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

In the Matter of the Accusation Against:

Case No. 2010-29

**WILLIAM J. PENE  
Orkin Exterminating Company, Inc.  
16171 Springdale  
Huntington Beach, CA 92649**

**DEFAULT DECISION AND ORDER**

**Field Representative License No. FR 35256**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about November 9, 2009, Complainant Kelli Okuma, in her official capacity as the Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2010-29 against William J. Pene (Respondent) before the Structural Pest Control Board.

2. On or about October 28, 2002, the Structural Pest Control Board (Board) issued Field Representative License No. FR 35256 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 December 22, 2009, S. Sotelo, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-29, Statement to

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1 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
2 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

3 Orkin Exterminating Company, Inc.  
4 16171 Springdale  
5 Huntington Beach, CA 92649.

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

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

9 5. The documents served have not been returned to the Department of Justice by the  
10 U.S. Postal Service.

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 Accusation, and therefore waived his right to a hearing on the merits of Accusation  
19 No. 2010-29.

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 evidence on file herein, finds that the allegations in Accusation No. 2010-29 are true.

28 10. The total cost for investigation and enforcement in connection with the Accusation  
are \$807.50 for fiscal year 2009-2010 for attorney costs and \$210.00 for fiscal year 2009-2010 for  
paralegal costs for a total of \$1,017.50 as of March 23, 2010.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent William J. Pene has subjected  
3 his Field Representative License No. FR 35256 to discipline.

4 2. A copy of the Accusation is attached.

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

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

8 a. Business and Professions Code sections 8641 and 8593, Failure to Verify Completion  
9 of Continuing Education.

10 ORDER

11 IT IS SO ORDERED that Field Representative License No. FR 35256, heretofore issued to  
12 Respondent William J. Pene, is revoked.

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

17 This Decision shall become effective on May 22, 2010.

18 It is so ORDERED April 22, 2010

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20 \_\_\_\_\_  
21 FOR THE STRUCTURAL PEST CONTROL BOARD  
22 DEPARTMENT OF PESTICIDE REGULATION

23 80442909.DOC  
24 DOJ docket number: SD2009702589

25 Attachment:

26 Exhibit A: Accusation No. 2010-29  
27  
28

Exhibit A  
Accusation No. 2010-29

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 KAREN L. GORDON  
Deputy Attorney General  
4 State Bar No. 137969  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2073  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

**FILED**

Date 11/9/09 By *Kelli Okuma*

8  
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 **WILLIAM J. PENE**  
16171 Springdale Street, Suite 330  
14 Huntington Beach, CA 92649  
15 **Field Representative License No. FR 35256**  
16 Respondent.

Case No. 2010-29

**ACCUSATION**

17 Complainant alleges:

18 **PARTIES**

- 19 1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as  
20 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide  
21 Regulation.  
22 2. On or about October 28, 2002, the Structural Pest Control Board issued Field  
23 Representative License Number FR 35256 in Branch 2 to Bill J. Pene (Respondent). The Field  
24 Representative License was upgraded to include both Branches 2 and 3 on January 15, 2003 and  
25 reflected a change of name to William J. Pene. The Field Representative License was in full  
26 force and effect at all times relevant to the charges brought herein and will expire on June 30,  
27 2011, unless renewed.  
28



1 **COST RECOVERY**

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

6 **REGULATORY PROVISIONS**

7 10. California Code of Regulations, Title 16, section 1950(a), states:

8 Except as provided in section 1951, every licensee is  
9 required, as a condition to renewal of a license, to certify that he or  
10 she has completed the continuing education requirements set forth  
11 in this article. A licensee who cannot verify completion of  
12 continuing education by producing certificates of activity  
13 completion, whenever requested to do so by the Board, may be  
14 subject to disciplinary action under section 8641 of the code.

12 **BACKGROUND INFORMATION**

13 11. On or about July 21, 2008, Respondent submitted a License Renewal Application  
14 (application) to the Board. Respondent certified under penalty of perjury on the application that  
15 he had successfully completed the continuing education hours required to renew his license in  
16 accordance with regulations during the last renewal period.

17 12. On or about December 15, 2008, the Board sent Respondent a written request  
18 instructing him to submit copies of his continuing education certificates to the Board within  
19 fourteen (14) days. Respondent was advised that if he failed to comply with the request, his  
20 license would be subject to disciplinary action. Respondent was unable to provide the Board with  
21 any continuing education certificates for the renewal period of July 1, 2005 through June 30,  
22 2008.

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26 ///

**FIRST CAUSE FOR DISCIPLINE**  
**(Failure to Verify Completion of Continuing Education)**

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2           13.     Respondent is subject to discipline under Code sections 8641 and 8593, in that  
3 Respondent failed to comply with California Code of Regulation, title 16, section 1950(a), by  
4 failing to submit verification of completing continuing education courses by producing  
5 certificates of completion for the renewal period of July 1, 2005 through June 30, 2008, as  
6 requested by the Board on December 15, 2008, May 6, 2009, May 7, 2009, and June 18, 2009.  
7

**OTHER MATTERS**

8  
9           14.     Code section 8620 provides, in pertinent part, that a respondent may request that a  
10 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,  
11 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made  
12 at the time of the hearing and must be noted in the proposed decision. The proposed decision  
13 shall not provide that a civil penalty shall be imposed in lieu of a suspension.  
14

15           15.     Pursuant to Code section 8654, if discipline is imposed on Field Representative's  
16 License Number FR 35256, issued to Respondent, then Respondent shall be prohibited from  
17 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
18 employee for any registered company during the time the discipline is imposed, and any  
19 registered company which employs, elects, or associates Respondent shall be subject to  
20 disciplinary action.  
21

**PRAAYER**

22  
23           WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Structural Pest Control Board issue a decision:

25           1.     Revoking or suspending Field Representative License Number FR 35256, issued to  
26 William J. Pene.

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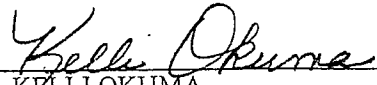


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2. Ordering William J. Pene to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 11/9/09

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

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