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FILED

Date 4/3/15 By Susan Saylor

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

11 In the Matter of the Accusation Against:
12 **SCOTT B. SPREEN**
8609 Spanish Bay Drive
13 Bakersfield, CA 93312
14 Applicator License No. RA 53856
15 Respondent.

Case No. 2015-45

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

19 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the
20 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs
21 (Board).

22 2. On or about December 12, 2012, the Board issued Applicator License No. RA 53856
23 to Scott B. Spreen, also known as Scott Bradford Spreen (Respondent). The Applicator License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2016, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following laws.
3 All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 490 of the Code states, in pertinent part:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued.

11 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
12 discipline a licensee for conviction of a crime that is independent of the authority granted under
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of
14 the business or profession for which the licensee's license was issued.

15 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code."

21 5. Section 493 of the Code states, in pertinent part:

22 "Notwithstanding any other provision of law, in a proceeding conducted by a board within the
23 department pursuant to law to deny an application for a license or to suspend or revoke a license or
24 otherwise take disciplinary action against a person who holds a license, upon the ground that the
25 applicant or the licensee has been convicted of a crime substantially related to the qualifications,
26 functions, and duties of the licensee in question, the record of conviction of the crime shall be
27 conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may
28 inquire into the circumstances surrounding the commission of the crime in order to fix the degree of

1 discipline or to determine if the conviction is substantially related to the qualifications, functions, and
2 duties of the licensee in question.”

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

6 7. Section 8625 of the Code states, in pertinent part:

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

12 8. Section 8649 of the Code states, in pertinent part:

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

16 9. Section 8654 states:

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

1 company is a ground for disciplinary action."

2 10. Section 8655 of the Code states, in pertinent part:

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

13 **REGULATORY PROVISION**

14 11. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

15 "For the purposes of denial, suspension or revocation of a license or company registration
16 pursuant to Division 1.5 (commencing with Section 475), a crime or act shall be considered to be
17 substantially related to the qualifications, functions or duties of a licensee or registered company
18 under Chapter 14 of Division 3 of the code if to a substantial degree it evidences present or
19 potential unfitness of such licensee or registered company to perform the functions authorized by
20 the license or company registration in a manner consistent with the public health, safety, or
21 welfare."

22 **COST RECOVERY**

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

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1 **CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 13. Respondent is subject to disciplinary action under sections 490 and 8649, in
4 conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has
5 been convicted of a crime substantially related to the qualifications, functions or duties of a
6 licensed applicator, as follows:

7 a. On or about September 12, 2014, after pleading nolo contendere, Respondent was
8 convicted of one amended misdemeanor count of violating Penal Code section 503
9 [embezzlement] in the criminal proceeding entitled *The People of State of California v. Scott*
10 *Bradford Spreen* (Super. Ct. Kern County, 2014, No. BF153167C). The Court sentenced
11 Respondent to four days in jail, and placed him on three years on probation.

12 b. The circumstances surrounding the conviction are that on or between January 1, 2014
13 and January 15, 2014, while working as a fire equipment mechanic for the Kern County Fire
14 Department, Respondent stole and sold without authorization \$39,000.00 worth of Kern County
15 Fire Department material and equipment. Respondent did not document the sales, and concealed
16 the fact that the items were missing.

17 **OTHER MATTERS**

18 14. Section 8620, provides, in pertinent part, that a Respondent may request that a civil
19 penalty of not more than \$5,000 be assess in lieu of an actual suspension of 1 to 19 days, or not
20 more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the
21 time of hearing and must be noted in the proposed decision. The proposed decision shall not
22 provide that a civil penalty shall be imposed in lieu of a suspension.

23 15. Pursuant to section 8654 if discipline is imposed on Applicator License No. RA 53856
24 issued to Respondent, Respondent shall be prohibited from serving as an officer, director,
25 associate, partner, qualifying manager, or responsible managing employee for any registered
26 company during the time the discipline is imposed, and any registered company which employs,
27 elects, or associates Respondent shall be subject to disciplinary action may suspend or revoke a
28 license when it finds that the licensee has been convicted of a crime.

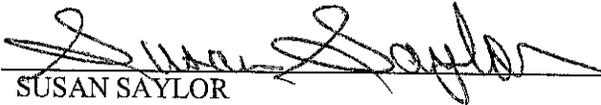
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PRAYER

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

1. Revoking or suspending Applicator License No. RA 53856, issued to Scott B. Spreen;
2. Ordering Scott B. Spreen to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/3/15


SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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