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FILED
Date 7/16/13 By Susan Saylor

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **HOWZE PEST CONTROL** **dba TRULY NOLEN PEST CONTROL OF STANISLAUS** **MARC A. HOWZE** **P.O. Box 4757** **Modesto, CA 95352-4757** **Company Registration Certificate No. PR 5981** **Operator's License No. OPR 12023** Respondent.	Case No. 2014-4 **ACCUSATION**

Susan Saylor ("Complainant") alleges:

PARTIES

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

Operator's License

2. On or about May 4, 2010, the Board issued Operator's License Number OPR 12023 to Marc A. Howze ("Respondent"), an employee of Howze Pest Control, doing business as Truly Nolen Pest Control of Stanislaus. On or about May 5, 2010, Respondent became the Qualifying

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

Company Registration Certificate

3. On or about January 21, 2010, the Board issued Company Registration Certificate Number PR 5981 to Howze Pest Control, doing business as Truly Nolen Pest Control of Stanislaus, with Respondent as the owner and Truly William Nolen as the Qualifying Manager. On or about May 5, 2010, Respondent became the Qualifying Manager.

JURISDICTION

4. Business and Professions Code ("Code") section 8620 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.

5. 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.

STATUTORY PROVISIONS

6. Code section 8649 states:

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

COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

8. Respondent is subject to discipline under Code section 8649, in that on or about May 24, 2012, in the case of *People v. Marc Anthony Howze*, (Super. Ct. Stanislaus County, 2010, Case No. 1422456), Respondent was convicted by the Court on his plea of nolo contendere of violating Penal Code section 508 (embezzlement by a servant), a felony. The crime is substantially related to the qualifications, functions or duties of the profession of a pest control operator. The circumstances of the crime were that between January 1, 2007, and December 31, 2008, Respondent embezzled funds exceeding four hundred dollars from Turlock Youth Football while President of the league. Respondent was ordered by Stanislaus County Superior Court to pay restitution in the amount of $25,000.

OTHER MATTERS

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

10. Pursuant to Code section 8624, if Operator License Number OPR 12023, issued to Respondent is suspended or revoked, then the Board may suspend or revoke Company Registration Certificate Number PR 5981, issued to Howze Pest Control, doing business as Truly Nolen Pest Control of Stanislaus.

11. Pursuant to Code section 8654, if discipline is imposed on Operator's License Number OPR 12023, issued to Respondent, then Respondent shall be prohibited from serving as an officer, director, associate, partner or responsible managing employee of a licensee, and any licensee which employs, elects, or associates Respondent shall be subject to 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 Operator License Number OPR 12023, issued to Marc A. Howze;

2. Revoking or suspending Company Registration Certificate Number PR 5981, issued to Howze Pest Control, doing business as Truly Nolen Pest Control of Stanislaus.

3. Revoking or suspending any other license issued to Marc A. Howze;

4. Prohibiting Marc A. Howze from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Operator License Number OPR 12023, issued to Marc A. Howze;

5. Ordering Marc A. Howze 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,

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

DATED: 7/16/13

SUSAN SAYLOR
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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