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

In the Matter of the Accusation Against:

JOHN ENRIQUE MARIN
57175 East Beverly Blvd
Los Angeles, CA 90022
Applicator License No. RA 44516

Respondent.

Case No. 2012-13

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 6, 2011, Complainant William H. Douglas, in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation (Board), filed Accusation No. 2012-13 against John Enrique Marin (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about September 23, 2005, the Structural Pest Control Board (Board) issued Applicator License No. RA 44516 to Respondent. The Applicator License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-13 and expired on September 23, 2011.

3. On or about September 13, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-13, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 136, is required to be reported and maintained with the Board, which was and is: 5717
3 East Beverly Blvd. Los Angeles, CA 90022 and to a secondary address: 57175 East Beverly
4 Blvd. Los Angeles, CA 90022.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about September 10, 2011, and November 10, 2011, the aforementioned
9 documents were returned by the U.S. Postal Service marked "RETURN TO SENDER -
10 ATTEMPTED-NOT KNOWN - UNABLE TO FORWARD."

11 6. Government Code section 11506 states, in pertinent part:
12

13 ...

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice-of Defense within 15 days after service upon him
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
21 2012-13.

22 8. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions
25 or upon other evidence and affidavits may be used as evidence without any notice to
26 respondent.

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2012-13, finds

1 that the charges and allegations in Accusation No. 2012-13, are separately and severally, found to
2 be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$1,312.50, as of October 13, 2011.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent John Enrique Marin has
8 subjected his Applicator License No. RA 44516 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Structural Pest Control Board is authorized to revoke Respondent's Applicator
11 License based upon the following violations alleged in the Accusation which are supported by the
12 evidence contained in the Default Decision Evidence Packet in this case:

13 Respondent's applicator license is subject to disciplinary action under Code section 8649,
14 in that on March 2, 2011, in the Superior Court, County of Los Angeles, California, in the matter
15 entitled *People vs. John Enrique Marin*, 2010, Case No. BA378829, Respondent was convicted
16 by the Court following his plea of guilty to a violation of Penal Code section 487, subdivision (a)
17 (grand theft by embezzlement), felony. The circumstances of the crime are that between July 16,
18 2009 and January 22, 2010, while employed by Frank and Sons Exterminators, Respondent took
19 money and personal property exceeding \$400. Such conduct is substantially related to the
20 qualifications, functions, and duties of a licensed applicator.

21 ORDER

22 IT IS SO ORDERED that Applicator License No. RA 44516, heretofore issued to
23 Respondent John Enrique Marin, is revoked.

24 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
25 written motion requesting that the Decision be vacated and stating the grounds relied on within
26 seven (7) days after service of the Decision on Respondent. The agency in its discretion may

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vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 22, 2012.

It is so ORDERED December 23, 2011



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

60686853.DOC
DOJ Matter ID:LA2011501685

Attachment:
Exhibit A: Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS
Deputy Attorney General
4 State Bar No. 171168
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804
Attorneys for Complainant

FILED

Date 9/6/11

By William H. Douglas

7
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**
Applicator License No. RA 44516, BR 2 & 3

ACCUSATION

14 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.

10 5. Code section 8649 states:

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

15 COST RECOVERY

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

20 CAUSE FOR DISCIPLINE

21 (Criminal Conviction)

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

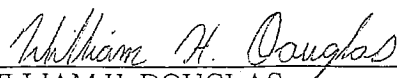
7 9. Pursuant to Code section 8654, if discipline is imposed on Applicator's License RA
8 44516, issued to Respondent, John Enrique Marin, then he shall be prohibited from serving as an
9 officer, director, associate, partner or responsible managing employee of a licensee, and any
10 licensee which employs, 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.
- 20
21

22 DATED: 9/6/11


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

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