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**FILED**

Date 3/10/11 By *Kelli Okuma*

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

10 In the Matter of the Accusation and Petition to  
11 Revoke Probation Against:

Case No. 2011-41

12 **JORGE CABRAL**  
3825 E. 57th Street  
13 Maywood, CA 90270  
Applicator's License Number  
14 RA 49912, BR 2, BR 3

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

22 **Applicator License**

23 2. On or about May 20, 2009, the Structural Pest Control Board issued Applicator's  
24 License Number RA 49912 in Branches 2 and 3 to Jorge Cabral ("Respondent"). The  
25 applicator's license was in full force and effect at all times relevant to the charges brought herein  
26 and will expire on May 20, 2012, unless renewed.

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**Prior Discipline**

3. In a disciplinary action entitled "In the Matter of the Statement of Issues Against Jorge Cabral," Case No. 2009-8, the Structural Pest Control Board amended and adopted the Proposed Decision, in that effective May 20, 2009, the Board issued Applicator's License Number RA 49912 in Branches 2 and 3 to Respondent. The license was immediately revoked; however, the revocation was stayed and Respondent was placed on probation for a period of three (3) years with conditions. A copy of the Decision is attached as Exhibit A and is incorporated by reference.

**JURISDICTION**

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

5. 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.

6. Code section 8654 states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it 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 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.

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1 STATUTORY PROVISIONS

2 7. 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, or  
5 registered company is a ground for disciplinary action. The certified record of  
6 conviction shall be conclusive evidence thereof.

7 8. Code section 8655 states:

8 A plea or verdict of guilty or a conviction following a plea of nolo  
9 contendere made to a charge substantially related to the qualifications, functions, and  
10 duties of a structural pest control operator, field representative, applicator, or  
11 registered company is deemed to be a conviction within the meaning of this article or  
12 Section 8568 of this chapter. The board may order the license or registration  
13 suspended or revoked, or may decline to issue a license, when the time for appeal has  
14 elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
15 granting probation is made suspending the imposition of sentence, irrespective of a  
16 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing  
17 the individual or registered company to withdraw a plea of guilty and to enter a plea  
18 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
19 information or indictment.

20 COST RECOVERY

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

25 ACCUSATION

26 CAUSE FOR DISCIPLINE

27 (Criminal Conviction)

28 10. Respondent is subject to discipline pursuant to Code section 8649, in that Respondent  
has been convicted of a crime that is substantially related to the qualifications, functions or duties  
of an applicator. On March 11, 2010, in the Superior Court, County of Los Angeles, California,  
in the matter entitled *People v. Jorge Cabral*, 2010, Case No. BA366393, Respondent was  
convicted following his plea of nolo contendere to a violation of Penal Code section 666 (petty  
theft with priors), felony. The circumstances of the crime are that on or about January 3, 2010,  
Respondent stole items from the electronics department of Sears Store No. 1998, located in

1 Montebello, California. Respondent concealed the items in his front jean pocket and under his  
2 waistband. Respondent then attempted to leave the store without paying for the items and was  
3 subsequently arrested.

4 **PETITION**

5 11. Grounds exist for revoking the probation and reimposing the order of revocation of  
6 Respondent's Applicator's License Number RA 49912. Condition 8 of the Decision states:

7 Should respondent violate probation in any respect, the Board, after  
8 giving respondent notice and an opportunity to be heard, may revoke respondent's  
9 probationary license. If a petition to revoke probation is filed against respondent  
during probation, the Board shall have continuing jurisdiction until the matter is final,  
and the period of probation shall be extended until the matter is final.

10 12. Respondent has violated the Probation Program, as more particularly set forth in  
11 the following paragraphs:

12 **CAUSE TO REVOKE PROBATION**

13 **(Failure to Obey all Laws)**

14 13. At all times after the effective date of Respondent's probation, Condition 2, stated:

15 Respondent shall obey all laws and rules relating to the practice of  
16 structural pest control.

17 14. Respondent's probation is subject to revocation because he failed to comply with  
18 Probation Condition 2, referenced above. The facts and circumstances regarding this violation  
19 are that on or about January 3, 2010, Respondent failed to obey all laws, evidenced by his arrest  
20 and subsequent conviction, as more particularly set forth in paragraph 10, above.

21 **OTHER MATTERS**

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

27 16. Pursuant to Code section 8654, if discipline is imposed on Applicator's License  
28 Number RA 49912, issued to Respondent, then Jorge Cabral, shall be prohibited from serving as

1 an officer, director, associate, partner or responsible managing employee of a licensee, and any  
2 licensee which employs, elects, or associates him shall be subject to disciplinary action.

3 P R A Y E R

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

6 1. Revoking the probation that was granted by the Structural Pest Control Board in Case  
7 No. 2009-8 and imposing the disciplinary order that was stayed thereby revoking Applicator's  
8 License Number RA 49912, issued to Jorge Cabral;

9 2. Prohibiting Jorge Cabral from serving as an officer, director, associate, partner,  
10 qualifying manager or responsible managing employee of any registered company during the  
11 period that discipline is imposed on Applicator's License Number RA 49912, issued to Jorge  
12 Cabral;

13 3. Ordering Jorge Cabral to pay the Structural Pest Control Board the reasonable costs  
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
15 section 125.3; and,

16 4. Taking such other and further action as deemed necessary and proper.  
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18

19 DATED: 3/10/11

Kelli Okuma  
20 KELLI OKUMA  
21 Registrar/Executive Officer  
22 Structural Pest Control Board  
23 Department of Pesticide Regulation  
24 State of California  
25 Complainant  
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