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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. 2009-43
12 JOSHUA MATTHEW DEGUZMAN	OAH No.
13 5360 Southwood Way	DEFAULT DECISION
14 Antioch, California 94531	AND ORDER
15 Registered Applicator's License No. RA 46166, Branches 2 and 3	[Gov. Code § 11520]
16 Respondent.	

17 FINDINGS OF FACT

- 18 1. On or about February 17, 2009, Complainant Kelli Okuma, in her official
19 capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of
20 Consumer Affairs, filed Accusation No. 2009-43 against Joshua Matthew DeGuzman
21 (Respondent) before the Structural Pest Control Board.
- 22 2. On or about August 7, 2006, the Structural Pest Control Board issued
23 Registered Applicator's License Number RA 46166, Branches 2 and 3, to Joshua Matthew
24 DeGuzman (Respondent). The Registered Applicator's License was in full force and effect at all
25 times relevant to the charges brought herein and will expire on August 7, 2009, unless renewed.
- 26 3. On or about February 25, 2009, Carol L. Grays, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of Accusation No.
28 2009-43, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
2 which was and is 5360 Southwood Way, Antioch, California 94531. A copy of the Accusation is
3 attached as Exhibit A, and is incorporated herein by reference.

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

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

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service
11 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
12 Accusation No. 2009-43.

13 7. Government Code section 11520 states, in pertinent part:

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

17 8 Pursuant to its authority under Government Code section 11520, the Board
18 finds Respondent is in default. The Board will take action without further hearing and, based on
19 the evidence on file herein, finds that the allegations in Accusation No. 2009-43 are true.

20 9. The total cost for investigation and enforcement in connection with the
21 Accusation are \$2,181.50 as of March 11, 2009.

22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Joshua Matthew
24 DeGuzman has subjected his Registered Applicator's License, No. RA 46166, to discipline.

25 2. A copy of the Accusation is attached.

26 3. The agency has jurisdiction to adjudicate this case by default.

27 4. The Structural Pest Control Board is authorized to revoke Respondent's
28 Registered Applicator's License based upon the following violations alleged in the Accusation:

1 a. Business and Professions Code sections 490 and 8649 in that on or
2 about April 9, 2008, Respondent was convicted by his plea of no contest of the substantially
3 related crime of violating Penal Code section 470(d) (forgery - falsely making altering, passing
4 documents), a misdemeanor. The factual circumstances surrounding the conviction are that on or
5 about August 17, 2007, in Contra Costa County, California, Respondent entered ECC Bank and
6 attempted to cash a check in the amount of \$3,500.00, which was fraudulently written on the
7 personal checking account of Glen McCauley. Respondent forged the signature of Glen
8 McCauley on the check. An employee at the bank became suspicious and attempted to contact
9 Glen McCauley to verify that the check was authentic. While the bank employee was doing so,
10 Respondent hurriedly left the bank and drove away. In truth and in fact, Respondent had been
11 terminated by his employer, Glen McCauley, after being accused of stealing gas from
12 McCauley's company, Delta Pest Control. On or about August 6, 2007, when Respondent
13 returned to pick up his last paycheck, he was informed by Glen McCauley, that he (Respondent)
14 would not be paid because he owed Delta Pest Control money, and was told to leave. On or
15 about August 8, 2007, Glen McCauley noticed that a stack of his personal checks was missing
16 from his desk drawer in his office, and reported the stolen checks to the Contra Costa County
17 Sheriff's Office, and his bank (ECC Bank).

18 ORDER

19 IT IS SO ORDERED that Registered Applicator's License Number RA 46166,
20 heretofore issued to Respondent Joshua Matthew DeGuzman, is revoked.

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

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This Decision shall become effective on May 22, 2009.

It is so ORDERED April 22, 2009

Cufford J. Hillery
FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Accusation No. 2009-43

Exhibit A
Accusation No. 2009-43

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FILED

Date 2/17/09

By Susan Taylor

7 Attorneys for Complainant

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:

Case No. 2009-43

12 JOSHUA MATTHEW DEGUZMAN
5360 Southwood Way
13 Antioch, California 94531

ACCUSATION

14 Registered Applicator's License No. RA 46166,
Branches 2 and 3

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

22 2. On or about August 7, 2006, the Structural Pest Control Board issued
23 Registered Applicator's License Number RA 46166, Branches 2 and 3, to Joshua Matthew
24 DeGuzman (Respondent). The Registered Applicator's License was in full force and effect at all
25 times relevant to the charges brought herein and will expire on August 7, 2009, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Structural Pest Control Board
3 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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

10 5. Section 118, subdivision (b), of the Code provides that the expiration of a
11 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
12 period within which the license may be renewed, restored, reissued or reinstated.

13 6. Section 490 of the Code provides, in pertinent part, that the Board may
14 suspend or revoke a license when it finds that the licensee has been convicted of a crime
15 substantially related to the qualifications, functions, or duties of the business or profession for
16 which the license was issued.

17 7. Section 8649 of the Code states:

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

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

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1 FIRST CAUSE FOR DISCIPLINARY ACTION

2 (Criminal Conviction)

3 9. Respondent has subjected his Registered Applicator's License to
4 disciplinary action under sections 490 and 8649 of the Code in that he was convicted of crimes
5 substantially related to the qualifications, functions or duties of an applicator, in that on or about
6 April 9, 2008, in the Superior Court of California, County of Contra Costa, Pittsburg, Case No.
7 155831-1, entitled *The People of the State of California vs Joshua Matthew DeGuzman*,
8 Respondent was convicted by his plea of no contest of violating Section 470(d) of the Penal Code
9 (forgery - falsely making altering, passing documents), a misdemeanor. Pursuant to said
10 conviction, the imposition of sentence was suspended and Respondent was granted a two year
11 probationary term on terms and conditions, which included, but were not limited to, serving two
12 days in jail, do not annoy/threaten/contact Glen McCauley, the owner of Delta Pest Control, and
13 submit his person, place of residence, storage locker or any vehicle under his control to search
14 and seizure at any time of day or night with or without warrant, to any peace officer.

15 10. The factual circumstances surrounding said conviction are as follows:

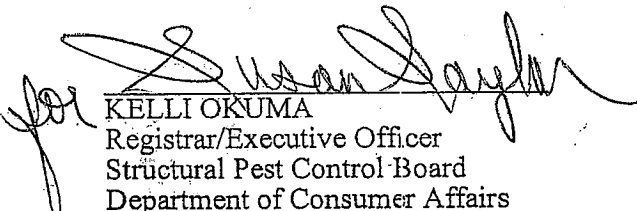
16 a. On or about August 17, 2007, in Contra Costa County, California,
17 Respondent entered ECC Bank and attempted to cash a check, which was fraudulently written on
18 the personal checking account of Glen McCauley, in the amount of three thousand five hundred
19 dollars (\$3,500.00). Respondent forged the signature of Glen McCauley on the check. An
20 employee at the bank became suspicious and attempted to contact Glen McCauley to verify that
21 the check was authentic. While the bank employee was doing so, Respondent hurriedly left the
22 bank and drove away. In truth and in fact, Respondent had been terminated by his employer,
23 Glen McCauley, after being accused of stealing gas from McCauley's company, Delta Pest
24 Control. On or about August 6, 2007, when Respondent returned to pick up his last paycheck, he
25 was informed by Glen McCauley, that he (Respondent) would not be paid because he owed Delta
26 Pest Control money, and was told to leave. On or about August 8, 2007, Glen McCauley noticed
27 that a stack of his personal checks was missing from his desk drawer in his office, and reported
28 the stolen checks to the Contra Costa County Sheriff's Office, and his bank (ECC Bank).

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 Registered Applicator's License Number RA 46166, issued to Joshua Matthew DeGuzman, (Respondent);
2. Ordering Respondent 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 1253; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/17/09

for 
KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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CSR: 02/17/09