1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	EDMUND G. BROWN JR. Attorney General of California LINDA K. SCHNEIDER Supervising Deputy Attorney General David E. HAUSFELD Deputy Attorney General State Bar No. 110639 110 West "A" Street, Suite 1100 San Diego, CA 92101 P.O. Box 85266 San Diego, CA 92186-5266 Telephone: (619) 645-2025 Facsimile: (619) 645-2025 Facsimile: (619) 645-2061 Attorneys for Complainant BEFORE THE STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF PESTICIDE REGULATION STATE OF CALIFORNIA In the Matter of the Accusation Against: EDGAR GARCIA 1116 North Fountain Way Anaheim, CA 92806 Registered Applicator License No. RA 49023	
. 16	Respondent.	
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18	Complainant alleges: PARTIES	
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20	1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide	
21 22	Regulation.	
22	2. On or about July 10, 2008, the Structural Pest Control Board issued Registered	
23	Applicator License Number RA 49023 to Edgar Garcia (Respondent). The Registered Applicator	. .
24 25	License was in full force and effect at all times relevant to the charges brought herein and will	
25	expire on July 10, 2011, unless renewed.	
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1	JURISDICTION	ĺ
2	3. This Accusation is brought before the Structural Pest Control Board (Board),	
3	Department of Pesticide Regulation, under the authority of the following laws. All section	
4	references are to the Business and Professions Code unless otherwise indicated.	
5	4. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or	
6	revoke a license when it finds that the holder, while a licensee or applicant, has committed any	
7	acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a	
8	civil penalty.	
9	5. Section 8625 of the Code states:	
10	The lapsing or suspension of a license or company registration by operation	
11	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	
12	jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending	
13	or revoking such license or registration.	
14	STATUTORY PROVISIONS	
15	6. Section 490 of the Code states, in pertinent part, the Board may suspend or revoke a	
16	license when it finds that the licensee has been convicted of a crime.	
17	7. Section 8649 of the Code states:	
18	"Conviction of a crime substantially related to the qualifications, functions, and duties of a	
19	structural pest control operator, field representative, applicator, or registered company is a ground	1
20	for disciplinary action. The certified record of conviction shall be conclusive evidence thereof."	
21	8. Section 8655 of the Code states:	
22	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,	
23	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	
24	or Section 8568 of this chapter. The board may order the license or registration	
25	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	
26	order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the	
27	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	
28	dismissing the accusation, information or indictment.	
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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 crime or act shall be considered to be substantially related to the qualifications,
5	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
6	unfitness of such licensee or registered company to perform the functions authorized by the license or company registration in a manner consistent with the
7	public health, safety, or welfare. Such crimes or acts shall include, but not be
8	limited to, the following:
9	(a) Any violation of the provisions of Chapter 14 of Division 3 of the code.
10	(b) Commission of any of the following in connection with the practice of structural pest control:
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12	(1) Fiscal dishonesty
13	(2) Fraud
14	(3) Theft
15	(4) Violations relating to the misuse of pesticides.
16	10. California Code of Regulations, title 16, section 1020 states, in pertinent part:
17	(1) Will i i i i an expression of a license on the grounds
18	(b) When considering the suspension or revocation of a license on the grounds of conviction of a crime, the board, in evaluating the rehabilitation of such
19	person and his present eligibility for a license will consider the following criteria:
20	(1) The nature and severity of the act(s) or offense(s);
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22	(2) Total criminal record;
23	(3) The time that has elapsed since commission of the act(s) or offense(s);
24	(4) Whether the licensee has complied with any terms of parole,
25	probation, restitution or any other sanctions lawfully imposed
26	against the licensee;
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1	(5) If applicable, evidence of expungement proceedings pursuant 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 <i>People v. Garcia</i> , 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.
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21	DATED: 6/23/10 Beeli Okuna
22	KELLI OKUMA Registrar/Executive Officer
23	Structural Pest Control Board Department of Pesticide Regulation
24	State of California Complainant
25	Complainant
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