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FILED

Date 7/16/13 By *Susan Saylor*

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:
12 **HOWZE PEST CONTROL**
13 **dba TRULY NOLEN PEST CONTROL OF**
14 **STANISLAUS**
15 **MARC A. HOWZE**
P.O. Box 4757
Modesto, CA 95352-4757
16 **Company Registration Certificate No. PR 5981**
17 **Operator's License No. OPR 12023**
18 Respondent.

Case No. 2014-4

ACCUSATION

19 Susan Saylor ("Complainant") alleges:

20 **PARTIES**

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

24 **Operator's License**

25 2. On or about May 4, 2010, the Board issued Operator's License Number OPR 12023
26 to Marc A. Howze ("Respondent"), an employee of Howze Pest Control, doing business as Truly
27 Nolen Pest Control of Stanislaus. On or about May 5, 2010, Respondent became the Qualifying
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1 Manager. The license was in full force and effect at all times relevant to the charges brought
2 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.

8 **JURISDICTION**

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

13 5. Code section 8625 states:

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

18 **STATUTORY PROVISIONS**

19 6. Code section 8649 states:

20 Conviction of a crime substantially related to the qualifications, functions, and
21 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.

22 **COST RECOVERY**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime)**

3 8. Respondent is subject to discipline under Code section 8649, in that on or about
4 May 24, 2012, in the case of *People v. Marc Anthony Howze*, (Super. Ct. Stanislaus County,
5 2010, Case No. 1422456), Respondent was convicted by the Court on his plea of nolo contendere
6 of violating Penal Code section 508 (embezzlement by a servant), a felony. The crime is
7 substantially related to the qualifications, functions or duties of the profession of a pest control
8 operator. The circumstances of the crime were that between January 1, 2007, and
9 December 31, 2008, Respondent embezzled funds exceeding four hundred dollars from Turlock
10 Youth Football while President of the league. Respondent was ordered by Stanislaus County
11 Superior Court to pay restitution in the amount of \$25,000.

12 **OTHER MATTERS**

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

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

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

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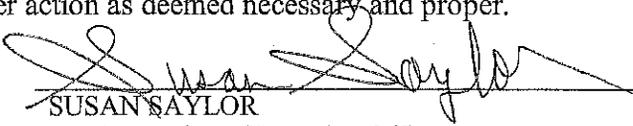
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PRAYER

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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