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

12 In the Matter of the Accusation Against:

Case No. 2009-36

13 RAUL CAZARES  
P.O. Box 877  
14 Winterhaven, CA 92283

**DEFAULT DECISION**  
**AND ORDER**

15 Registered Applicator's License No. RA 46831

[Gov. Code, §11520]

16 Respondent.

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18 FINDINGS OF FACT

19 1. On or about December 30, 2008, Complainant Kelli Okuma, in her official  
20 capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of  
21 Consumer Affairs, filed Accusation No. 2009-36 against Raul Cazares (Respondent) before the  
22 Structural Pest Control Board.

23 2. On or about January 12, 2007, the Structural Pest Control Board (Board)  
24 issued Registered Applicator's License No. RA 46831 to Respondent. The Registered  
25 Applicator's License was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on January 12, 2010, unless renewed.

27 3. On or about January 6, 2009, Charlette Sheppard, an employee of the  
28 Department of Justice, served by Certified and First Class Mail a copy of the Accusation

1 No. 2009-36, Statement to Respondent, Notice of Defense, Request for Discovery, and  
2 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
3 with the Board, which was and is:  
4 P.O. Box 877  
5 Winterhaven, CA 92283.

6 A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

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

9 5. On or about January 20, 2009, the aforementioned documents were  
10 returned by the U.S. Postal Service marked "Return to Sender - Attempted Not Known - Unable  
11 to Forward."

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service  
19 upon him of the Accusation, and therefore waived his right to a hearing on the merits of  
20 Accusation No. 2009-36.

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

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

26 9. Pursuant to its authority under Government Code section 11520, the Board  
27 finds Respondent is in default. The Board will take action without further hearing and, based on  
28 the evidence on file herein, finds that the allegations in Accusation No. 2009-36 are true.

10 The total cost for investigation and enforcement in connection with the  
11 Accusation are \$418.25 as of February 2, 2009.

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DETERMINATION OF ISSUES

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1. Based on the foregoing findings of fact, Respondent Raul Cazares has subjected his Registered Applicator's License No. RA 46831 to discipline.
2. A copy of the Accusation is attached.
3. The agency has jurisdiction to adjudicate this case by default.
4. The Structural Pest Control Board is authorized to revoke Respondent's Registered Applicator's License based upon the following violations alleged in the Accusation:
  - a. Respondent subjected his license to disciplinary action under sections 490 and 8649 of the Code in that on or about October 30, 2008, in a criminal proceeding entitled *People of the State of California v. Raul Cazares, Jr.*, in Imperial County Superior Court, case number JCF21995, Respondent pled nolo contendere and the court found Respondent guilty of violating Penal Code section 487, subdivision (a), grand theft of personal property, amended to a misdemeanor pursuant to Penal Code section 17, subdivision (b), a crime substantially related to the qualifications, duties, and functions of a registered applicator. Respondent was sentenced to one day in the county jail, with credit for one day served, three years summary probation, and payment of fines, fees, and assessments in the amount of \$120. Respondent must also submit to search and seizure at any time, and was ordered to stay away from his victim/former employer.

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ORDER

IT IS SO ORDERED that Registered Applicator's License No. RA 46831, heretofore issued to Respondent Raul Cazares, 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.

This Decision shall become effective on April 12, 2009.

It is so ORDERED March 13, 2009

*Clifford J. Nelson*  
\_\_\_\_\_  
FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

DOJ docket number: SD2008803307

Attachment: Exhibit A: Accusation No. 2009-36

Exhibit A  
Accusation No. 2009-36

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
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6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061  
8 Attorneys for Complainant

FILED

Date 12/30/08 By Kelli Okuma

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

12 In the Matter of the Accusation Against:  
13 RAUL CAZARES  
P.O. Box 877  
14 Winterhaven, CA 92283  
15 Registered Applicator's License No. RA 46831  
Branches 2 and 3  
16  
17 Respondent.

Case No. 2009-36

**ACCUSATION**

18 Complainant alleges:

19 PARTIES

- 20 1. Kelli Okuma (Complainant) brings this Accusation solely in her official  
21 capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of  
22 Consumer Affairs.
- 23 2. On or about January 12, 2007, the Structural Pest Control Board issued  
24 Registered Applicator's License Number RA 46831, Branches 2 and 3, to Raul Cazares  
25 (Respondent). The Registered Applicator's License was in full force and effect at all times  
26 relevant to the charges brought herein and will expire on January 12, 2010, unless renewed.

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JURISDICTION

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

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

5. Section 8625 of the Code states:

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

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 8649 of the Code states:

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

8. Section 8654 of the Code states, in pertinent part, that if discipline is imposed on Registered Applicator's License Number RA 46831, Respondent shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Respondent shall be subject to disciplinary action.

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9. Section 8655 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

10. Title 16, California Code of Regulations section 1937.1, states:

For the purposes of denial, suspension or revocation of a license or company registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee or registered company under Chapter 14 of Division 3 of the code if to a substantial degree it evidences present or potential unfitness of such licensee or registered company to perform the functions authorized by the license or company registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

- (a) Any violation of the provisions of Chapter 14 of Division 3 of the code.
- (b) Commission of any of the following in connection with the practice of structural pest control:
  - (1) Fiscal dishonesty
  - (2) Fraud
  - (3) Theft
  - (4) Violations relating to the misuse of pesticides.

11. Title 16, California Code of Regulations section 1020, states:

....

(b) When considering the suspension or revocation of a structural pest control license or company registration on the grounds that the licensee or registered company has been convicted of a crime, the board, in evaluating the rehabilitation of such person or company and his or her or its present eligibility for a license or company registration will consider the following:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.



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(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee or registered company has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee or registered company.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any of rehabilitation submitted by the licensee or registered company.

....

12. Section 125.3 of the Code states, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**CAUSE FOR DISCIPLINE**

**(October 30, 2008 Criminal Conviction for Grand Theft of Personal Property)**

13. Respondent has subjected his license to disciplinary action under sections 490 and 8649 of the Code in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered applicator. The circumstances are as follows:

a. On or about October 30, 2008, in a criminal proceeding entitled *People of the State of California v. Raul Cazares, Jr.*, in Imperial County Superior Court, case number JCF21995, Respondent pled nolo contendere and the court found Respondent guilty of violating Penal Code section 487, subdivision (a), grand theft of personal property, amended to a misdemeanor pursuant to Penal Code section 17, subdivision (b).

b. As a result of the conviction, on or about October 30, 2008, Respondent was sentenced to one day in the county jail, with credit for one day served, three years summary probation, and payment of fines, fees, and assessments in the amount of \$120. Respondent must also submit to search and seizure at any time, and was ordered to stay away from his victim/former employer.

1 c. The facts that led to the conviction were that on or about April 8,  
2 2008, the Imperial County Sheriff's Office was contacted by All-Tel Wireless, a cellular  
3 telephone provider, regarding fraudulent activity by Respondent. The investigation revealed that  
4 while an employee of MSA Termite Services, Respondent acquired a cellular telephone account  
5 from All-Tel Wireless in his own name. On or about the time Respondent was terminated by  
6 MSA Termite Services, Respondent provided All-Tel Wireless with the account and routing  
7 numbers for his employer's account and allowed All-Tel to make electronic withdrawals to pay  
8 Respondent's cell phone bills. Respondent's former employer contacted All-Tel about the seven  
9 unauthorized payments from his checking account totaling over \$1,100. All-Tel reimbursed the  
10 unauthorized charges, which then made All-Tel the victim of theft and fraud. All-Tel contacted  
11 Respondent and advised him that he needed to pay for the loss, but Respondent admitted to the  
12 investigator that he did not pay any money to All-Tel to reimburse the account, even after the  
13 matter had been sent to a collection agency. Respondent stated that the reason he defrauded his  
14 former employer was because he had been promised a raise, but the employer never came  
15 through with the money.

16  
17 PRAYER

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

- 20 1. Revoking or suspending Registered Applicator's License Number RA  
21 46831, issued to Raul Cazares;
- 22 2. Prohibiting Raul Cazares from serving as an officer, director,  
23 associate, partner, qualifying manager or responsible managing employee of any registered  
24 company during the period that discipline is imposed on Registered Applicator's License  
25 Number RA 46831, issued to Raul Cazares;

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3. Ordering Raul Cazares 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;

4. Taking such other and further action as deemed necessary and proper.

DATED: 12/30/08

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

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