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

In the Matter of the Petition to Revoke
Probation Against:

**MARTIN DURAN DURAN
635 Foxglove Pl
Oxnard, CA 93036
Field Representative License No. FR 12712**

Respondent.

Case No. 2011-4

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 14, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Petition to Revoke Probation No. 2011-4 against Martin Duran Duran (Respondent) before the Structural Pest Control Board. (Petition to Revoke Probation attached as Exhibit A.)

2. On or about January 8, 1985, the Structural Pest Control Board (Board) issued Field Representative License No. FR 12712 to Respondent. The Field Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

3. On or about January 26, 2011, Respondent was served by Certified and First Class Mail copies of the Petition to Revoke Probation No. 2011-4, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,

1 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
2 Professions Code section 136, is required to be reported and maintained with the Board, which
3 was and is: 635 Foxglove Place, Oxnard, CA 93036. Respondent was also served at an
4 alternative address located at South West Fumigation 4609 New Horizon, Unit #8, Bakersfield,
5 Ca. 93313.

6 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
8 Code section 124.

9 5. On or about January 28, 2011 and February 14, 2011, the aforementioned documents
10 were returned by the U.S. Postal Service marked "Unclaimed."

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
19 Petition to Revoke Probation No. 2011-4.

20 8. California Government Code section 11520 states, in pertinent part:

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

25 9. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.
2011-4, finds that the charges and allegations in Petition to Revoke Probation No. 2011-4, are
separately and severally, found to be true and correct by clear and convincing evidence.

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$1710.00 as of March 16, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Martin Duran Duran has
6 subjected his Field Representative License No. FR 12712 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
9 Representative License based upon the following violations, alleged in the Petition to Revoke
10 Probation which are supported by the evidence contained in the Default Decision Evidence
11 Packet in this case:

12 a. Respondent's probation is subject to revocation, in that he failed to comply with
13 Condition 1, by failing to notify the Board of his change of employment and mailing address,
14 pursuant to Code section 8567, and California Code of Regulations, title 16, section 1911.

15 b. Respondent's probation is subject to revocation, in that he failed to comply with
16 Condition 2, by failing to file quarterly reports on November 30, 2008, and March 1, 2009,
17 pursuant to California Code of Regulations, title 16, section 1937.12(a)(1).

18 c. Respondent's probation is subject to revocation, in that he failed to comply with
19 Condition 10, by failing to complete, within twelve (12) months of the effective date of the
20 decision, eight (8) hours of technical continuing education and four (4) hours of rules and
21 regulations which would be in addition to any hours required for re-licensure.

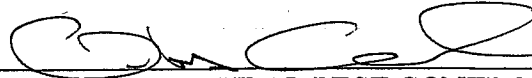
22 ORDER

23 IT IS SO ORDERED that Field Representative License No. FR 12712, heretofore issued to
24 Respondent Martin Duran Duran, is revoked.

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

1 This Decision shall become effective on June 1, 2011.

2 It is so ORDERED May 2, 2011

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5 FOR THE STRUCTURAL PEST CONTROL BOARD
6 DEPARTMENT OF PESTICIDE REGULATION

7
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9 default decision_LIC.rtf
DOJ Matter ID:LA2010600026

10 Attachment:
11 Exhibit A: Petition to Revoke Probation

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FILED

Date 7/14/10 By *Kelli Okuma*

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

12 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2011-4

13 **MARTIN DURAN DURAN**
14 635 Foxglove Place
Oxnard, California 93036

**PETITION TO REVOKE
PROBATION**

15 **Field Representative License No. FR 12712, Br.1**
16
17 Respondent.

18 Kelli Okuma ("Complainant") alleges:

19 **PARTIES**

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

23 2. On or about January 8, 1985, the Board issued Field Representative License Number
24 FR 12712 in Branch 1 to Martin Duran Duran ("Respondent"). The license was in effect at all
25 times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

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1 PRIOR DISCIPLINE

2 3. In a disciplinary action entitled "*In the Matter of the Accusation Against Martin*
3 *Duran Duran*," Case No. 2007-54, the Board issued a decision effective August 30, 2008, in
4 which Respondent's Field Representative License was revoked and suspended for 15 days.
5 However, the revocation was stayed and Respondent was placed on probation for a period of
6 three (3) years with certain terms and conditions. A copy of that Decision is attached as **Exhibit**
7 **A**, and is incorporated herein by reference.

8 PETITION TO REVOKE PROBATION

9 4. At all times after the effective date of Respondent's probation, Condition 6 stated:
10 "Should Respondent violate probation in any respect, the Board, after giving Respondent
11 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order
12 which was stayed. If an accusation or petition to revoke probation is filed against Respondent
13 during probation, the Board shall have continuing jurisdiction until the matter is final, and the
14 period of probation shall be extended until the matter is final. If during the period of probation,
15 an accusation or petition to revoke probation has been filed against Respondent's license or the
16 Attorney General's Office has been requested to prepare an accusation or petition to revoke
17 probation against Respondent's license, the probationary period shall automatically be extended
18 and shall not expire until the accusation or petition has been acted upon by the Board."

19 5. Respondent's probation is subject to revocation, in that he violated probation as set
20 forth below:

21 FIRST CAUSE TO REVOKE PROBATION

22 **(Failed to Obey All Laws)**

23 6. At all times after the effective date of Respondent's probation, Condition 1 stated:
24 "Respondent shall obey all laws and rules relating to the practice of structural pest control."

25 7. Respondent's probation is subject to revocation, in that he failed to comply with
26 Condition 1, referenced above, by failing to notify the Board of his change of employment and
27 mailing address, pursuant to Code section 8567, and California Code of Regulations, title 16,
28 section 1911.

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SECOND CAUSE TO REVOKE PROBATION

(Failed to File Quarterly Reports)

8. At all times after the effective date of Respondent’s probation, Condition 2 stated: “Respondent shall file quarterly reports with the Board during the period of probation.”

9. Respondent’s probation is subject to revocation, in that he failed to comply with Condition 2, referenced above, by failing to file quarterly reports on November 30, 2008, and March 1, 2009, pursuant to California Code of Regulations, title 16, section 1937.12(a)(1).

THIRD CAUSE TO REVOKE PROBATION

(Failed to Complete Courses)

10. At all times after the effective date of Respondent’s probation, Condition 10 stated: “Respondent shall complete within twelve (12) months of the effective date of this decision

eight (8) hours of technical continuing education and four (4) hours of rules and regulations which shall be in addition to any hours required for re-licensure. Said courses shall be pre-approved by the Board.”

11. Respondent’s probation is subject to revocation, in that he failed to comply with Condition 10, referenced above, by failing to complete, within twelve (12) months of the effective date of the decision, eight (8) hours of technical continuing education and four (4) hours of rules and regulations which would be in addition to any hours required for re-licensure.

PRAYER

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

1. Revoking the probation that was granted by the Structural Pest Control Board in Case No. 2007-54, and imposing the disciplinary order that was stayed thereby revoking Field Representative License No. FR 12712 issued to Martin Duran Duran;

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2. Revoking or suspending Field Representative License No. FR 12712, issued to
Martin Duran Duran; and,

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

DATED: 7/14/10

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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