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

11 In the Matter of the Accusation Against,

Case No. 1H-2010-180

12 **DANIEL RAFAEL CARMONA, R.C.P.**  
13 **16300 Crenshaw Boulevard, Apt. 205**  
14 **Torrance, California 90504**

**DEFAULT DECISION**  
**AND ORDER**

15 **Respiratory Care Practitioner License No.**  
16 **RCP 6004,**

[Gov. Code, §11520.]

17 Respondent.

18 FINDINGS OF FACT

19 1. On or about August 10, 2011, Complainant Stephanie Nunez, in her official capacity  
20 as the Executive Officer of the Respiratory Care Board of California, Department of Consumer  
21 Affairs, filed Accusation No. 1H-2010-180 against DANIEL RAFAEL CARMONA, R.C.P.  
(Respondent) before the Respiratory Care Board.

22 2. On or about July 5, 1985, the Respiratory Care Board (Board) issued Respiratory  
23 Care Practitioner License No. RCP 6004 to Respondent. The Respiratory Care Practitioner  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on January 31, 2012, unless renewed.

26 3. On or about August 10, 2011, Stephanie M. Aguirre, an employee of the Complainant  
27 Agency, served by Certified Mail and regular mail a copy of the Accusation No. 1H-2010-180,  
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
2 was and is 16300 Crenshaw Boulevard, Apt. 205, Torrance, California 90504. A copy of the  
3 Accusation, the related documents, and Declaration of Service are attached as Exhibit A, and are  
4 incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c).

7 5. On or about September 12, 2011, the aforementioned certified mail documents were  
8 returned by the U.S. Postal Service marked "Unclaimed." A copy of the certified mail envelope  
9 returned by the post office is attached as Exhibit B, and is incorporated herein by reference. On  
10 October 17, 2011, the aforementioned regular mail documents were returned by the U.S. Postal  
11 Service marked "Moved Left no Address – Unable to Forward – Return to Sender – Not at  
12 Address." A copy of the regular mail envelope returned by the post office is attached as Exhibit  
13 C, and is incorporated herein by reference.

14 6. Government Code section 11506 states, in pertinent part:

15 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
16 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
17 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
18 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

19 Respondent failed to file a Notice of Defense within 15 days after service upon him of the  
20 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 1H-2010-  
21 180.

22 7. California Government Code section 11520 states, in pertinent part:

23 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
24 agency may take action based upon the respondent's express admissions or upon other evidence  
25 and affidavits may be used as evidence without any notice to respondent."

26 8. Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on  
28 Respondent's express admissions by way of default and the evidence before it, contained in

1 Exhibits A, B, C, D, E and F finds that the allegations in Accusation No. 1H-2010-180 are true.

2 9. The Respiratory Care Board further finds that pursuant to Business and Professions  
3 Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the  
4 Accusation total \$680.00, based on the Certification of Costs contained in Exhibit D.

5 DETERMINATION OF ISSUES

6 1. Based on the foregoing findings of fact, Respondent DANIEL RAFAEL  
7 CARMONA, R.C.P. has subjected his Respiratory Care Practitioner License No. RCP 6004 to  
8 discipline.

9 2. A copy of the Accusation and the related documents and Declaration of Service are  
10 attached.

11 3. The agency has jurisdiction to adjudicate this case by default.

12 4. The Respiratory Care Board is authorized to revoke Respondent's Respiratory Care  
13 Practitioner License based upon the following violations alleged in the Accusation:

14 a. Respondent is subject to disciplinary action under section 3750, subdivisions (d) and  
15 (j), of the Business and Professions Code and Title 16, California Code of Regulations,  
16 section 1399.370, subdivision (b), in that Respondent was convicted of a crime that  
17 substantially related to the qualifications, functions, or duties of a respiratory care  
18 practitioner. On or about May 18, 2010, Respondent pled nolo contendere to, and was  
19 convicted of, grand theft of personal property in violation of Penal Code section 487,  
20 subdivision (a), a felony, based on his unlawfully taking money and personal property of a  
21 value exceeding \$400.00, to wit, \$4,583.00 for insurance payments, the property of two  
22 insurance policy holders. Attached as Exhibit E to this Default Decision is a certified  
23 copy of the court docket (Superior Court of the State of California for the County of Los  
24 Angeles in *The People of the State of California v. Daniel Rafael Carmona*, Case No.  
25 NA084738.).

26 b. Respondent is subject to disciplinary action under section 3750, subdivision  
27 (m), of the Business and Professions Code in that Respondent's three licenses to practice as  
28 an insurance agent were revoked by the California Department of Insurance for acts or

1 omissions that would constitute grounds for the denial, suspension, or revocation of a  
2 respiratory care practitioner license in this state. Effective thirty days after June 1, 2010,  
3 pursuant to California Insurance Code section 1669, subdivision (a), in conjunction with  
4 California Insurance Code section 1738, Respondent's licenses as a Life-Only Agent,  
5 Accident and Health Agent and Fire and Casualty Broker-Agent were summarily revoked  
6 in Case Number 09LA00107-AP, *In the Matter of the Licenses and Licensing Rights of*  
7 *Daniel R. Carmona*, by the California Department of Insurance based on his conviction of a  
8 violation of Penal Code section 487, subdivision (a), a felony. Attached as Exhibit F to this  
9 Default Decision is a certified copy of the June 1, 2010, Order revoking Respondent's  
10 insurance licenses.

11 ORDER

12 IT IS SO ORDERED that Respiratory Care Practitioner License No. RCP 6004, heretofore  
13 issued to Respondent DANIEL RAFAEL CARMONA, R.C.P., is revoked.

14 Respondent is ordered to reimburse the Respiratory Care Board the amount of \$680.00 for  
15 its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve  
16 Respondent of his responsibility to reimburse the Board for its costs. Respondent's Respiratory  
17 Care Practitioner License may not be renewed or reinstated unless all costs ordered under  
18 Business and Professions Code section 3753.5 have been paid.

19 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
20 written motion requesting that the Decision be vacated and stating the grounds relied on within  
21 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
22 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

23 This Decision shall become effective on December 17, 2011.

24 It is so ORDERED November 17, 2011.

25 Original Signed by:

26 LARRY L. RENNER, BS, RRT, RCP, RPFT  
27 PRESIDENT, RESPIRATORY CARE BOARD  
28 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

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