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

In the Matter of the Accusation Against:

BALTAZAR FRANCO GARCIA
200 E. Gardena Blvd., Space 50
Gardena, CA 90247
Field Representative's License No. FR 32991

Respondent.

Case No. 2011-40

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 2, 2011, Complainant William H. Douglas, in his official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2011-40 against Baltazar Franco Garcia (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about December 28, 2000, the Structural Pest Control Board (Board) issued Field Representative's License No. FR 32991 to Respondent. The Field Representative's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

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1 3. On or about March 8, 2011, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 2011-40, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
5 required to be reported and maintained with the Board, which was and is:

6 200 E. Gardena Blvd., Space 50
7 Gardena, CA 90247.

8 4. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

10 5. On or about March 15, 2011, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Forwarding Order Expired." The address on the documents was the
12 same as the address on file with the Board. Respondent failed to maintain an updated address
13 with the Board and the Board has made attempts to serve the Respondent at the address on file.
14 Respondent has not made himself available for service and therefore, has not availed himself of
15 his right to file a notice of defense and appear at hearing.

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
24 2011-40.

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

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

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1 9. 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 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 2011-40, finds
6 that the charges and allegations in Accusation No. 2011-40, are separately and severally, found to
7 be true and correct by clear and convincing evidence.

8 10. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$1,597.50 as of May 10, 2011.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Baltazar Franco Garcia has
13 subjected his Field Representative's License No. FR 32991 to discipline.

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

15 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
16 Representative's License based upon the following violations alleged in the Accusation which are
17 supported by the evidence contained in the Default Decision Evidence Packet in this case:

18 a. Respondent has violated Business and Professions Code sections 8641 and 8593, in
19 that Respondent failed to comply with California Code of Regulations, title 16, section 1950,
20 subdivision (a), by failing to submit verification of completing continuing education courses in
21 the form of certificates of completion for the 2009 renewal period, as requested by the Board on
22 December 8, 2009, February 8, 2010, and May 11, 2010.

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ORDER

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2 IT IS SO ORDERED that Field Representative's License No. FR 32991, heretofore issued
3 to Respondent Baltazar Franco Garcia, is revoked.

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

8 This Decision shall become effective on July 23, 2011.

9 It is so ORDERED June 23, 2011

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13 FOR THE STRUCTURAL PEST CONTROL
14 BOARD
15 DEPARTMENT OF PESTICIDE REGULATION

16 60624206.DOC
17 DOJ Matter ID:LA2010601265

18 Attachment:
19 Exhibit A: Accusation
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Attorneys for Complainant

FILED

Date 3/2/11 By *Kelli Okuma*

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

In the Matter of the Accusation Against:
BALTAZAR FRANCO GARCIA
200 E. Gardena Blvd., Space 50
Gardena, CA 90247
Field Representative's License No. FR 32991

Respondent.

Case No. 2011-40

ACCUSATION

Complainant alleges:

PARTIES

1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation.

Field Representative's License

2. On or about December 28, 2000, the Board issued Field Representative's License Number FR 32991 in Branch 1 to Baltazar Franco Garcia ("Respondent"). On or about December 3, 2006, the field representative's license was placed on inactive status. The field representative's license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

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STATUTORY PROVISIONS

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2 3. Section 8620 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board may suspend or revoke a license when it finds that the holder, while a
4 licensee or applicant, has committed any acts or omissions constituting cause for disciplinary
5 action or in lieu of a suspension may assess a civil penalty.

6 4. Code section 8625 states:

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

11 5. Code section 8641 states:

12 Failure to comply with the provisions of this chapter, or any rule or
13 regulation adopted by the board, or the furnishing of a report of inspection without
14 the making of a bona fide inspection of the premises for wood-destroying pests or
15 organisms, or furnishing a notice of work completed prior to the completion of the
16 work specified in the contract, is a ground for disciplinary action.

15 6. Code section 8593 states:

16 The board shall require as a condition to the renewal of each operator's
17 and field representative's license that the holder submit proof satisfactory to the board
18 that he or she has informed himself or herself of developments in the field of pest
19 control either by completion of courses of continuing education in pest control
20 approved by the board or equivalent activity approved by the board. In lieu of
21 submitting that proof, the licenseholder, if he or she so desires, may take and
22 successfully complete an examination given by the board, designed to test his or her
23 knowledge of developments in the field of pest control since the issuance of his or her
24 license.

REGULATORY PROVISION

22 7. California Code of Regulations, title 16, section 1950, states, in pertinent part:

23 (a) Except as provided in section 1951, every licensee is required, as a
24 condition to renewal of a license, to certify that he or she has completed the
25 continuing education requirements set forth in this article. A licensee who cannot
26 verify completion of continuing education by producing certificates of activity
27 completion, whenever requested to do so by the Board, may be subject to disciplinary
28 action under section 8641 of the code.

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COST RECOVERY

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

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BACKGROUND INFORMATION

14 9. On or about June 30, 2009, the Board received Respondent's renewal application;
15 however, Respondent failed to indicate the number of hours of continuing education he had
16 completed nor did he sign section "D" regarding his continuing education hours. On or about
17 July 2, 2009, the Board sent a letter to Respondent indicating he failed to provide the required
18 information regarding his continuing education requirements. On or about July 6, 2009,
19 Respondent signed and returned the letter to the Board as instructed, stating under penalty of
20 perjury that he completed 16 hours of continuing education.

21 10. On or about December 8, 2009, February 8, 2010, and May 11, 2010, the Board sent
22 Respondent written requests instructing him to submit copies of his continuing education
23 certificates to the Board within fourteen (14) days. On each occasion, Respondent was advised
24 that if he failed to comply with the request, his license would be subject to disciplinary action. To
25 date, Respondent has not provided copies of his continuing education certificates.

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CAUSE FOR DISCIPLINE

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(Failure to Verify Completion of Continuing Education)

11. Respondent is subject to disciplinary action pursuant to Code sections 8641 and 8593,
in that Respondent failed to comply with California Code of Regulations, title 16, section 1950,
subdivision (a), by failing to submit verification of completing continuing education courses in
the form of certificates of completion for the 2009 renewal period, as requested by the Board on
December 8, 2009, February 8, 2010, and May 11, 2010.

OTHER MATTERS

12. Code section 8620 provides, in pertinent part, that a respondent may request that a
civil penalty of not less than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or

1 not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at
2 the time of the hearing and must be noted in the proposed decision. The proposed decision shall
3 not provide that a civil penalty shall be imposed in lieu of a suspension.

4 13. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
5 License Number FR 32991, issued to Baltazar Franco Garcia then Baltazar Franco Garcia shall be
6 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
7 responsible managing employee for any registered company during the time the discipline is
8 imposed, and any registered company which employs, elects, or associates him shall be subject to
9 disciplinary action.

10 PRAYER

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

13 1. Revoking or suspending Field Representative's License Number FR 32991, issued to
14 Baltazar Franco Garcia;

15 2. Ordering Baltazar Franco Garcia to pay the Structural Pest Control Board the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3; and

18 3. Taking such other and further action as deemed necessary and proper.
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21 DATED: 3/2/11

22 Kelli Okuma
23 KELLI OKUMA
24 Registrar/Executive Officer
25 Structural Pest Control Board
26 Department of Pesticide Regulation
27 State of California
28 Complainant

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