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

11 In the Matter of the Accusation Against:

Case No. 2008-69

12 JUAN CARLOS AQUINO
13 1015 1/4 West 190th Street
Gardena, CA 90248

**DEFAULT DECISION
AND ORDER**

14 Registered Applicator License No. RA45842
15 Branches 2 and 3

[Gov. Code, §11520]

Respondent.

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17 **FINDINGS OF FACT**

18 1. On or about April 30, 2008, Complainant Kelli Okuma, in her official
19 capacity as the Registrar/Executive Officer of the Structural Pest Control Board (Board), filed
20 Accusation No. 2008-69 against Juan Carlos Aquino (Respondent) before the Board.

21 2. On or about June 21, 2006, the Board issued Registered Applicator
22 License No. RA45842, Branches 2 and 3 to Respondent. The license will expire on June 29,
23 2009, unless renewed.

24 3. On or about May 8, 2008, Thurman Peden, an employee of the Department
25 of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2008-69,
26 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
27 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
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1 was and is 1015 1/4 West 190th Street, Gardena, CA 90248. A copy of the Accusation is
2 attached as exhibit A, and are incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 5. On or about May 14, 15, 2008, the aforementioned documents were
6 returned by the U.S. Postal Service marked "Attempted not known" A copy of the returned
7 envelopes are attached as exhibit B, and are incorporated herein by reference.

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

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

13 7. Respondent failed to file a Notice of Defense within 15 days after service
14 upon her of the Accusation, and therefore waived her right to a hearing on the merits of

15 Accusation No. 2008-69 .

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

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

21 9. Pursuant to its authority under Government Code section 11520, the Board
22 finds Respondent is in default. The Board will take action without further hearing and, based on
23 the evidence before it, finds that the allegations in Accusation No. 2008-69 are true.

24 10. The total costs for investigation and enforcement are \$982.25 as of September 8,
25 2008.

26 **DETERMINATION OF ISSUES**

27 1. Based on the foregoing findings of fact, Respondent Juan Carlos Aquino
28 subjected his Registered Applicator License No. RA45842, Branches 2 and 3 to discipline.

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

3. The Board is authorized to revoke Respondent's Registered Applicator License No. RA45842, Branches 2 and 3 based upon the following violations alleged in the Accusation:

a. Respondent engaged in violation of Business and Professions Code (Code) sections 8620 and 8649, in that on or about October 17, 2007, in the Superior Court of California, County of Los Angeles, in the case entitled, *People of the State of California v. Juan Carlos Aquino* (Case No. BA317136), Respondent was convicted on his plea of nolo contendere of violating two counts of Penal Code section 211 (Robbery-2nd Degree), both felonies.

LOCATION OF DOCUMENTS

The Record upon which this Default Decision and Order is based is located at the Sacramento office of the Board.

ORDER

IT IS SO ORDERED THAT:

1. Registered Applicator License No. RA45842, Branches 2 and 3, heretofore issued to Respondent Juan Carlos Aquino is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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This Decision shall become effective on June 28, 2009.

It is so ORDERED May 29, 2009

Chaffard A. Reyes
FOR THE STRUCTURAL PEST CONTROL BOARD
STATE OF CALIFORNIA

Attachments:
Exhibit A: Accusation

AQUINO.DEF.WPD
DOJ docket number:LA2006600194

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FILED

Date 4/30/08 By *Kelli Okuma*

6 Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 2008-69

12 **JUAN CARLOS AQUINO**
1015 1/4 West 190th Street
13 Gardena, California 90248

ACCUSATION

14 Registered Applicator License No. RA45842,
Branches 2 and 3

15 Respondent.
16

17 Kelli Okuma ("Complainant") alleges:

18 **PARTIES**

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

22 **License History**

23 2. On or about June 21, 2006, the Board issued Registered Applicator
24 License Number RA45842, Branches 2 and 3, to Juan Carlos Aquino ("Respondent"). The
25 license will expire on June 29, 2009, unless renewed.

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1 **JURISDICTION**

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

6 4. Code section 8624 states, “[i]f the board suspends or revokes an operator’s
7 license and one or more branch offices are registered under the name of the operator, the
8 suspension or revocation may be applied to each branch office.”

9 **STATUTORY PROVISIONS**

10 5. Code section 8649 states:

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

14 **COST RECOVERY**

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

19 **CAUSE FOR DISCIPLINE**

20 **(Criminal Conviction)**

21 7. Respondent is subject to disciplinary action under section Code sections
22 8620 and 8649, in that on or about October 17, 2007, in the Superior Court of California,
23 County of Los Angeles, in the case entitled, *People of the State of California v. Juan Carlos*
24 *Aquino* (Super. Ct. Los Angeles County, 2007, Case No. BA317136), Respondent was
25 convicted on his plea of nolo contendere of violating two counts of Penal Code section 211
26 (Robbery-2nd Degree), both felonies. Such crimes are substantially related to the functions,
27 qualifications, and duties of a licensee. The circumstances of the crimes are that on
28 February 9, 2007, Respondent did unlawfully, and by means of force and fear of a handgun, take


1 personal property from the person, possession, and in the immediate presence of H.M. and E.L.
2 Respondent was sentenced to state prison for two years with a ten-year enhancement pursuant to
3 Penal Code section 12022.5, subdivision (b).

4 **PRAYER**

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

- 7 1. Revoking or suspending Registered Applicator License Number RA45842,
8 Branches 2 and 3, issued to Juan Carlos Aquino;
9 2. Ordering Juan Carlos Aquino to pay the Board the reasonable costs of the
10 investigation and enforcement of this case, pursuant to Code section 125.3; and,
11 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: 4/30/08
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16 KELLI OKUMA
17 Registrar/Executive Officer
18 Structural Pest Control Board
19 Department of Consumer Affairs
20 State of California
21 Complainant
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