

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 State Bar No. 083047
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 2010-9

12 **PAUL B. PLACEK**
13 **10190 Systems Parkway, Suite 150**
Sacramento, CA 95827

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

14 **Field Representative's License No. FR 27187,**
15
16 **Respondent.**

17 **FINDINGS OF FACT**

18
19 1. On or about August 24, 2009, Complainant Kelli Okuma, in her official capacity as
20 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
21 Regulation, filed Accusation No. 2010-9 against Paul B. Placek (Respondent) before the
22 Structural Pest Control Board.

23 2. On or about October 31, 1996, the Structural Pest Control Board (Board) issued Field
24 Representative's License No. FR 27187 to Respondent. The Field Representative's License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on June
26 30, 2011, unless renewed.

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1 3. On or about September 1, 2009, PRAVEEN K. SINGH, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
3 2010-9, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
4 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
5 which was:

6 10190 Systems Parkway, Suite 150
7 Sacramento, CA 95827

8 On or about January 20, 2010, CAROL L. SEKARA, an employee of the Department of
9 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-9, Statement
10 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
11 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
12 is:

13 3141 Erie Avenue
14 Merced, CA 95340

15 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

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

18 5. Government Code section 11506 states, in pertinent part:

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

24 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 2010-9.

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

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

1 8. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 evidence on file herein, finds that the allegations in Accusation No. 2010-9 are true.

4 9. The total costs for investigation and enforcement in connection with the Accusation
5 are \$290.00 as of January 14, 2010.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Paul B. Placek has subjected his
8 Field Representative's License No. FR 27187 to discipline.

9 2. A copy of the Accusation is attached.

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

11 4. The Structural Pest Control Board is authorized to revoke Respondent's Field
12 Representative's License based upon the following violations alleged in the Accusation:

13 a. Respondent's license is subject to denial under Business & Professions Code section
14 8637, in that on September 17, 2008, Respondent falsely asserted, under penalty of perjury, that
15 he had completed 20 hours of continuing education required for the renewal of his license.
16 Further, Respondent's license is subject to disciplinary action under Code sections 8620, 8593,
17 and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision (a),
18 requiring submission of documentation verifying completion of continuing education for the
19 renewal period of July 1, 2005, through June 30, 2008.

20 Pursuant to Code section 8654, if Respondent's license is disciplined, then
21 Respondent shall be prohibited from serving as an officer, director, associate, partner, or
22 qualifying individual of any license, and any licensee which employs, elects or associates
23 Respondent in any capacity other than as a non-supervising bona fide employee shall be subject
24 to disciplinary action.

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ORDER

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IT IS SO ORDERED that Field Representative's License No. FR 27187, heretofore issued to Respondent Paul B. Placek, is revoked.

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

This Decision shall become effective on June 26, 2010.

IT IS SO ORDERED May 27, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachments:

Exhibit A: Accusation No.2010-9

Exhibit B: Cost-of-Suit Summary

Exhibit A

Accusation No. 2010-9

1 EDMUND G. BROWN JR.
Attorney General of California
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1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

FILED

Date 8/24/09 By Kelli Okuma

7 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:

Case No. 2010-9

15 **PAUL B. PLACEK**
16 **10190 Systems Parkway, Suite 150**
Sacramento, CA 95827

A C C U S A T I O N

17 **Field Representative's License No. FR 27187**

18 Respondent.

19
20 Kelli Okuma ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the
23 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
24 Affairs.

25 **License History**

26 2. On or about October 31, 1996, the Structural Pest Control Board issued Field
27 Representative's License Number FR 27187 ("license"), Branch 2 and 3, to Paul B. Placek
28 ("Respondent"). The license will expire on June 30, 2011, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Structural Pest Control Board ("Board"),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code ("Code"), unless otherwise indicated.

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

9 5. Code section 8624 states:

10 "If the board suspends or revokes an operator's license and one or more branch offices are
11 registered under the name of the operator, the suspension or revocation may be applied to each
12 branch office."

13 6. Code section 8625 states:

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

20 7. Section 8654 of the Code states:

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

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1 8. Code section 8593 states:

2 The board shall require as a condition to the renewal of each operator's
3 and field representative's license that the holder thereof submit proof
4 satisfactory to the board that he or she has informed himself or herself of
5 developments in the field of pest control by completion of courses of
6 continuing education in pest control approved by the board or equivalent
7 activity approved by the board.

8 **STATUTORY PROVISION**

9 9. Code section 8637 states:

10 Misrepresentation of a material fact by the applicant in obtaining a license
11 or company registration is a ground for disciplinary action.

12 10. Code section 8641 states:

13 Failure to comply with the provisions of this chapter, or any rule or
14 regulation adopted by the board, . . . is a ground for disciplinary action.

15 **REGULATORY PROVISION**

16 11. California Code of Regulations, section 1950, subdivision (a), states:

17 Except as provided in section 1951, every licensee is required, as a
18 condition to a renewal of a license, to certify that he or she has completed the
19 continuing education requirements set forth in this article. A licensee who
20 cannot verify completion of continuing education by producing certificates of
21 activity completion, whenever required to do so by the Board, may be subject to
22 disciplinary action under section 8641 of the code.

23 **COST RECOVERY**

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

28 **FIRST CAUSE FOR DISCIPLINE**

(Misstatement of Fact)

13. Respondent's license is subject to denial under Code section 8637, in that on
September 17, 2008, Respondent executed his License Renewal Application—Field Representative
form, under penalty of perjury, in which he checked the box "Yes" that he had completed 20

1 hours of continuing education hours required for the renewal of his license. On December 15,
2 2008, and May 7, 2009, the Board sent Respondent letters requesting he submit proof of the CE
3 required courses. The truth and fact is Respondent subsequently admitted that he did not take any
4 courses for the renewal period of July 1, 2005, through June 30, 2008, as required.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Documentation of Continuing Education Requirements)**

7 14. Respondent's license is subject to disciplinary action pursuant to Code sections 8620,
8 8593, and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision
9 (a), by failing to comply with the 2008 continuing education audit and requirements for the
10 renewal period of July 1, 2005, through June 30, 2008.

11 **OTHER MATTERS**

12 15. Pursuant to Code section 8654, if Respondent's license is disciplined, then
13 Respondent shall be prohibited from serving as an officer, director, associate, partner, or
14 qualifying individual of any license, and any licensee which employs, elects or associates
15 Respondent in any capacity other than as a non-supervising bona fide employee shall be subject
16 to disciplinary action.

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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's License Number FR 27187 issued to Paul B. Placek;
2. Prohibiting Paul B. Placek from serving as an officer, director, associate, partner, or qualifying individual of any licensee;
3. Ordering Paul B. Placek to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 8/24/09



KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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