

FILED

Date 1/21/11 By Kelli Okuma

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:
12 **DOUGLAS C. BRAY**
13 **1413 Mira Vista Court**
Antioch, CA 94509
14 **Applicator License No. RA 49500**
15 Respondent.

Case No. 2011-29
ACCUSATION

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about December 2, 2008, the Structural Pest Control Board issued Applicator
23 License Number RA 49500 to Douglas C. Bray (Respondent). The Applicator License will
24 expire on December 2, 2011, unless renewed. Said license is currently inactive.

25 **JURISDICTION**

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

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

5 5. Section 8625 of the Code states:

6 "The lapsing or suspension of a license or company registration by operation of law or by
7 order or decision of the board or a court of law, or the voluntary surrender of a license or
8 company registration shall not deprive the board of jurisdiction to proceed with any investigation
9 of or action or disciplinary proceeding against such licensee or company, or to render a decision
10 suspending or revoking such license or registration."

11 6. Section 8649 of the Code states:

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

15 7. Section 8620 of the Code states:

16 "The board may upon its own motion, and shall upon verified complaint in writing of any
17 person, investigate the actions of any individual acting as a licensee, or making application for a
18 license.

19 "After a hearing, the board may temporarily suspend or permanently revoke a license issued
20 under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or
21 more of the acts or omissions constituting grounds for disciplinary action. In addition to its
22 authority to suspend or revoke a license, the board may assess a civil penalty as follows:

23 "(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with
24 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed
25 decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts
26 or omissions constituting grounds for disciplinary action, the proposed decision shall provide for
27 the imposition of a suspension or for the revocation of the license. In this case, the board may
28 impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil

1 penalty. The licensee may express a preference for a form of discipline, but the board shall not
2 be bound by any expression of preference.

3 "If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing,
4 the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

5 "If a proposed stipulation is rejected by the board, it is null and void and does not constitute
6 an admission of any violation charged.

7 "(b) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual
8 suspension of one to 19 days.

9 "(c) The civil penalty shall not be more than ten thousand dollars (\$10,000) for an actual
10 suspension of 20 to 45 days.

11 "(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty
12 shall be paid before the effective date of the decision.

13 "(e) If the civil penalty is not paid before the effective date of the suspension, the license
14 shall be suspended until the penalty is paid or until the actual suspension is served.

15 "No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With
16 the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section
17 8617, the proceedings under this article shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and
19 the board shall have all the powers granted therein.

20 "In any order of suspension or revocation, the board may authorize the completion of any
21 contract or work contracted for under terms and conditions set forth in the order."

22 8. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License
23 No. RA 49500 issued to respondent, Douglas C. Bray shall be prohibited from serving as an
24 officer, director, associate, partner, qualifying manager, or responsible managing employee for
25 any registered company during the time the discipline is imposed, and any registered company
26 which employs, elects, or associates Douglas C. Bray shall be subject to disciplinary action.

27 9. Section 490 of the Code states, in pertinent part, that the Board may suspend or
28 revoke a license when it finds that the licensee has been convicted of a crime.

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

5 CAUSE FOR DISCIPLINE
6 (CRIMINAL CONVICTION)

7 11. Respondent is subject to disciplinary action under sections 8649 and/or 490 in that on
8 or about November 17, 2010, in a criminal proceeding entitled *The People of the State of*
9 *California v. Douglas Charles Bray*, in Contra Costa Superior Court, Case Number 4-163706-S,
10 Respondent was convicted by his plea of nolo contendere of violating Penal Code section 503
11 (embezzlement), a felony. Respondent was sentenced to serve 180 days in county jail, probation
12 for three years, and ordered to pay fines in the amount of \$610.00. The circumstances
13 surrounding the conviction are that between May 2007 and November 2009, Respondent
14 unlawfully and fraudulently appropriated property owned by the Antioch Youth Sports Complex.

15 PRAYER

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

- 18 1. Revoking or suspending Applicator License Number RA 49500, issued to Douglas C.
19 Bray;
- 20 2. Ordering Douglas C. Bray to pay the Structural Pest Control Board the reasonable
21 costs of the investigation and enforcement of this case, pursuant Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 1/21/11

24 *Kelli Okuma*
25 KELLI OKUMA
26 Registrar/Executive Officer
27 Structural Pest Control Board
28 Department of Pesticide Regulation
State of California
Complainant

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