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FILED

Date 6/5/09 By Kelli Okuma

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. 2009-64

12 **TAZJARAE MARIE CALDERON**
13 **32288 Navajo Trail, #2**
14 **Cathedral City, CA 92234**

A C C U S A T I O N

15 **Registered Applicator's License**
16 **No. RA 47983**

Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 12, 2007, the Structural Pest Control Board issued Registered
24 Applicator's License Number RA 47983 to Tazjarae Marie Calderon (Respondent). The
25 Registered Applicator's License was in full force and effect at all times relevant to the charges
26 brought herein and will expire on September 12, 2010, unless renewed.

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JURISDICTION

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

4 4. Section 118 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license.

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

STATUTORY PROVISIONS

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12 6. Section 490 of the Code states:

13 (a) In addition to any other action that a board is permitted to take against
14 a licensee, a board may suspend or revoke a license on the ground that the licensee
15 has been convicted of a crime, if the crime is substantially related to the
16 qualifications, functions, or duties of the business or profession for which the license
was issued.

17 (b) Notwithstanding any other provision of law, a board may exercise any
18 authority to discipline a licensee for conviction of a crime that is independent of the
19 authority granted under subdivision (a) only if the crime is substantially related to the
20 qualifications, functions, or duties of the business or profession for which the
21 licensee's license was issued.

22 (c) A conviction within the meaning of this section means a plea or
23 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
24 a board is permitted to take following the establishment of a conviction may be taken
25 when the time for appeal has elapsed, or the judgment of conviction has been
26 affirmed on appeal, or when an order granting probation is made suspending the
27 imposition of sentence, irrespective of a subsequent order under the provisions of
28 Section 1203.4 of the Penal Code.

 (d) The Legislature hereby finds and declares that the application of this
section has been unclear by the holding in *Petropoulos v. Department of Real
Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a
significant number of statutes and regulations in question, resulting in potential harm
to the consumers of California from licensees who have been convicted of crimes.
Therefore, the Legislature finds and declares that this section establishes an
independent basis for a board to impose discipline upon a licensee, and that the
amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session
do not constitute a change to, but rather are declaratory of, existing law.

1 7. Section 493 of the Code states, in pertinent part:

2 Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or
4 to suspend or revoke a license or otherwise take disciplinary action against a person
5 who holds a license, upon the ground that the applicant or the licensee has been
6 convicted of a crime substantially related to the qualifications, functions, and duties
7 of the licensee in question, the record of conviction of the crime shall be conclusive
8 evidence of the fact that the conviction occurred, but only of that fact, and the board
9 may inquire into the circumstances surrounding the commission of the crime in
10 order to fix the degree of discipline or to determine if the conviction is substantially
11 related to the qualifications,

12 8. Section 8625 of the Code states:

13 The lapsing or suspension of a license or company registration by operation
14 of law or by order or decision of the board or a court of law, or the voluntary
15 surrender of a license or company registration shall not deprive the board of
16 jurisdiction to proceed with any investigation of or action or disciplinary proceeding
17 against such licensee or company, or to render a decision suspending or revoking
18 such license or registration.

19 9. Section 8649 of the Code states:

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

24 10. Code section 8654 states:

25 Any individual who has been denied a license for any of the reasons
26 specified in Section 8568, or who has had his or her license revoked, or whose
27 license is under suspension, or who has failed to renew his or her license while it
28 was under suspension, or who has been a member, officer, director, associate,
qualifying manager, or responsible managing employee of any partnership,
corporation, firm, or association whose application for a company registration has
been denied for any of the reasons specified in Section 8568, or whose company
registration has been revoked as a result of disciplinary action, or whose company
registration is under suspension, and while acting as such member, officer, director,
associate, qualifying manager, or responsible managing employee had knowledge of
or participated in any of the prohibited acts for which the license or registration was
denied, suspended or revoked, shall be prohibited from serving as an officer,
director, associate, partner, qualifying manager, or responsible managing employee
of a registered company, and the employment, election or association of such person
by a registered company is a ground for disciplinary action.

11. Code section 8655 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

1 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
2 order granting probation is made suspending the imposition of sentence, irrespective
3 of a subsequent order under the provisions of Section 1203.4 of the Penal Code
4 allowing the individual or registered company to withdraw a plea of guilty and to
5 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
6 accusation, information or indictment.

4 COST RECOVERY

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

9 REGULATORY PROVISIONS

10 13. California Code of Regulations, title 16, section 1937.1, states, in pertinent part:

11 For the purposes of denial, suspension or revocation of a license or company
12 registration . . . a crime or act shall be considered to be substantially related to the
13 qualifications, functions or duties of a licensee or registered company . . . if to a
14 substantial degree it evidences present or potential unfitness of such licensee or
15 registered company to perform the functions authorized by the license or company
16 registration in a manner consistent with the public health, safety, or welfare. Such
17 crimes or acts shall include, but not be limited to, the following:

18 (a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

19 (b) Commission of any of the following in connection with the practice of structural
20 pest control:

21 (1) Fiscal dishonesty

22 (2) Fraud

23 (3) Theft

24 (4) Violations relating to the misuse of pesticides.

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FIRST CAUSE FOR DISCIPLINE

1 (October 28, 2008 Criminal Conviction – Receiving Stolen Property on July 31, 2008)

2 14. Respondent is subject to disciplinary action pursuant to Code sections 490, 493, and
3 8649 in that on or about October 28, 2008, in the criminal proceeding entitled *People v. Tazjarai*
4 *Marie Calderon*, Superior Court Riverside County Case No. INF063252, Respondent pled guilty
5 to Penal Code section 496a (receiving stolen property), a crime substantially related to the
6 qualifications, functions, and duties of a registered applicator. The circumstances of the crime are
7 as follows:

8 15. On or about July 15, 2008, Respondent unlawfully entered an inhabited dwelling with
9 intent to commit theft, in violation of Penal Code section 459 (burglary.) On or about July 31,
10 2008, Respondent unlawfully received stolen property: golf clubs, speakers, a stereo, TV,
11 swords, Rolex & Tagheuer watches, and kitchen appliances, knowing said property had been
12 obtained by theft, and concealed the property from the owner in violation of Penal Code section
13 496(a) (receiving stolen property), a felony.

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15 16. Pursuant to the Plea Agreement, on or about October 28, 2008, Respondent was
16 sentenced to three (3) years of probation, pay fines, pay restitution, and ordered not to have direct
17 contact with the victim.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Acts Involving Dishonesty, Fraud, or Deceit)

20 17. Respondent is subject to disciplinary action pursuant to Code section 8620 in that
21 Respondent committed acts of dishonesty when she unlawfully received stolen property knowing
22 said property had been obtained by theft, and concealed the property from the owner as set out
23 more fully in paragraph 15 above.

24 **OTHER MATTERS**

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

3 19. Pursuant to Code section 8654, if discipline is imposed on Registered Applicator's
4 License Number RA 479831, issued to Respondent Tazjarae Calderon, Tazjarae Calderon shall
5 be prohibited from serving as an officer, director, associate, partner, qualifying manager, or
6 responsible managing employee for any registered company during the time the discipline is
7 imposed, and any registered company which employs, elects, or associates Tazjarae Calderon
8 shall be subject to disciplinary action.

9 **PRAYER**


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

12 1. Revoking or suspending Registered Applicator's License Number RA 47983, issued
13 to Tazjarae Marie Calderon;

14 2. Ordering Tazjarae Marie Calderon to pay the Structural Pest Control Board the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 6/5/09


19 KELLI OKUMA
20 Registrar/Executive Officer
21 Structural Pest Control Board
22 Department of Consumer Affairs
23 State of California
24 Complainant

23 SD2009803499
24 accusation.rtf