

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

In the Matter of the Accusation Against:

Case No. 2010-83

MICHAEL E. LANE
1600 West 9th Avenue, 15-C
Escondido, CA 92029

Field Representative License No. FR 16222

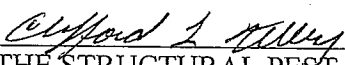
Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on November 30, 2010.

It is so ORDERED November 1, 2010.



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12
13 **MICHAEL E. LANE**
1600 West 9th Avenue, 15-C
14 Escondido, CA 92029
15 **Field Representative License No. FR 16222**
16 Respondent.

Case No. 2010-83

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 PARTIES

- 22 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the Structural Pest
23 Control Board. She brought this action solely in her official capacity and is represented in this
24 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Desiree I.
25 Kellogg, Deputy Attorney General.
26 2. Michael E. Lane (Respondent) is representing himself in this proceeding and has
27 chosen not to exercise his right to be represented by counsel.
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2 3. On or about May 11, 1988, the Structural Pest Control Board issued Field
3 Representative License No. FR 16222 to Michael E. Lane (Respondent). The was in full force
4 and effect at all times relevant to the charges brought in Accusation No. 2010-83 and will expire
5 on June 30, 2011, unless renewed.

6 JURISDICTION

7 4. Accusation No. 2010-83 was filed before the Structural Pest Control Board (Board)
8 Department of Pesticide Regulation, and is currently pending against Respondent. The
9 Accusation and all other statutorily required documents were properly served on Respondent on
10 June 22, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy
11 of Accusation No. 2010-83 is attached as exhibit A and incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 2010-83. Respondent also has carefully read, and understands the effects of this
15 Stipulated Surrender of License and Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
20 the attendance of witnesses and the production of documents; the right to reconsideration and
21 court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 2010-83, agrees that cause exists for discipline and hereby surrenders his Field
28 Representative License No. FR 16222 for the Board's formal acceptance.


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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation.

Dated: July 9, 2010

Respectfully submitted,
EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



DESIREE M. KELLOGG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2010-83

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
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Attorneys for Complainant

FILED

Date *6/10/10* By *Kelli Okuma*

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

12 In the Matter of the Accusation Against:

Case No. 2010-83

13 **MICHAEL E. LANE**
11418 Monticook Court
14 San Diego, CA 92127

ACCUSATION

15 **Field Representative License No. FR 16222**
16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

- 21 1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.
23 2. On or about May 11, 1988, the Structural Pest Control Board issued Field
24 Representative License Number FR 16222 to Michael E. Lane (Respondent). The Field
25 Representative License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2010, unless renewed.

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JURISDICTION

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

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

9 5. Section 8625 of the Code states:

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

STATUTORY AND REGULATORY PROVISIONS

14 6. Section 482 of the Code states:

15 Each board under the provisions of this code shall develop criteria to evaluate
16 the rehabilitation of a person when:

17 (a) Considering the denial of a license by the board under Section 480; or

18 (b) Considering suspension or revocation of a license under Section 490.

19 Each board shall take into account all competent evidence of rehabilitation
20 furnished by the applicant or licensee.

21 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
22 revoke a license on the ground that the licensee has been convicted of a crime substantially
23 related to the qualifications, functions, or duties of the business or profession for which the
24 license was issued.

25 8. Section 493 of the Code states:

26 Notwithstanding any other provision of law, in a proceeding conducted by a
27 board within the department pursuant to law to deny an application for a license or to
28 suspend or revoke a license or otherwise take disciplinary action against a person who
holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive

1 evidence of the fact that the conviction occurred, but only of that fact, and the board
2 may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
4 'registration.'

5 9. Section 8637 of the Code states that "[m]isrepresentation of a material fact by the
6 applicant in obtaining a license or company registration is a ground for disciplinary action."

7 10. Section 8649 of the Code states:

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

10 11. Title 16, California Code of Regulations, section 1937.1 states:

11 For the purposes of denial, suspension or revocation of a license or company
12 registration pursuant to Division 1.5 (commencing with Section 475) of the code, a
13 crime or act shall be considered to be substantially related to the qualifications,
14 functions or duties of a licensee or registered company under Chapter 14 of Division
3 of the code if to a substantial degree it evidences present or potential unfitness of
such licensee or registered company to perform the functions authorized by the
license or company registration in a manner consistent with the public health, safety,
or welfare. Such crimes or acts shall include, but not be limited to, the following:

15 (a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

16 (b) Commission of any of the following in connection with the practice of
17 structural pest control:

18 (1) Fiscal dishonesty.

19 (2) Fraud.

20 (3) Theft.

21 (4) Violations relating to the misuse of pesticides.

22 12. Title 16, California Code of Regulations, section 1937.2 states, in part:

23

24 (b) When considering the suspension or revocation of a structural pest control
25 license or company registration on the grounds that the licensee or registered
26 company has been convicted of a crime, the board, in evaluating the rehabilitation of
such person or company and his or her or its present eligibility for a license or
company registration will consider the following:

27 (1) Nature and severity of the act(s) or offense(s).

28 (2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee or registered company has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee or registered company.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any of rehabilitation submitted by the licensee or registered company.

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COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(August 13, 1984 Conviction for Committing Lewd Act Upon Child Under Age of 14 on June 15, 1984)

14. Respondent subjected his license to discipline under sections 490 and 8649 of the Code in that he was convicted of a crime substantially related to the qualifications, duties and functions of a field representative. The circumstances are as follows:

a. On or about August 13, 1984, in a criminal proceeding entitled *People of the State of California v. Michael Eugene Lane*, in San Diego County Superior Court, case number CR69818, Respondent was convicted on his plea of guilty for violating Penal Code section 288(a), a felony, committing a lewd and lascivious act upon a child under the age of fourteen years, with the intent of arousing, appealing to, and gratifying the lust, passions, and sexual desires of the defendant and the victim. As part of his plea agreement, Respondent admitted to "touching the body of [Jane Doe] with the intent to arouse the lust, etc. of himself or [Jane Doe]."

b. As a result of the conviction, on or about August 13, 1984, Respondent was sentenced to five years formal probation and to pay all required fines, restitution and fees.

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FOURTH CAUSE FOR DISCIPLINE

(Misrepresented Facts on Application for Licensure)

17. Respondent subjected his license to discipline under section 8637 of the Code in that Respondent misrepresented facts on his application for licensure. On or about May 4, 1988, Respondent signed his application for field representative license under penalty of perjury under the laws of the State of California. Question 8 of the Application stated "[h]ave you been convicted of a felony within the previous five years or misdemeanor other an violation of traffic laws? If YES, attach a signed, detailed statement" Respondent checked the box marked "yes" and wrote as an explanation, "[c]ontempt of court in child support and custody case." Respondent did not disclose his August 13, 1984 conviction under Penal Code section 288(a) in his application. Additionally, in his March 1988 application for the structural pest control field representative examination, Respondent answered "yes" to the question, "[h]ave you ever been convicted of a felony within the last five years or of a misdemeanor other than a violation of traffic laws? If YES, explain" and provided the following explanation, "contempt of court in child support and custody, probation granted in 1984 eligible for espongement [sic]."

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 or suspending Field Representative License Number FR 16222, issued to Michael E. Lane;
2. Ordering Michael E. Lane to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/10/10

Kelli Okuma

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

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