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FILED

Date 6/10/10 By Kelli Okuma

8
9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF PESTICIDE REGULATION**
11 **STATE OF CALIFORNIA**

12 Case No. 2010-84

13 In the Matter of the Accusation Against:
14 **DANIEL RAY SMITH**
2239 Country Club Boulevard
15 Stockton, CA 95204

ACCUSATION

16 Field Representative's License
17 Number FR 35981, Branch 2

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as
22 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
23 Regulation.

24 2. On or about May 20, 2003, The Structural Pest Control Board issued Field
25 Representative's License Number FR 35981, Branch 2, to Daniel Ray Smith (Respondent). The
26 license was in full force and effect at all times relevant to the charges brought herein and will
27 expire on June 30, 2011, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Structural Pest Control Board (Board),
3 Department of Pesticide Regulation, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code), unless otherwise indicated.

5 4. Code section 8620 states, 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 suspension may assess a civil
8 penalty.

9 5. Code section 8624 states, [i]f the board suspends or revokes an operator's license and
10 one or more branch offices are registered under the name of the operator, the suspension or
11 revocation may be applied to each branch office.

12 6. Section 8654 of the Code states:

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20 registration has been revoked as a result of disciplinary action, or whose company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

7. Code section 8625 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.

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1 14. On or about January 2010, the Board became aware of Respondent's numerous
2 criminal convictions by subsequent arrest notifications from the Department of Justice.

3 **CAUSE FOR DISCIPLINE**

4 **(Criminal Convictions)**

5 15. Respondent is subject to disciplinary action under section Code sections 8620 and
6 8649, in that Respondent has been convicted of crimes substantially related to the functions,
7 qualifications, and duties of a licensee, as follows:

8 a. On or about January 12, 2010, in the Superior Court of California, County of
9 Sacramento, in the case entitled, *People of the State of California v. Daniel Ray Smith* (Super. Ct.
10 Sacramento County, 2009, Case No. 10M00310), Respondent was convicted on his plea of
11 nolo contendere of violating Penal Code section 496, subdivision (a) [receiving stolen property], a
12 misdemeanor.

13 The circumstances of the crime are that on January 9, 2010, a Galt Police Officer was on
14 patrol when he noticed a vehicle without registration stickers. After dispatch checked the plates,
15 it was determined the plates were stolen. Respondent, the driver, consented to a search of the
16 vehicle and himself, which revealed a Vicodin tablet in his trousers, a screwdriver, a cordless
17 combo kit, a CD, a clear plastic straw with a white residue that was inside the vehicle, and two
18 stolen license plates in the trunk of the car. The white residue was tested and was determined to
19 be Methamphetamine, a controlled substance.

20 b. On or about December 2, 2009, Superior Court of California, County of San Joaquin,
21 in the case entitled, *People of the State of California v. Daniel Ray Smith* (Super. Ct. San Joaquin
22 County, 2009, Case No. SF113284A), Respondent was convicted on his plea of nolo contendere
23 of violating Health and Safety Code section 11377, subdivision (a) [possession of a controlled
24 substance, to wit, Methamphetamine], a felony.

25 c. On or about September 5, 2000, Superior Court of California, County of San Joaquin,
26 in the case entitled, *People of the State of California v. Daniel Ray Smith* (Super. Ct. San Joaquin
27 County, 2000, Case No. SF079915), Respondent was convicted on his plea of nolo contendere of
28 violating Health and Safety Code section 11379.6, subdivision (a) [manufacturing a controlled

1 substance, to wit, Methamphetamine] with enhancement pursuant to Health and Safety Code
2 section 11370.2 for prior, a felony.

3 d. On or about September 5, 2000, Superior Court of California, County of San Joaquin,
4 in the case entitled, *People of the State of California v. Daniel Ray Smith* (Super. Ct. San Joaquin
5 County, 2000, Case No. SM201337A), Respondent was convicted on his plea of no contest of
6 violating Penal Code section 243, subdivision (e) [battery on non-cohabiting former spouse,
7 fiancée, or person with whom he had a dating relationship], a misdemeanor.

8 e. On or about February 23, 1998, Superior Court of California, County of San Joaquin,
9 in the case entitled, *People of the State of California v. Daniel Ray Smith* (Super. Ct. San Joaquin
10 County, 1997, Case No. SC62571), Respondent was convicted on his plea of no contest of
11 violating Health and Safety Code section 11378 [possession of controlled substance for sale,
12 to wit, Methamphetamine], a felony.

13 f. On or about January 7, 1998, Municipal Court of California, County of San Joaquin,
14 in the case entitled, *People of the State of California v. Daniel Ray Smith* (Muni. Ct. San Joaquin
15 County, 1997, Case No. SM197591A), Respondent was convicted on his plea of no contest of
16 violating Penal Code section 242 [battery], a misdemeanor.

17 g. On or about November 12, 1997, in the Municipal Court of California, County of San
18 Joaquin, in the case entitled, *People of the State of California v. Daniel Ray Smith* (Muni. Ct.
19 San Joaquin County, 1997, Case No. SF72296A), Respondent was convicted on his plea of no
20 contest of violating Health and Safety Code section 11357, subdivision (b) [possession of a
21 controlled substance, to wit, Marijuana], a misdemeanor.

22 h. On or about December 22, 1994, in the Municipal Court of California, County of San
23 Joaquin, in the case entitled, *People of the State of California v. Daniel Ray Smith* (Muni. Ct.
24 San Joaquin County, 1994, Case No. ST013340A), Respondent was convicted on his plea of nolo
25 contendere of violating Vehicle Code section 2800 [failing to obey a police officer], a
26 misdemeanor.

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

DATED: 6/10/10

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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