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8
9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF PESTICIDE REGULATION**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-49

13 **JUAN CARLOS RODRIGUEZ**
14 **P.O. Box 113**
Bakersfield, CA 93302
15 **Registered Applicator No. RA 48240**

DEFAULT DECISION AND ORDER

Respondent. [Gov. Code, §11520]

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18 FINDINGS OF FACT

19 1. On or about January 29, 2010, Complainant Kelli Okuma, in her official capacity as
20 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
21 Regulation, filed Accusation No. 2010-49 against Juan Carlos Rodriguez (Respondent) before the
22 Structural Pest Control Board.

23 2. On or about November 16, 2007, the Structural Pest Control Board (Board) issued
24 Registered Applicator No. RA 48240 to Respondent. The Registered Applicator was in full force
25 and effect at all times relevant to the charges brought herein and will expire on November 16,
26 2010, unless renewed.

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1 3. On or about February 8, 2010, Corinia Talaro, an employee of the Department of
2 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-49, Statement
3 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
4 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
5 is P.O. Box 113, Bakersfield, CA 93302. A copy of the Accusation is attached as exhibit 1, and
6 is incorporated herein by reference.

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

9 5. On or about February 15, 2010, the aforementioned documents were returned by the
10 U.S. Postal Service marked "No Forwarding Address."

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
19 2010-49.

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

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

25 9. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 evidence on file herein, finds that the allegations in Accusation No. 2010-49 are true.

28 10. The total cost for investigation and enforcement in connection with the Accusation
are \$1,372.50 as of February 18, 2010.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Juan Carlos Rodriguez has
3 subjected his Registered Applicator No. RA 48240 to discipline.

4 2. A copy of the Accusation is attached.

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

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

8 a. Respondent is subject to disciplinary action under Code sections 8620 and 8649, in
9 that on or about July 6, 2009, before the Superior Court of California, County of Kern, in the case
10 entitled, *People of the State of California v. Juan Carlos Rodriguez* (Super. Ct. Kern County,
11 2009, Case No. BM752722A), Respondent was convicted on his plea of nolo contendere of
12 violating Penal Code section 487, subdivision (a) (Grand Theft) with a special allegation of Penal
13 Code section 17(b)(4)) and 485 (Theft; Appropriation of Lost Property with Knowledge or Means
14 of Inquiry as to True Owner), both misdemeanors. Such crimes are substantially related to the
15 functions, qualifications, and duties of a licensee.

ORDER

16
17 IT IS SO ORDERED that Registered Applicator No. RA 48240, heretofore issued to
18 Respondent Juan Carlos Rodriguez, is revoked.

19 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
20 written motion requesting that the Decision be vacated and stating the grounds relied on within
21 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
22 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 May 6, 2010.

It is so ORDERED April 6, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

60519942.DOC
DOJ docket number:LA2009603926

Attachment:

Exhibit 1: Accusation No.2010-49

Exhibit 1
Accusation No. 2010-49

FILED

Date 1/29/10 By Kelli Okuma

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 2010-49

13 **JUAN C. RODRIGUEZ, aka**
14 **JUAN CARLOS RODRIGUEZ**
P.O. Box 113
Bakersfield, CA 93302

ACCUSATION

15 **Registered Applicator No. RA 48240**
16 **Branches 2 and 3**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 **License History**

25 2. On or about November 16, 2007, the Board issued Registered Applicator Number
26 RA 48240, Branches 2 and 3, to Juan C. Rodriguez, also known as Juan Carlos Rodriguez
27 ("Respondent"). The license was in full force and effect at all times relevant to the charges
28 brought herein and will expire on November 16, 2010, unless renewed.

JURISDICTION

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

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

9 5. Code section 8624 states:

10 "If the board suspends or revokes an operator's license and one or more branch
11 offices are registered under the name of the operator, the suspension or revocation may be applied
12 to each branch office."

13 6. Section 8654 of the Code states:

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

7. Code section 8625 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.

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1 STATUTORY PROVISIONS

2 8. Code section 8649 states:

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

6 COST RECOVERY

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

11 CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 10. Respondent is subject to disciplinary action under Code sections 8620 and 8649, in
14 that on or about July 6, 2009, before the Superior Court of California, County of Kern, in the case
15 entitled, *People of the State of California v. Juan Carlos Rodriguez* (Super. Ct. Kern County,
16 2009, Case No. BM752722A), Respondent was convicted on his plea of nolo contendere of
17 violating Penal Code section 487, subdivision (a) (Grand Theft) with a special allegation of Penal
18 Code section 17(b)(4)) and 485 (Theft; Appropriation of Lost Property with Knowledge or Means
19 of Inquiry as to True Owner), both misdemeanors. Such crimes are substantially related to the
20 functions, qualifications, and duties of a licensee.

21 The circumstances of the crimes are that on or about April 24, 2009, while dining at
22 Denny's restaurant in Bakersfield, California, a regular customer left behind an envelope
23 containing \$1,605 at a table where she was dining. On or about May 25, 2009, Respondent, while
24 employed as the on-site manager, took the money from the safe where it was being held until the
25 money was claimed by its rightful owner.

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1 OTHER MATTERS

2 11. Pursuant to Code section 8654, if Respondent's application for a license is denied,
3 then Respondent shall be prohibited from serving as an officer, director, associate, partner, or
4 qualifying individual of any license, and any licensee which employs, elects or associates
5 Respondent in any capacity other than as a non-supervising bona fide employee shall be subject
6 to disciplinary action.

7 PRAYER

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

10 1. Revoking or suspending Registered Applicator Number RA 48240 issued to Juan C.
11 Rodriguez, also known as Juan Carlos Rodriguez;

12 2. Prohibiting Juan C. Rodriguez, also known as Juan Carlos Rodriguez, from serving as
13 an officer, director, associate, partner, or qualifying individual of any licensee;

14 2. Ordering Juan C. Rodriguez, also known as Juan Carlos Rodriguez, to pay the Board
15 the reasonable costs of the investigation and enforcement of this case, pursuant to Code section

16 125.3; and,

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

18
19 DATED: 1/29/10

Kelli Okuma

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

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