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FILED

Date 6/23/10 By Kelli Okuma

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

11 In the Matter of the Accusation Against:
12
13 **EDGAR GARCIA**
1116 North Fountain Way
14 Anaheim, CA 92806
15 **Registered Applicator License No. RA 49023**
16 Respondent.

Case No. 2010-86

ACCUSATION

17
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 Pesticide
22 Regulation.

23 2. On or about July 10, 2008, the Structural Pest Control Board issued Registered
24 Applicator License Number RA 49023 to Edgar Garcia (Respondent). The Registered Applicator
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 10, 2011, unless renewed.

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1 REGULATORY PROVISIONS

2 9. California Code of Regulations, title 16, section 1937.1 states:

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

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

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

15 (1) Fiscal dishonesty

16 (2) Fraud

17 (3) Theft

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

19 10. California Code of Regulations, title 16, section 1020 states, in pertinent part:

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21 (b) When considering the suspension or revocation of a license on the grounds
22 of conviction of a crime, the board, in evaluating the rehabilitation of such
23 person and his present eligibility for a license will consider the following
24 criteria:

25 (1) The nature and severity of the act(s) or offense(s);

26 (2) Total criminal record;

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

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

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

3 (6) Evidence, if any of rehabilitation submitted by the licensee.

4 **COST RECOVERY**

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

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(January 13, 2010 Criminal Conviction for Possession of Controlled Substances**
11 **on December 23, 2008)**

12 12. Respondent is subject to disciplinary action under section 8649, in that he was
13 convicted of a crime substantially related to the qualifications, duties and functions of a registered
14 applicator. The circumstances are as follows.

15 13. On or about March 5, 2009 Respondent was arrested and charged with a
16 misdemeanor violation of Health & Safety Code section 11377 (a), possession of a controlled
17 substance, to wit, methamphetamine on or about December 28, 2008.

18 14. On January 13, 2010, Respondent was convicted on his plea of nolo contendere in the
19 case of *People v. Garcia*, Los Angeles Superior Court Case No. 9AH01032 to the misdemeanor
20 violation of Health & Safety Code section 11377 (a). As part of his criminal sentencing,
21 Respondent was denied probation, sentenced to 60 days in the County jail and ordered to pay fees
22 and costs.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(January 5, 2010 Criminal Conviction for Theft on April 10, 2009)**

25 15. Respondent is subject to disciplinary action under section 8649, in that he was
26 convicted of a crime substantially related to the qualifications, duties and functions of a licensed
27 registered applicator. The circumstances are as follows.

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1 16. On or about April 10, 2009 Respondent was stopped and questioned by the Torrance
2 Police Department. He was found in possession of a driver's license, credit card and debit card of
3 the victim K. D. Respondent was arrested and charged with a felony violation of Penal Code
4 section 484e (d), theft; and a misdemeanor violation of Penal Code section 485, petty theft.

5 17. On January 5, 2010, Respondent was convicted on his plea of nolo contendere in the
6 case of *People v. Garcia*, in Los Angeles Superior Court Case No. YA074840, to the felony
7 violation of Penal Code section 484e (d), theft. As part of his criminal sentencing, Respondent
8 was placed on formal probation for three years, sentenced to 60 days in the County jail and
9 ordered to pay restitution, fees and costs. The misdemeanor petty theft charge was dismissed.

10 PRAYER

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

- 13 1. Revoking or suspending Registered Applicator License Number RA 49023, issued to
14 Edgar Garcia.
- 15 2. Ordering Edgar Garcia to pay the Structural Pest Control Board the reasonable costs
16 of the investigation and enforcement of this case, pursuant to Business and Professions Code
17 section 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.
- 19
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21 DATED: 6/23/10

Kelli Okuma
KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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