

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**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2010-15

12 **ODNE O. JONES**
13 **5034 Charter Road**
Rocklin, CA 95765

DEFAULT DECISION AND ORDER

14 **Field Representative's License No. FR**
15 **35973,**

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about October 6, 2009, Complainant Kelli Okuma, in her official capacity as
19 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
20 Regulation, filed Accusation No. 2010-15 against Odne O. Jones (Respondent) before the
21 Structural Pest Control Board.

22 2. On or about May 20, 2003, the Structural Pest Control Board (Board) issued Field
23 Representative's License No. FR 35973 to Respondent. The Field Representative's License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on June
25 30, 2011, unless renewed.

26 3. On or about October 14, 2009, PRAVEEN K. SINGH, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
28 2010-15, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
2 which was and is:

3 5034 Charter Road
4 Rocklin, CA 95765.

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

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

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

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

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

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 evidence on file herein, finds that the allegations in Accusation No. 2010-15 are true.

25 9. The total cost for investigation and enforcement in connection with the Accusation
26 are \$295.00 as of January 14, 2010.

27 DETERMINATION OF ISSUES

28 1. Based on the foregoing findings of fact, Respondent Odne O. Jones has subjected his
Field Representative's License No. FR 35973 to discipline.

2. A copy of the Accusation is attached.

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

///

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

3 a. Respondent's license is subject to denial under Business & Professions Code section
4 8637, in that on July 3, 2008, Respondent falsely asserted, under penalty of perjury, that he had
5 successfully completed 16 hours of continuing education for the renewal of his license. Further,
6 Respondent's license is subject to disciplinary action for his failure to complete his continuing
7 education hours or to submit documentation verifying completion of continuing education for
8 pest control approved by the Board, for the renewal period of July 1, 2005 through June 30, 2008.

9 b. 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 c. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
15 License No. FR 35973, issued to Respondent Odne O. Jones, Respondent shall be prohibited from
16 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
17 employee for any registered company which employs, elects, or associates Odne O. Jones shall be
18 subject to disciplinary action.

19 **ORDER**

20 IT IS SO ORDERED that Field Representative's License No. FR 35973, heretofore issued
21 to Respondent Odne O. Jones, is revoked.

22 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
23 written motion requesting that the Decision be vacated and stating the grounds relied on within

24 ///

25 ///

26 ///

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 March 26, 2010.

IT IS SO ORDERED February 24, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachments:

Exhibit A: Accusation No.2010-15

Exhibit B: Cost-of-Suit Summary

10528598.DOC
DOJ docket number: SA2009311867

Exhibit A
Accusation No. 2010-15

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*

FILED
Date 10/6/09 By *Kelli Okuma*

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

11 In the Matter of the Accusation Against:

Case No. 2010-15

12 **ODNE O. JONES**
13 5034 Charter Road
Rocklin, CA 95765

ACCUSATION

14 Field Representative's License No. FR 35973
15 Respondent.

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 ("Board"), Department of
21 Consumer Affairs.

22 2. On or about May 20, 2003, the Board issued Field Representative's License Number
23 FR 35973 in Branch 2 (general pest) to Odne O. Jones ("Respondent"), employee of
24 Pest Control Center, Inc. Respondent left the employ of Pest Control Center, Inc. in or about
25 August 2005. On or before July 3, 2008, Respondent became employed by Explorer Pest
26 Management, Inc. Respondent's field representative's license will expire on June 30, 2011,
27 unless renewed.

28 ///

STATUTORY PROVISIONS

1
2 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that
3 the Board may suspend or revoke a license when it finds that the holder, while a licensee or
4 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
5 of a suspension may assess a civil penalty.

6 4. Code section 8641 states:

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

12 5. Code section 8593 states:

13 The board shall require as a condition to the renewal of each operator's
14 and field representative's license that the holder submit proof satisfactory to the board
15 that he or she has informed himself or herself of developments in the field of pest
16 control either by completion of courses of continuing education in pest control
17 approved by the board or equivalent activity approved by the board.

18 In lieu of submitting that proof, the license holder, if he or she so desires,
19 may take and successfully complete an examination given by the board, designed to
20 test his or her knowledge of developments in the field of pest control since the
21 issuance of his or her license.

22 The board shall develop a correspondence course or courses with any
23 educational institution or institutions as it deems appropriate. This course may be
24 used to fulfill the requirements of this section. The institution may charge a
25 reasonable fee for each course.

26 The board may charge a fee for the taking of an examination in each
27 branch of pest control pursuant to this section in an amount sufficient to cover the
28 cost of administering each examination, provided, however, that in no event shall the
fee exceed fifty dollars (\$ 50) for each examination.

1 6. California Code of Regulations, title 16, section ("Regulation") 1950 states, in
2 pertinent part:

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

9 (b) Each licensee is required to gain a certain number of continuing
10 education hours during the three year renewal period. The number of hours required

1 depends on the number of branches of pest control in which licenses are held. The
2 subject matter covered by each activity shall be designated as "technical" or "general"
3 by the Board when the activity is approved. Hour values shall be assigned by the
4 Board to each approved educational activity, in accordance with the provisions of
5 section 1950.5.

6 (d) Field representatives licensed in one branch of pest control shall have
7 completed 16 continuing education hours, field representatives licensed in two
8 branches of pest control shall have completed 20 continuing education hours, field
9 representatives licensed in three branches of pest control shall have completed 24
10 continuing education hours during each three year renewal period. In each case, a
11 minimum of four continuing education hours in a technical subject directly related to
12 each branch of pest control held by the licensee must be gained for each branch of
13 pest control licensed and a minimum of eight hours must be gained from Board
14 approved courses on the Structural Pest Control Act, the Rules and Regulations, or
15 structural pest control related agencies' rules and regulations . . .

16 COST RECOVERY

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

21 CAUSE FOR DISCIPLINE

22 (Failure to Verify Completion of Continuing Education)

23 8. In or about July 2008, Respondent submitted a license renewal application to the
24 Board. On July 3, 2008, Respondent certified under penalty of perjury on the application form
25 that he successfully completed 16 hours of continuing education during his last renewal period.

26 9. On December 15, 2008, January 20, 2009, March 19, 2009, representatives of the
27 Board sent Respondent written requests for copies of his continuing education certificates for the
28 renewal period of July 1, 2005, through June 30, 2008. Respondent was advised that his failure to
verify his continuing education hours or to supply the requested information could subject his
field representative's license to disciplinary action.

10. Respondent is subject to disciplinary action pursuant to Code section 8641 in that
Respondent failed to comply with Regulation 1950 by failing to verify that he completed courses
of continuing education in pest control approved by the Board. Specifically, Respondent failed to

///

1 submit copies of his continuing education certificates for the renewal period of July 1, 2005,
2 through June 30, 2008, as requested by the Board's representatives.

3 **OTHER MATTERS**

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

9 12. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
10 License Number FR 35973, issued to Respondent Odne O. Jones, Odne O. Jones shall be
11 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
12 responsible managing employee for any registered company during the time the discipline is
13 imposed, and any registered company which employs, elects, or associates Odne O. Jones shall be
14 subject to disciplinary action.

15 **PRAYER**

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

18 1. Revoking or suspending Field Representative's License Number FR 35973, issued
19 to Odne O. Jones;

20 2. Prohibiting Odne O. Jones from serving as an officer, director, associate, partner,
21 qualifying manager or responsible managing employee of any registered company during the
22 period that discipline is imposed on Field Representative's License Number FR 35973, issued to
23 Odne O. Jones;

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Ordering Odne O. Jones 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;

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

DATED: 10/6/09



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