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FILED

Date 9/6/11 **By** William H. Douglas

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

10 In the Matter of the Accusation Against:

Case No. 2012-13

11 **JOHN ENRIQUE MARIN**
12 **57175 East Beverly Blvd**
13 **Los Angeles, CA 90022**
14 **Applicator License No. RA 44516, BR 2 & 3**

ACCUSATION

Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. William H. Douglas ("Complainant") brings this Accusation solely in his official
19 capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board
20 ("Board"), Department of Pesticide Regulation.

21 **Applicator License**

22 2. On or about September 23, 2005, the Board issued Applicator License Number RA
23 44516 in Branches 2 and 3 to John Enrique Marin ("Respondent"). The applicator license was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 September 23, 2011, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Section 8620 of the Business and Professions Code ("Code") provides, in pertinent
28 part, that the Board may suspend or revoke a license when it finds that the holder, while a

1 licensee or applicant, has committed any acts or omissions constituting cause for disciplinary
2 action or in lieu of a suspension may assess a civil penalty.

3 4. Code section 8625 states:

4 The lapsing or suspension of a license or company registration by
5 operation of law or by order or decision of the board or a court of law, or the
6 voluntary surrender of a license or company registration shall not deprive the board of
7 jurisdiction to proceed with any investigation of or action or disciplinary proceeding
8 against such licensee or company, or to render a decision suspending or revoking
9 such license or registration.

8 5. Code section 8649 states:

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

12 COST RECOVERY

13 6. Code section 125.3 states, in pertinent part, that a Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 CAUSE FOR DISCIPLINE

18 (Criminal Conviction)

19 7. Respondent's applicator license is subject to disciplinary action under Code section
20 8649, in that on March 2, 2011, in the Superior Court, County of Los Angeles, California, in the
21 matter entitled *People vs. John Enrique Marin*, 2010, Case No. BA378829, Respondent was
22 convicted by the Court following his plea of guilty to a violation of Penal Code section 487,
23 subdivision (a) (grand theft by embezzlement), felony. The circumstances of the crime are that
24 between July 16, 2009, and January 22, 2010, while employed by Frank and Sons Exterminators,
25 Respondent took money and personal property exceeding \$400. Such conduct is substantially
26 related to the qualifications, functions, and duties of a licensed applicator.

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1 OTHER MATTERS

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

7 9. Pursuant to Code section 8654, if discipline is imposed on Applicator's License RA
8 44516, issued to Respondent, John Enrique Marin, then he shall be prohibited from serving as an
9 officer, director, associate, partner or responsible managing employee of a licensee, and any
10 licensee which employs, elects, or associates him shall be subject to disciplinary action.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Structural Pest Control Board issue a decision:

- 14 1. Revoking or suspending Applicator License Number RA 44516, issued to John
15 Enrique Marin;
- 16 2. Ordering John Enrique Marin to pay the Structural Pest Control Board the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions
18 Code section 125.3; and,
- 19 3. Taking such other and further action as deemed necessary and proper.
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23 DATED: 9/6/11

William H. Douglas
24 WILLIAM H. DOUGLAS
25 Interim Registrar/Executive Officer
26 Structural Pest Control Board
27 Department of Pesticide Regulation
28 State of California
Complainant

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