

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS
Deputy Attorney General
4 State Bar No. 171168
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2557
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2008-54

OAH No. L-2008120246

11
12 **LARRY E. WESTON**

DEFAULT DECISION AND ORDER

13
14 Respondent.

[Gov. Code, §11520]

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17 FINDINGS OF FACT

18 1. On or about March 13, 2008, Complainant Kelli Okuma, in her official capacity as
19 the Registrar/Executive Officer of the Structural Pest Control Board (Board), filed Accusation
20 No. 2008-54 against Larry E. Weston (Respondent) before the Board.

21 2. On or about August 19, 2003, the Board issued Field Representative License No. FR
22 36334 to Respondent. The Field Representative License was in full force and effect at all times
23 relevant to the charges brought herein and will expired on June 30, 2009.

24 3. On or about March 18, 2008, Rebeca Garcia, an employee of the Department of
25 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2008-54, the
26 Notice of Defense, Request for Discovery and other documents to Respondent's address of record
27 with the Board, which was and is: 4810 Council Bluffs Court, Bakersfield, CA 93311 and his
28 current address, which is: 1901 Camino Primavera Bakersfield, CA 93306.

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

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

4 On or about April 25, 2008, Respondent signed and returned a Notice of Defense,
5 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
6 address of record and current address. It informed him that an administrative hearing in this
7 matter was scheduled for June 26, 2009. Respondent failed to appear at that hearing.

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

13 6. California Government Code section 11520 states, in pertinent part:

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

17 7. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 evidence on file herein, finds that the allegations in Accusation No. 2008-54 are true.

20 8. The total cost for investigation and enforcement in connection with the Accusation
21 are \$4,238.00 as of August 20, 2009.

22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Larry E. Weston has subjected
24 his Field Representative License No. FR 36334 to discipline.

25 2. A copy of the Accusation is attached.

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

27 4. The Board is authorized to revoke Respondent's Field Representative License based
28 upon the following violations alleged in the Accusation:

1 A random audit revealed that Respondent did not submit proof of continuing education in
2 violation of Business and Professions Code section 8593 and California Code of Regulations, title
3 16, section 1950 and misrepresented a material fact with regard to his submission of proof of
4 continuing education in violation of Business and Professions Code section 8637.

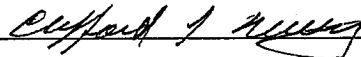
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6 ORDER

7 IT IS SO ORDERED that Field Representative License No. FR 36334, heretofore issued to
8 Respondent Larry E. Weston, is revoked.

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

13 This Decision shall become effective on December 9, 2009.

14 It is so ORDERED November 9, 2009

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17 FOR THE STRUCTURAL PEST CONTROL BOARD

18 Attachment:

19 Exhibit A: Accusation No.2008-54
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Exhibit A

Accusation No. 2008-54

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-8944
6 Facsimile: (213) 897-1071

FILED

Date 3/13/08 By *[Signature]*

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2008-54

12 **LARRY E. WESTON**
4810 Council Bluffs Court
13 Bakersfield, CA 93311

ACCUSATION

14 Field Representative License FR 36334

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about August 19, 2003, the Board issued Field Representative
23 License FR 36334, Branch 3, to Larry E. Weston ("Respondent"), an employee of Burdette and
24 Sons Termite and Pest Control. On or about June 15, 2005, Respondent left the employ of
25 Burdette and Sons Termite and Pest Control. On or about June 16, 2005, Respondent became an
26 employee of Serve-A-Matic Exterminators. The field representative license will expire on
27 June 30, 2009.

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1 REGULATORY PROVISIONS

2 8. California Code of Regulations, title 16 ("Regulation"), section 1911,
3 states:

4 Each operator, field representative and applicator shall file his or her
5 address of record with the board and shall notify the board of any change in
6 address within ten (10) days of such change. The address of record of a field
7 representative, an operator or an applicator shall be the address of the registered
8 company by which he or she is employed or with which he or she is associated or
9 his or her residence address if he or she is not employed and associated.

10 Each licensee shall also file his or her address for mailing purposes with
11 the board and shall notify the board of any change in address within ten (10) days
12 of such change.

13 9. Regulation section 1950 states, in pertinent part:

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

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

21 COST RECOVERY

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Failure to Submit Proof Satisfactory of the Completion of Continuing Education Courses)

3 11. Respondent's license is subject to discipline under Code section 8641, in
4 that he violated the provisions of Code section 8593 and Regulation section 1950, subdivision
5 (a), by failing to provide certification of the completion of continuing education in response to
6 the Board's written requests to Respondent at his address of record on or about March 12, 2007,
7 April 23, 2007, and June 18, 2007.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Failure to Notify Registrar of Change of Address)

10 12. Respondent's license is subject to discipline under Code section 8641, in
11 that he violated the provisions of Regulation section 1911, by failing to notify the Board of his
12 change of address within ten days.

13 **OTHER MATTERS**

14 13. Code section 8620 provides, in pertinent part, that a Respondent may
15 request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of
16 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request
17 must be made at the time of the hearing and must be noted in the proposed decision. The
18 proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

19 14. Pursuant to Code section 8654, if Field Representative License Number
20 FR 36334, issued to Larry E. Weston is revoked or suspended, then he shall be prohibited from
21 serving as an officer, director, associate, partner, qualifying manager or responsible managing
22 employee of a registered company, and the employment, election or association of him by a
23 registered company is a ground for disciplinary action.

24 **PRAYER**

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

27 1. Revoking or suspending Field Representative License Number FR 36334,
28 issued to Larry E. Weston;

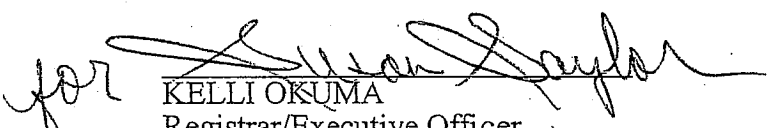
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2. Prohibiting Larry E. Weston from serving as an officer, director, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Field Representative License Number FR 36334, issued to Larry E. Weston;

3. Ordering Larry E. Weston to pay the Structural Pest Control 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: 3/13/08

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

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