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

11 In the Matter of the Accusation Against:

Case No. 2010-42

12
13 **JUAN CARLOS ALVARADO**
10003 Quail Valley Boulevard, Suite #A
14 Austin, Texas 78758

DEFAULT DECISION AND ORDER

15 Field Representative License No. FR 35530,
16 Branch I

[Gov. Code, §11520]

17 Respondent.

18
19 **FINDINGS OF FACT**

20 1. On or about January 11, 2010, Complainant Kelli Okuma, in her official capacity as
21 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
22 Regulation, filed Accusation No. 2010-42 against Juan Carlos Alvarado (Respondent) before the
23 Structural Pest Control Board.

24 2. On or about January 27, 2003, the Structural Pest Control Board (Board) issued Field
25 Representative License No. FR 35530, Branch 1, to Respondent. The Field Representative
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on June 30, 2011, unless renewed.
28

1 3. On or about January 28, 2010, Carolina Lopez-Castillo, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
3 2010-42, Notice of Defense, and Request for Discovery Documents to Respondent's address of
4 record with the Board, which was and is:

5 10003 Quail Valley Boulevard, Suite #A
6 Austin, Texas 78758.

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

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

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

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

16 6. In this case, Respondent failed to file a Notice of Defense within 15 days after service
17 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
18 Accusation No. 2010-42.

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

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

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 evidence on file herein, finds that the allegations in Accusation No. 2010-42 are true.

27 9. The total cost for investigation and enforcement in connection with the Accusation
28 are \$2,215 as of May 4, 2010.

DETERMINATION OF ISSUES

1 1. Based on the foregoing findings of fact, Respondent Juan Carlos Alvarado has
2 subjected his Field Representative License No. FR 35530 to discipline.

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

5 This Decision shall become effective on July 8, 2010.

6 It is so ORDERED June 8, 2010

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8 FOR THE STRUCTURAL PEST CONTROL BOARD
9 DEPARTMENT OF PESTICIDE REGULATION

10 Attachment:

11 Exhibit A: Accusation No.2010-42
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Exhibit A
Accusation No. 2010-42

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FILED

Date 1/11/10 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:
13 **JUAN CARLOS ALVARADO**
14 **10003 Quail Valley Boulevard, Suite #A**
Austin, Texas 78758
15 **Field Representative License No. FR 35530**
16 **Branch 1** Respondent.

Case No. 2010-42

ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

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

23 **License History**

24 2. On or about January 27, 2003, the Structural Pest Control Board issued Field
25 Representative License Number FR 35530, Branch 1, to Juan Carlos Alvarado ("Respondent").
26 The Field Representative License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on June 30, 2011, unless renewed.

28 ///

JURISDICTION

1
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 ("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
11 offices are registered under the name of the operator, the suspension or revocation may be applied
12 to each 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. Code section 8654 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 9. Code section 8637 states:

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

11 **STATUTORY PROVISION**

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**

(Documentation of Continuing Education Requirements)

13. Respondent's license is subject to disciplinary action pursuant to Code sections 8620,
8593, and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision
(a), by failing to provide the Board with verifiable documentation to demonstrate that he

1 completed 21 hours of continuing education requirements for the renewal period of July 1, 2005,
2 through June 30, 2008, as stated in his License Renewal Application, signed under penalty of
3 perjury and dated June 30, 2008.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Misrepresentation of Material Fact)**

6 14. Respondent's license is subject to disciplinary action pursuant to Code section 8637,
7 in that Respondent misrepresented a material fact to the Board by stating in his License Renewal
8 Application that he completed 21 hours of continuing education requirements for the renewal
9 period of July 1, 2005, through June 30, 2008; when, in fact, he did not. Respondent signed the
10 application under penalty of perjury and dated June 30, 2008. A review of the Board's records
11 shows that Respondent falsified the License Renewal Application.

12
13 **OTHER MATTERS**

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

19 **PRAYER**

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

22 1. Revoking or suspending Field Representative License Number FR 35530 issued to
23 Juan Carlos Alvarado;

24 2. Prohibiting Juan Carlos Alvarado from serving as an officer, director, associate,
25 partner, or qualifying individual of any licensee;

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3. Ordering Juan Carlos Alvarado 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: 1/11/10

Kelli Okuma

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

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