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FILED

Date 4/25/14 By 

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

11 In the Matter of the First Amended Accusation
Against:

12 **HOWZE PEST CONTROL**
13 **dba TRULY NOLEN PEST CONTROL OF**
14 **STANISLAUS,**
15 **aka FOUR SEASONS PEST SOLUTIONS**
16 **MARC A. HOWZE**
17 **P.O. Box 4757**
18 **Modesto, CA 95352-4757**

17 **Company Registration Certificate No. PR 5981**
18 **Operator's License No. OPR 12023**

18 Respondent.

Case No. 2014-4

FIRST AMENDED
ACCUSATION

20 Susan Saylor ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this First Amended Accusation solely in her official capacity as
23 the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of
24 Consumer Affairs.

25 **Operator's License**

26 2. On or about May 4, 2010, the Board issued Operator's License Number OPR 12023
27 to Marc A. Howze ("Respondent"), an employee of Howze Pest Control, doing business as Truly
28 Nolen Pest Control of Stanislaus, also known as Four Seasons Pest Solutions. On or about May

1 5, 2010, Respondent became the Qualifying Manager. The license was in full force and effect at
2 all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

3 **Company Registration Certificate**

4 3. On or about January 21, 2010, the Board issued Company Registration Certificate
5 Number PR 5981 to Howze Pest Control, doing business as Truly Nolen Pest Control of
6 Stanislaus, with Respondent as the owner and Truly William Nolen as the Qualifying Manager.
7 On or about May 5, 2010, Respondent became the Qualifying Manager. On or about April 17,
8 2014, Company Registration Certificate No. PR 5981 reflected a change of business name to Four
9 Seasons Pest Solutions.

10 **JURISDICTION**

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

15 5. Code section 8625 states:

16 The lapsing or suspension of a license or company registration by operation of
17 law or by order or decision of the board or a court of law, or the voluntary surrender
18 of a license or company registration shall not deprive the board of jurisdiction to
19 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.

20 **STATUTORY PROVISIONS**

21 6. Code section 8648 states:

22 Authorizing, directing, conniving at or aiding in the publication, advertisement,
23 distribution or circulation of any material by false statement or representation
concerning a registered company's business is a ground for disciplinary action.

24 7. Code section 8649 states:

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

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1 **COST RECOVERY**

2 8. Code section 125.3 provides, in pertinent part, that the Registrar may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Crime)**

8 9. Respondent's registration and license are subject to discipline under Code section
9 8649, in that on or about May 24, 2012, in the case of *People v. Marc Anthony Howze*, (Super.
10 Ct. Stanislaus County, 2010, Case No. 1422456), Respondent was convicted by the Court on his
11 plea of nolo contendere of violating Penal Code section 508 (embezzlement by a servant), a
12 felony. The crime is substantially related to the qualifications, functions or duties of the
13 profession of a pest control operator.

14 a. The underlying circumstances of the crime are: In and between January 1, 2007,
15 and December 31, 2008, Respondent embezzled funds exceeding \$400.00 from the Turlock
16 Youth Football League while President of the league. Respondent was ordered by Stanislaus
17 County Superior Court to pay restitution in the amount of \$25,000.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(False Statement)**

20 10. Respondent's registration and license are subject to discipline under Code section
21 8648 in that from on or about February 1, 2012, until on or about April 17, 2014, Respondent
22 authorized, directed, connived at, or aided in the publication, advertisement, distribution or
23 circulation of materials bearing a false statement or false representation, in that he continued to
24 use "Truly Nolen" as part of his company name even though his franchise agreement with Truly
25 Nolen of America, Inc.,¹ had been terminated effective February 1, 2012, and he was no longer
26 authorized to use the name.

27 ¹ Truly Nolen of America, Inc. is a service oriented company providing pest management,
28 termite prevention, lawn care, and rodent removal and control services for residential and
(continued...)

1 period that discipline is imposed on Operator License Number OPR 12023, issued to Marc A.
2 Howze;

3 5. Ordering Marc A. Howze to pay the Structural Pest Control Board the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code section 125.3; and,

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

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8 DATED: 4/25/14



9 SUSAN SAYLOR
10 Registrar/Executive Officer
11 Structural Pest Control Board
12 Department of Consumer Affairs
13 State of California
14 *Complainant*

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