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9

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

13 In the Matter of the Accusation Against:

14 **JOSH GRIMES aka**
15 **JOSH L. GRIMES aka**
16 **JOSH CODY GRIMES aka**
17 **JOSHUA CODY GRIMES**
18 **3010 East Miraloma Avenue**
19 **Anaheim, CA 92806**

20 **Field Representative License No. FR 41157**

21 **Respondent.**

Case No. 2009-65

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

22 **FINDINGS OF FACT**

23 1. On or about June 19, 2009, Complainant Kelli Okuma, in her official capacity as the
24 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
25 Affairs, filed Accusation No. 2009-65 against Josh Grimes (Respondent) before the Structural
26 Pest Control Board.

27 2. On or about December 21, 2006, the Structural Pest Control Board (Board) issued
28 Field Representative's License No. FR 41157 to Respondent. The Field Representative's License
expired on June 30, 2009, and has not been renewed.

1 3. On or about July 3, 2009, S. Sotelo, an employee of the Department of Justice, served
2 by Certified and First Class Mail a copy of the Accusation No. 2009-65, Statement to
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: Josh
5 Grimes, 3010 East Miraloma Avenue, Anaheim, CA 92806. A copy of the Accusation is
6 attached as Exhibit A, and is incorporated herein by reference.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c).

9 5. On or about July 10, 2009, the certified mailing of the Accusation and supporting
10 documents were returned by the U.S. Postal Service marked "Attempted not known."

11 6. On or about July 13, 2009, the first class mailing of the Accusation and supporting
12 documents were returned by the U.S. Postal Service marked "Attempted not known."

13 7. Business and Professions Code section 118 states, in pertinent part:

14 (b) The suspension, expiration, or forfeiture by operation of law of a license
15 issued by a board in the department, or its suspension, forfeiture, or cancellation by
16 order of the board or by order of a court of law, or its surrender without the written
17 consent of the board, shall not, during any period in which it may be renewed,
18 restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided by
law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the license on any such ground.

19 8. Government Code section 11506 states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts
22 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

23 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
25 2009-65.

26 10. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

1 11. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 evidence on file herein, finds that the allegations in Accusation No. 2009-65 are true.

4 12. The total cost fo investigation and enforcement in connection with the Accusation are
5 \$3,256.75 as of September 30, 2009.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Josh L. Grimes has subjected his
8 Field Representative License No. FR 41157 to discipline.

9 2. A copy of the Accusation is attached.

10 3. The agency has jurisdiction to adjudicate this case by default.

11 4. The Structural Pest Control Board is authorized to revoke Respondent's Field
12 Representative License based upon the following violations alleged in the Accusation:

13 a. On or about February 25, 2009, Respondent was criminally convicted of grand theft
14 and unlawful possession of the controlled substance Methamphetamine.

15 b. On or about February 25, 2009, Respondent was criminally convicted of receiving
16 stolen property, possessing a forged driver's license, and possession of the controlled substance
17 Methamphetamine.

18 c. On or about February 25, 2009, Respondent was criminally convicted of carrying a
19 concealed firearm and violating his written promise to appear in court.

20 d. Respondent committed acts of dishonesty when he unlawfully committed grand theft,
21 received stolen property, and knowingly possessed forged drivers' licenses.

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1 ORDER

2 IT IS SO ORDERED that Field Representative License No. FR 41157, heretofore issued to
3 Respondent Josh L. Grimes, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on December 18, 2009.

9 It is so ORDERED November 18, 2009

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11 *C. J. [Signature]*
12 FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

13 default decision_LIC.rtf
14 DOJ docket number:SD2009804128

15 Attachment:

16 Exhibit A: Accusation No.2009-65
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Exhibit A
Accusation No. 2009-65

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Attorneys for Complainant

FILED

Date 6/19/09 By *Kelli Okuma*

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

11 In the Matter of the Accusation Against:

Case No. 2009-65

12 **JOSH GRIMES aka**
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JOSHUA CODY GRIMES
15 **3010 East Miraloma Avenue**
Anaheim, CA 92806

ACCUSATION

16 **Field Representative's License No. FR 41157**

17 **Respondent.**

18
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 Consumer
23 Affairs.

24 2. On or about December 21, 2006, the Structural Pest Control Board issued Field
25 Representative's License No. FR 41157 to Josh L. Grimes (Respondent). The Field
26 Representative's License was in full force and effect at all times relevant to the charges brought
27 herein and will expire on June 30, 2009, unless renewed.

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JURISDICTION

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

4. Section 118 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Section 8620 of the 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.

STATUTORY PROVISIONS

6. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

1 7. Section 493 of the Code states, in pertinent part:

2 Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or
4 to suspend or revoke a license or otherwise take disciplinary action against a person
5 who holds a license, upon the ground that the applicant or the licensee has been
6 convicted of a crime substantially related to the qualifications, functions, and duties
7 of the licensee in question, the record of conviction of the crime shall be conclusive
8 evidence of the fact that the conviction occurred, but only of that fact, and the board
9 may inquire into the circumstances surrounding the commission of the crime in
10 order to fix the degree of discipline or to determine if the conviction is substantially
11 related to the qualifications,

12 8. Section 8625 of the Code states:

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

19 9. Section 8649 of the Code states:

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

24 10. Code section 8654 states:

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

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1 11. Code section 8655 states:

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

14 COST RECOVERY

15 12. Code section 125.3 provides, in pertinent part, that a Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations
17 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 REGULATORY PROVISIONS

20 13. 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
22 registration . . . a crime or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a licensee or registered company . . . if to a
24 substantial degree it evidences present or potential unfitness of such licensee or
25 registered company to perform the functions authorized by the license or company
26 registration in a manner consistent with the public health, safety, or welfare. Such
27 crimes or acts shall include, but not be limited to, the following:

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

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

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

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FIRST CAUSE FOR DISCIPLINE
(February 25, 2009 Criminal Convictions –
Grand Theft & Unlawful Possession of a Controlled Substance in
October 31 through November 7, 2008)

14. Respondent is subject to disciplinary action pursuant to Code sections 490, 493, 8649, and California Code of Regulations, Title 16, section 1937.1 on the grounds that he was convicted of crimes substantially related to his qualifications, functions, and duties as a Field Representative.

15. On or about February 25, 2009, in the criminal proceeding entitled *People v. Josh Cody Grimes aka Joshua Cody Grimes*, Superior Court Riverside County Case No. SWF027680 Respondent pled guilty to grand theft as defined in Penal Code section 487(a), a felony. Respondent also plead guilty to unlawful possession of the controlled substance Methamphetamine in violation of Health and Safety Code section 11377(a), a felony.

16. The circumstances of the crimes in Case No. SWF027680 are that on or about October 31, 2008, through and including November 2, 2008, Respondent unlawfully obtained personal identifying information of J.C. and G.C, without authorization and used that information to obtain goods and services in their names without their consent. Also on or about October 31, 2008, through and including November 2, 2008, Respondent unlawfully took cash, money, and personal property exceeding Four Hundred Dollars (\$400.00) in value from J.C. and G.C. Also on or about October 31, 2008 through and including November 2, 2008, Respondent unlawfully made, altered, and forged a counterfeit check and passed it as true and genuine, knowing it to be false, forged, and counterfeited, with the intent to defraud. On or about November 7, 2008, Respondent unlawfully had in his possession the controlled substance Methamphetamine. On or about November 7, 2008, Respondent unlawfully made, published or possessed a check with intent to defraud. Also on or about November 7, 2008, Respondent unlawfully possessed the controlled substance Methamphetamine, which had not been furnished to him with a prescription.

17. On or about March 4, 2009, Respondent was sentenced to 310 days in custody to run concurrent to the jail sentence in Case SWF027409, three (3) years formal probation, pay fines, pay restitution, and ordered not to have direct contact with the victims.

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SECOND CAUSE FOR DISCIPLINE

(February 25, 2009 Criminal Convictions –
Receiving Stolen Property, Possessing a Forged Driver's License, & Possession of a
Controlled Substance in October 31 through November 2, 2008)

18. On or about February 25, 2009, in the criminal proceeding entitled *People v. Josh Cody Grimes aka Joshua Cody Grimes*, Superior Court Riverside County Case No. SWF027409 Respondent pled guilty to receiving stolen property as defined in Penal Code section 496(a), a felony. Respondent also plead guilty to unlawful possession of a forged driver's license as defined in Penal Code section 470b. Additionally, Respondent plead guilty to unlawful possession of the controlled substance Methamphetamine in violation of Health and Safety Code section 11377(a), a felony.

19. The circumstances of the crimes in Case No. SWF027409 are that on or about October 31, 2008, through and including November 2, 2008, Respondent unlawfully received property that was stolen, possessed forged drivers' licenses, possessed counterfeit money, possessed the controlled substance Methamphetamine, and possessed controlled substance paraphernalia.

20. On or about March 4, 2009, Respondent was sentenced to 310 days in custody to run concurrent to the jail sentence in Case SWF027680, three (3) years formal probation, pay fines, pay restitution, and ordered not to have direct contact with the victims.

THIRD CAUSE FOR DISCIPLINE
(February 25, 2009 Criminal Convictions
Carrying a Concealed Firearm & Willfully Violating His Written
Promise to Appear in Court in October through December of 2008)

21. On or about February 25, 2009, in the criminal proceeding entitled *People v. Josh Cody Grimes aka Joshua Cody Grimes*, Superior Court Riverside County Case No. SWM081224, Respondent pled guilty to carrying a concealed weapon as defined in Penal Code section 12025(a)(1), a misdemeanor and willfully violating his written promise to appear in court as defined in Penal Code section 853.7, a misdemeanor.

22. The circumstances of these crimes in Case No. SWM081224 are that on or about October 30, 2008, Respondent unlawfully carried a concealed firearm within his vehicle without

1 having a license to carry the firearm in violation of 12025(a)(1). Respondent also unlawfully
2 carried a loaded firearm in his vehicle while in a public place in violation of Penal Code section
3 12031(a)(1). In addition, Respondent unlawfully possessed paraphernalia used for unlawfully
4 injecting or smoking a controlled substance in violation of Health and Safety Code section 11364.
5 Then on or about December 30, 2008, Respondent willfully failed to appear in court in
6 accordance with his written promise to appear as defined in Penal Code section 853.7.

7 23. On or about February 25, 2009, Respondent was sentenced to 30 days in jail and
8 ordered to, pay fines and restitution.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Acts Involving Dishonesty, Fraud, or Deceit)**

11 24. Respondent is subject to disciplinary action pursuant to Code section 8620 in that
12 Respondent committed acts of dishonesty when he unlawfully committed grand theft, received
13 stolen property knowing said property had been obtained by theft, and knowingly possessed
14 forged drivers' licenses as set out more fully in paragraphs 15, 16, 18, and 19 above.

15 **OTHER MATTERS**

16 25. Code section 8620 provides, in pertinent part, that a respondent may request that a
17 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of one to 19
18 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be
19 made at the time of the hearing and must be noted in the proposed decision. The proposed
20 decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

21 26. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
22 License Number FR 41157, issued to Respondent Josh Grimes, who shall be prohibited from
23 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
24 employee for any registered company during the time the discipline is imposed, and any
25 registered company which employs, elects, or associates Josh Grimes shall be subject to
26 disciplinary action.

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PRAYER

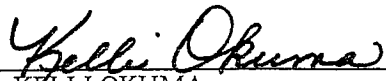
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

1. Revoking or suspending Field Representative's License Number FR 41157, issued to Josh Grimes;

2. Ordering Josh Grimes 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: 6/19/09


KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

SD2009804128
accusation.rtf