, February 18, 2019, May 18,

2019, August 18, 2019, November 18, 2019, February 18, 2020, May 18, 2020, August 18, 2020, November 18, 2020, and February 18, 2021. In addition, the two quarterly reports received from Respondent were filed late with the Board, as follows:

a. Received on March 1, 2018 – due on February 18, 2018; and

b. Received on June 7, 2018 – due on May 18, 2018.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Submit Notice to Employers)

14. At all times after the effective date of Respondent's probation, Condition 4 stated:

NOTICE TO EMPLOYERS. Respondent shall notify all present and prospective employers of the decision in this case, bearing Case No. 2017-59, and the terms, conditions, and restrictions imposed on Respondent by said order.

Within 30 days of the effective date of this decision, and within 15 days of undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read the decision in Case No. 2017-59.

15. Respondent's probation is subject to revocation, because he failed to comply with Probation Condition 4, referenced above. On or about April 2, 2018, Respondent became employed with Eco Shield Pest Control. As of March 23, 2021, the Board has not received written notification from Eco Shield Pest Control that they are aware of the terms and conditions of probation, in Case No. 2017-59. On or about June 29, 2020, the Board received notification that Respondent was employed with Homeshield Pest Control, Inc. As of March 23, 2021, the Board has not received written notification from Homeshield Pest Control, Inc. that they are aware of the terms and conditions of probation, in Case No. 2017-59.

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Submit Proof to the Board of Restitution)

16. At all times after the effective date of Respondent's probation, Condition 7 stated:

RESTITUTION. Respondent shall submit proof to the Board that he has paid restitution in the amount of $500 to Mr. Jesus Guerra, Jr., or has been absolved of that responsibility by the Superior Court of the State of California, within 12 months of the effective date of this Decision.

17. Respondent's probation is subject to revocation, because he failed to comply with Probation Condition 7, referenced above. As of March 23, 2021, the Board has not received proof that restitution has been paid to Mr. Jesus Guerra, Jr. or that Respondent has been absolved of that responsibility.

FIFTH CAUSE TO REVOKE PROBATION

(Failure to Pay Costs)

18. At all times after the effective date of Respondent's probation, Condition 10 stated:

COSTS. Respondent is ordered to pay the Board its reasonable costs of the investigation and enforcement of this case in the amount of $3,022.50, according to a reasonable payment plan approved by the Board.

19. Respondent's probation is subject to revocation, because he failed to comply with Probation Condition 10, referenced above. The Board approved a payment plan of 45 monthly payments in the amount of $66.00, with the first payment to be submitted in November 2017, and a 46th and final payment of $52.50 to be submitted no later than August 18, 2021. As of March 23, 2021, Respondent made one (1) payment to the Board in the amount of $90.00 that was received on August 8, 2018.

PRAYER

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 the probation that was granted by the Structural Pest Control Board in Case No. 2017-59 and imposing the disciplinary order that was stayed thereby revoking Applicator's License No. RA 56935, Branch 3 issued to Marco A. Barriga;

2. Revoking or suspending Applicator's License No. RA 56935, Branch 3, issued to Marco A. Barriga;

3. Revoking or suspending Field Representative's License No. FR 55198, Branch 2, issued to Marco A. Barriga; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: May 19, 2021

Susan Saylor

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

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Exhibit A

Decision and Order

Structural Pest Control Board Case No. 2017-59