

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 WILBERT E. BENNETT  
Supervising Deputy Attorney General  
3 CAROL ROMEO  
Deputy Attorney General  
4 State Bar No. 124910  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2141  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:

13 **ABEL R. VILLASENOR**  
424 Noice Drive Apt. #80  
14 Salinas, CA 93906  
Field Representative's License No. FR41880,  
15 Branch 3

16  
17 Respondent.  
18

Case No. 2010-22

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about October 8, 2009, Complainant Kelli Okuma, in her official capacity  
21 as the Registrar/Executive Officer of the Structural Pest Control Board, Department of  
22 Pesticide Regulation, filed Accusation No. 2010-22 against Abel R. Villasenor (Respondent)  
23 before the Structural Pest Control Board.

24 2. On or about June 15, 2007, the Structural Pest Control Board (Board) issued  
25 Field Representative's License No. FR 41880, Branch 3, to Respondent. The Field  
26 Representative's License expired on June 30, 2009, and has not been renewed.

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1           3.     On or about October 27, 2009, Carol L. Grays, an employee of the Department  
2 of Justice, served by Certified and First Class Mail a copy of Accusation No. 2010-22,  
3 Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and  
4 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
5 with the Board, which was and is 424 Noice Drive Apt. #80, Salinas, California 93906. (A  
6 copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.)

7           4.     On or about October 20, 2009, Carol L. Grays, an employee of the Department  
8 of Justice, served by Certified and First Class Mail a copy of Accusation No. 2010-22,  
9 Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and  
10 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
11 with the Board, which was 1425 Tamarack Way, Salinas, California 93905.

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

14           5.     Government Code section 11506 states, in pertinent part:

15                   (c) The respondent shall be entitled to a hearing on the merits if the  
16 respondent files a notice of defense, and the notice shall be deemed a specific  
17 denial of all parts 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.

18           6.     Respondent failed to file a Notice of Defense within 15 days after service upon  
19 him of the Accusation, and therefore waived his right to a hearing on the merits of  
20 Accusation No. 2010-22.

21           7.     California Government Code section 11520 states, in pertinent part:

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

25           8.     Pursuant to its authority under Government Code section 11520, the Board  
26 finds Respondent is in default. The Board will take action without further hearing and,  
27 based on the evidence on file herein, finds that the allegations in Accusation No. 2010-22 are  
28 true.

9. The total costs for investigation and enforcement in connection with the Accusation are \$2,412.00 as of November 12, 2009.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Abel R. Villasenor has subjected his Field Representative's License No. FR 41880 to discipline.

2. A copy of the Accusation is attached.

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

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

a. Business and Professions Code (Code) sections 490 and 8649 in that on or about January 29, 2009, Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a field representative, in the Superior Court of California, County of Monterey, Case No. SS082926A, entitled *People of the State of California vs. Abel Villasenor*, in that he was convicted by his plea of nolo contendere of violating Section 508 of the Penal Code (embezzlement by employee over \$400.00), a felony.

On or about March 11, 2009, pursuant to said conviction, the imposition of sentence was suspended and Respondent was placed on formal probation for three (3) years under terms and convictions, which included, but were not limited to, paying the victim, Clark Pest Control Company, restitution in the amount of \$680.00; and serving 180 days in jail, with credit for time served of 147 days. The factual circumstances surrounding said conviction are as follows:

On or about July 18, 2008, Respondent, while employed by Clark Pest Control Company, had his employer's client, Marie Pacheco, write out three checks directly to him for services he performed for Clark Pest Control Company on three properties. The checks were in the amounts of \$170.00, \$255.00, \$255.00, respectively, for a total of \$680.00. On or about September 5, 2008, Respondent was terminated from Clark Pest Control Company for "deserting his job" after not appearing at work for three days.

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2 After having Marie Pacheco make the checks payable to him, on or about  
3 August 6, 2008, Respondent forged a check written by another Clark Pest Control  
4 Company client, Ignacio Espindola. The check was partially written and signed by  
5 Espindola. However, the payee space was left partially blank, whereupon Respondent  
6 forged the name of "Clark Robert" and cashed the check in the amount of \$1,400.00. On or  
7 about September 15, 2008, after Espindola inquired about his \$1,400.00, Respondent  
8 admitted to Clark Pest Control Company branch manager Travis Mitchel that he had  
9 forged the check in the amount of \$1,400.00 and agreed to pay back Clark Pest Control  
10 Company the amount of the check, which he did.

11 On or about September 17, 2008, Marie Pacheco contacted Clark Pest Control  
12 Company to confirm that her account was paid in full, whereupon, Mitchel looked into the  
13 matter and determined that Respondent had performed services on the properties and  
14 turned in invoices, which noted "no inspection charges." On or about September 19, 2008,  
15 when questioned by Mitchel, Respondent admitted that he had Marie Pacheco write her  
16 checks directly out to him, and promised to pay back Clark Pest Control Company the  
17 amounts he had wrongfully and fraudulently embezzled from his employer. Thereafter,  
18 Clark Pest Control Company filed a police report with the Monterey County Sheriff's  
19 Office regarding Respondent's embezzling monies in the Pacheco matter, and forging a  
20 check in the Espindola matter, but chose not to press charges against Respondent in the  
21 Espindola matter because he had promptly paid back Clark Pest Control Company the  
22 \$1,400.00 he had stolen.

23 ORDER

24 IT IS SO ORDERED that Field Representative's License No. FR 41880, heretofore  
25 issued to Abel R. Villasenor (Respondent) is revoked.

26 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
27 written motion requesting that the Decision be vacated and stating the grounds relied on  
28 within seven (7) days after service of the Decision on Respondent. The agency in its

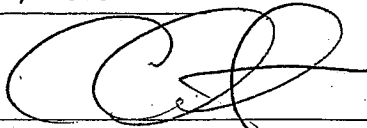
1 discretion may vacate the Decision and grant a hearing on a showing of good cause, as  
2 defined in the statute.

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5 This Decision shall become effective on February 10, 2010.

6 It is so ORDERED January 11, 2010

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8 FOR THE STRUCTURAL PEST CONTROL BOARD  
9 DEPARTMENT OF PESTICIDE REGULATION

10  
11 Attachment:

12 Exhibit A: Accusation No.2010-22  
13  
14

1 EDMUND G. BROWN JR.  
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2 WILBERT E. BENNETT  
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Oakland, CA 94612-0550  
6 Telephone: (510) 622-2141  
Facsimile: (510) 622-2270  
7 Attorneys for Complainant

**FILED**

Date 10/8/09 By Kelli Okuma

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

11 In the Matter of the Accusation Against:

Case No. 2010-22

12 **ABEL R. VILLASENOR**  
13 **A.K.A. ABEL REYES VILLASENOR III**  
14 **1425 Tamarak Way**  
15 **Salinas, California 93905**  
16 **Field Representative License No. FR 41880,**  
17 **Branch 3**

**ACCUSATION**

Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 15, 2007, the Structural Pest Control Board issued Field  
24 Representative's License Number FR 41880, Branch 3, to Abel R. Villasenor, also known as Abel  
25 Reyes Villasenor III (Respondent). The Field Representative's License expired on June 30, 2009,  
26 and has not been renewed.

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

5                                   FIRST CAUSE FOR DISCIPLINARY ACTION

6   (Substantially Related Conviction)

7           10.   Respondent has subjected his Field Representative's License to disciplinary action  
8 under Sections 490 and 8649 of the Code in that he was convicted of a crime substantially related  
9 to the qualifications, functions, or duties of a field representative in that on or about January 29,  
10 2009, in the Superior Court of California, County of Monterey, Case No. SS082926A, entitled  
11 *People of the State of California vs. Abel Villasenor*, Respondent was convicted by his plea of  
12 nolo contendere of violating Section 508 of the Penal Code (embezzlement by employee over  
13 \$400.00), a felony. On or about March 11, 2009, pursuant to said conviction, the imposition of  
14 sentence was suspended and Respondent was placed on formal probation for three (3) years under  
15 terms and convictions, which included, but were not limited to, the following: obey all laws, pay  
16 the victim, Clark Pest Control Company, restitution in the amount of \$680.00; pay a restitution  
17 fine of \$200.00 to the State Restitution Fund; voluntarily submit person, vehicle, place of  
18 residence or area over which he has control to search and seizure at any time of day or night with  
19 or without Search Warrant with or without probable cause as directed by any Probation Officer or  
20 Peace Officer; serve 180 days in jail, with credit for time served of 147 days; and not own,  
21 possess or control any firearm or weapon. The factual circumstances surrounding said  
22 conviction are as follows:

23           a.     On or about July 18, 2008, Respondent, while employed by Clark Pest Control  
24 Company, had his employer's client, Marie Pacheco, write out three checks directly to him for  
25 services he performed for Clark Pest Control Company on three properties. The checks were in  
26 the amounts of \$170.00, \$255.00, \$255.00, respectively, for a total of \$680.00. On or about  
27 September 5, 2008, Respondent was terminated from Clark Pest Control Company for "deserting  
28 his job" after not appearing at work for three days.



b. After having Marie Pacheco make the checks payable to him, on or about August 6, 2008, Respondent forged a check written by another Clark Pest Control Company client, Ignacio Espindola. The check was partially written and signed by Espindola. However, the payee space was left partially blank, whereupon Respondent forged the name of "Clark Robert" and cashed the check in the amount of \$1,400.00. On or about September 15, 2008, after Espindola inquired about his \$1,400.00, Respondent admitted to Clark Pest Control Company branch manager Travis Mitchel that he had forged the check in the amount of \$1,400.00 and agreed to pay back Clark Pest Control Company the amount of the check, which he did.

c. On or about September 17, 2008, Marie Pacheco contacted Clark Pest Control Company to confirm that her account was paid in full, whereupon, Mitchel looked into the matter and determined that Respondent had performed services on the properties and turned in invoices, which noted "no inspection charges." On or about September 19, 2008, when questioned by Mitchel, Respondent admitted that he had Marie Pacheco write her checks directly out to him, and promised to pay back Clark Pest Control Company the amounts he had wrongfully and fraudulently embezzled from his employer. Thereafter, Clark Pest Control Company filed a police report with the Monterey County Sheriff's Office regarding Respondent's embezzling monies in the Pacheco matter, and forging a check in the Espindola matter, but chose not to press charges against Respondent in the Espindola matter because he had promptly paid back Clark Pest Control Company the \$1,400.00 he had stolen.

## 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 No. FR 41880, Branch 3, issued to Abel R. Villasenor (Respondent);
2. Ordering Respondent 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; and

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

DATED:

10/8/09

*Kelli Okuma*

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

SF2009202108

CR: 10/7/09