

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 State Bar No. 71375  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2543  
5 Facsimile: (213) 897-9395  
*Attorneys for Complainant*

6  
7 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 1H-2010-180

10 **DANIEL RAFAEL CARMONA, RCP**  
11 **16300 Crenshaw Boulevard, Apt. 205**  
**Torrance, California 90504**

**A C C U S A T I O N**

12 **Respiratory Care Practitioner's**  
13 **License No. RCP 6004**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity  
19 as the Executive Officer of the Respiratory Care Board of California, Department of Consumer  
20 Affairs.

21 2. On or about July 5, 1985, the Respiratory Care Board issued Respiratory Care  
22 Practitioner License Number RCP 6004 to DANIEL RAFAEL CARMONA, R.C.P.  
23 (Respondent). The Respiratory Care Practitioner license was in full force and effect at all times  
24 relevant to the charges brought herein and will expire on January 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Respiratory Care Board (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1           4.     Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter  
2 referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory  
3 Care Practice Act]."

4           5.     Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke  
5 licenses to practice respiratory care as provided in this chapter."

6           6.     Section 3750 of the Code states:

7                 "The board may order the denial, suspension or revocation of, or the imposition of  
8 probationary conditions upon, a license issued under this chapter, for any of the following  
9 causes:

10                "[....]"

11                "(d) Conviction of a crime that substantially relates to the qualifications,  
12 functions, or duties of a respiratory care practitioner. The record of conviction or a  
13 certified copy thereof shall be conclusive evidence of the conviction.

14                "[....]"

15                "(g) Conviction of a violation of any of the provisions of this chapter or of any  
16 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
17 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring  
18 to violate any provision or term of this chapter or of any provision of Division 2  
19 (commencing with Section 500).

20                "[....]"

21                "(j) The commission of any fraudulent, dishonest, or corrupt act which is  
22 substantially related to the qualifications, functions, or duties of a respiratory care  
23 practitioner.

24                "[....]"

25                "(m) Denial, suspension, or revocation of any license to practice by another  
26 agency, state, or territory of the United States for any act or omission that would  
27 constitute grounds for the denial, suspension, or revocation of a license in this state.

28                "[....]"



1 the official custodian of the record or his or her designated representative shall be prima facie  
2 evidence of the actual costs of the investigation and prosecution of the case."

3 10. Section 3753.7 of the Code states:

4 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include  
5 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative,  
6 filing, and service fees."

7 11. Section 3753.1 of the Code states:

8 "(a) An administrative disciplinary decision imposing terms of probation may include,  
9 among other things, a requirement that the licensee probationer pay the monetary costs associated  
10 with monitoring the probation. "

#### 11 FIRST CAUSE FOR DISCIPLINE

12 (Conviction of a Crime)

13 12. Respondent is subject to disciplinary action under section 3750, subdivision (d), of  
14 the Code and Title 16, California Code of Regulations, section 1399.370(b), in that Respondent  
15 was convicted of a crime that substantially relates to the qualifications, functions, or duties of a  
16 respiratory care practitioner. The circumstances are as follows:

17 A. On or about August 10, 2006, Policy Number CPS0786939 with Scottsdale  
18 Insurance Company was bound through the Harry Gorst Company based on the collection  
19 by Respondent, as a licensed insurance agent,<sup>1</sup> of an unknown amount of premium. On or  
20 about October 30, 2006, unbeknownst to the two policy holders, Policy Number  
21 CPS0786939 was cancelled for non-payment of premium.

22 B. On or about August 10, 2007, and September 17, 2008, Respondent, as a  
23 licensed insurance agent, collected premium payments in the amounts of \$2,583.00 and  
24 \$2,000.00, respectively, from the two policy holders of Policy Number CPS0786939 for the  
25 purpose of renewing and/or continuing cancelled Policy Number CPS0786939.

26 Unbeknownst to the two policy holders, Respondent kept the two premium payments and

---

27 <sup>1</sup> At the time, Respondent was licensed by the California Department of Insurance as a  
28 Life-Only Agent, Accident and Health Agent and Fire and Casualty Broker-Agent.

1 did not turn them over to Scottsdale Insurance Company to renew and/or continue Policy  
2 Number CPS0786939.

3 C. On or about February 11, 2010, a felony complaint for arrest warrant was filed  
4 in the Superior Court of the State of California for the County of Los Angeles in *The*  
5 *People of the State of California v. Daniel Rafael Carmona*, Case No. NA084738, alleging  
6 in one count that on or between August 10, 2006, and September 17, 2008, in the County of  
7 Los Angeles, Respondent committed the crime of grand theft of personal property in  
8 violation of Penal Code section 487, subdivision (a), a felony, when he unlawfully took  
9 money and personal property of a value exceeding \$400.00, to wit \$4,583.00 for insurance  
10 payments, the property of two insurance policy holders.

11 D. On or about May 18, 2010, Respondent pled nolo contendere to, and was  
12 convicted of, a violation of Penal Code section 487, subdivision (a), as more fully set forth  
13 in the felony complaint referenced in paragraph 12.C. above. Respondent was placed on  
14 formal probation for three years and required to serve one day in the Los Angeles County  
15 jail, less credit for one day, and to pay assessments in the amount of \$60.00. In addition,  
16 Respondent was ordered, inter alia, to complete sixty days of Cal Trans work through the  
17 Probation Department, pay a restitution fine of \$200.00 and a booking fee reimbursement  
18 of \$122.00 and make restitution to the victims in the amount of \$4,583.00.

19 SECOND CAUSE FOR DISCIPLINE

20 (Dishonest Acts)

21 13. Respondent is subject to disciplinary action under section 3750, subdivision (j), of the  
22 Code and Title 16, California Code of Regulations, section 1399.370(a), in that Respondent  
23 committed a fraudulent, dishonest, or corrupt act which is substantially related to the  
24 qualifications, functions, or duties of a respiratory care practitioner. The circumstances are as  
25 follows:

26 A. The facts and circumstances set forth in paragraph 12 above are incorporated  
27 here as if fully set forth.

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Discipline by Another State Agency)

3 14. Respondent is subject to disciplinary action under section 3750, subdivision (m), in  
4 that Respondent's licenses to practice as an insurance agent were revoked by the California  
5 Department of Insurance for acts or omissions that would constitute grounds for the denial,  
6 suspension, or revocation of a respiratory care practitioner license in this state. The  
7 circumstances are as follows:

8 A. Effective thirty days after June 1, 2010, pursuant to California Insurance Code  
9 section 1669, subdivision (a), in conjunction with California Insurance Code section 1738,  
10 Respondent's licenses as a Life-Only Agent, Accident and Health Agent and Fire and  
11 Casualty Broker-Agent were summarily revoked in Case Number 09LA00107-AP, *In the*  
12 *Matter of the Licenses and Licensing Rights of Daniel R. Carmona*, by the California  
13 Department of Insurance based on his conviction of a violation of Penal Code section 487,  
14 subdivision (a), a felony, as more fully set forth in paragraph 12 above.

15 PRAYER

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

18 1. Revoking or suspending Respiratory Care Practitioner License Number RCP 6004,  
19 issued to Daniel Rafael Carmona, R.C.P. ;

20 2. Ordering Daniel Rafael Carmona to pay the Respiratory Care Board the costs of  
21 the investigation and enforcement of this case, and if placed on probation, the costs of  
22 probation monitoring; and

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Taking such other and further action as deemed necessary and proper.

DATED: August 10, 2011

Original Signed by Liane Freels for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

LA2011503346  
50939551.doc