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FILED

Date 2/28/11 By *Kelli Okuma*

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

In the Matter of the Accusation Against:

LUIS DIEGO ESPARZA
2171 Portola Road, Suite A
Ventura, CA 93003
Field Representative's License No. FR 45461,
Branch 2
Registered Applicator License No. RA 49801,
Branch 3

Respondent.

Case No. 2011-38

ACCUSATION

Complainant alleges:

PARTIES

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

Field Representatives License

2. On or about April 27, 2010, the Board issued Field Representative's License Number FR 45461 in Branch 2 to Luis Diego Esparza ("Respondent"). The field representative's license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

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1 CAUSE FOR DISCIPLINE

2 (Criminal Conviction)

3 8. Respondent's licenses are subject to disciplinary action under Code sections 8620 and
4 8649, in that on November 5, 2010, in the Superior Court, County of Ventura, California, in the
5 matter entitled *People vs. Luis Diego Esparza*, Case No. 2010035021 M A, Respondent was
6 convicted by the Court following his plea of guilty to a violation of Penal Code section 487,
7 subdivision (a) (grand theft by embezzlement), a misdemeanor. The circumstances of the crime
8 are that between May 25, 2010, and September 30, 2010, after leaving the employ of Terminix,
9 Respondent unlawfully took money and personal property belonging to Terminix exceeding \$400
10 by using the company gas card on numerous occasions for his own personal use. Such conduct is
11 substantially related to the qualifications, functions, and duties of a licensed field representative
12 and applicator.

13 OTHER MATTERS

14 9. Code section 8620 provides, in pertinent part, that a respondent may request that a
15 civil penalty of not more than \$5,000 by assessed in lieu of an actual suspension of 1 to 19 days,
16 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made
17 at the time of the hearing and must be noted in the proposed decision. The proposed decision
18 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

19 10. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
20 License Number 45461, issued to Luis Diego Esparza and Registered Applicator's License
21 Number RA 49801, issued to Luis Diego Esparza, then Luis Diego Esparza, shall be prohibited
22 from serving as an officer, director, associate, partner or responsible managing employee of a
23 licensee, and any licensee which employs, elects, or associates him shall be subject to disciplinary
24 action.

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