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

11 In the Matter of the Accusation Against:

Case No. 2011-37

12 **SOK WON KIM**
13 **444 South Occidental Boulevard, Suite 225**
Los Angeles, CA 90057

DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

14 **Field Representative License No. FR 36650.**

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16 Respondent.

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18 **FINDINGS OF FACT**

19 1. On or about February 18, 2011, Complainant Kelli Okuma, in her official capacity as
20 the Executive Officer of the Structural Pest Control Board, filed Accusation No. 2011-37 against
21 Sok Won Kim (Respondent) before the Structural Pest Control Board (Board), Department of
22 Pesticide Regulation.

23 2. On or about November 19, 2003, the Board issued Field Representative License
24 Number FR 36650 in Branch 2, to Respondent. On or about September 30, 2009, Respondent's
25 Field Representative License was placed on inactive status. Respondent's 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, 2012, unless renewed.

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1 3. On or about March 2, 2011, Respondent was served by certified mail copies of the
2 following documents: Accusation No. 2011-37, Statement to Respondent, Notice of Defense
3 forms, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7). A copy of the Accusation and Declaration of Service are attached hereto
5 as Exhibit "A" and are incorporated as if fully set forth herein.

6 4. The Respondent was served at his address of record, which is:

7 444 South Occidental Boulevard, Suite 225

8 Los Angeles, CA 90057

9 Pursuant to Business and Professions Code section 136 and/or the agency-specific statute or
10 regulation, the Respondent is required to notify the Board of any change in mailing address
11 within thirty (30) days after the change, unless the Board has specified by regulations a shorter
12 time period.

13 5. Service of the Accusation was effective as a matter of law under the provisions of
14 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
15 124.

16 6. Government Code section 11506 states:

17 (a) Within 15 days after service of the accusation the respondent may file
18 with the agency a notice of defense in which the respondent may:

19 (1) Request a hearing.

20 (2) Object to the accusation upon the ground that it does not state acts or
21 omissions upon which the agency may proceed.

22 (3) Object to the form of the accusation on the ground that it is so indefinite
23 or uncertain that the respondent cannot identify the transaction or prepare a
24 defense.

25 (4) Admit the accusation in whole or in part.

26 (5) Present new matter by way of defense.

27 (6) Object to the accusation upon the ground that, under the circumstances,
28 compliance with the requirements of a regulation would result in a material
violation of another regulation enacted by another department affecting
substantive rights.

(b) Within the time specified respondent may file one or more notices of
defense upon any or all of these grounds but all of these notices shall be filed
within that period unless the agency in its discretion authorizes the filing of a
later notice.

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

1 Unless objection is taken as provided in paragraph (3) of subdivision (a), all
2 objections to the form of the accusation shall be deemed waived.

3 (d) The notice of defense shall be in writing signed by or on behalf of the
4 respondent and shall state the respondent's mailing address. It need not be
5 verified or follow any particular form.

6 (e) As used in this section, "file," "files," "filed," or "filing" means "delivered
7 or mailed" to the agency as provided in Section 11505.

8 7. Respondent failed to file a Notice of Defense within fifteen (15) days after service of
9 the Accusation, and therefore the Respondent has waived his right to a hearing on the merits of
10 Accusation No. 2011-37.

11 8. California Government Code section 11520 states:

12 (a) If the respondent either fails to file a notice of defense or to appear at the
13 hearing, the agency may take action based upon the respondent's express
14 admissions or upon other evidence and affidavits may be used as evidence
15 without any notice to respondent; and where the burden of proof is on the
16 respondent to establish that the respondent is entitled to the agency action
17 sought, the agency may act without taking evidence.

18 (b) Notwithstanding the default of the respondent, the agency or the
19 administrative law judge, before a proposed decision is issued, has discretion
20 to grant a hearing on reasonable notice to the parties. If the agency and
21 administrative law judge make conflicting orders under this subdivision, the
22 agency's order takes precedence. The administrative law judge may order the
23 respondent, or the respondent's attorney or other authorized representative, or
24 both, to pay reasonable expenses, including attorney's fees, incurred by
25 another party as a result of the respondent's failure to appear at the hearing.

26 (c) Within seven days after service on the respondent of a decision based on
27 the respondent's default, the respondent may serve a written motion
28 requesting that the decision be vacated and stating the grounds relied on. The
agency in its discretion may vacate the decision and grant a hearing on a
showing of good cause. As used in this subdivision, good cause includes, but
is not limited to, any of the following: (1) Failure of the person to receive
notice served pursuant to Section 11505. (2) Mistake, inadvertence, surprise,
or excusable neglect.

9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board takes action without further hearing and based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet, and by taking
official notice of all the investigatory reports, exhibits and statements contained therein.

10. Pursuant to its authority under Government Code section 11520, the Board finds the
charges and allegations in Accusation No. 2011-37, are separately and severally true and correct
by clear and convincing evidence.

11. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, the Board hereby determines that the reasonable costs for

1 Investigation and Enforcement is \$2,847.50, as of May 11, 2011.

2 **DETERMINATION OF ISSUES**

3 1. Based on the foregoing findings of fact, Kim Sok Won has subjected his Field
4 Representative License No. FR 36650 to discipline.

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

6 3. The Board is authorized to revoke Kim Sok Won's Field Representative License No.
7 FR 36650 based upon the violations alleged in Accusation 2011-37, which are supported by the
8 evidence contained in the Default Decision Investigatory Evidence Packet for this case.

9 a. Violation of Business and Professions Code sections 8593 and 8641, in conjunction
10 with California Code of Regulations, title 16, section 1950. The circumstances are that
11 Respondent failed to submit proof of completion of continuing education courses in connection
12 with the renewal of his license. On or about June 30, 2009, the Board received Respondent's
13 renewal application in which Respondent certified that he successfully completed sixteen (16)
14 hours of continuing education. On or about December 8, 2009, February 8, 2010, May 11, 2010,
15 and October 5, 2010, the Board sent Respondent written requests instructing him to submit proof
16 of completion of continuing education courses within fourteen (14) days. Each letter advised
17 Respondent that failure to comply with the Board's request would subject his license to
18 discipline. To date, Respondent has not provided proof of completion of continuing education
19 courses.

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

11 In the Matter of the Accusation Against:

Case No. 2011-37

12 **SOK WON KIM**
13 **444 South Occidental Boulevard, Suite 225**
Los Angeles, CA 90057

ORDER
[Gov. Code, §11520]

14 **Field Representative License No. FR 36650**

15
16 Respondent.

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18 IT IS SO ORDERED that Field Representative License No. FR 36650, heretofore issued to
19 Respondent Sok Won Kim, is revoked.

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

24 This Decision shall become effective on August 6, 2011.

25 It is so ORDERED July 7, 2011

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27 FOR THE STRUCTURAL PEST CONTROL BOARD

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FILED

Date 2/18/11 By Susan Saylor

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

In the Matter of the Accusation Against:
SOK WON KIM
444 South Occidental Boulevard, Suite 225
Los Angeles, CA 90057
Field Representative License No. FR 36650
Respondent.

Case No. 2011-37

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 November 19, 2003, the Board issued Field Representative License Number FR 36650 in Branch 2, to Sok Won Kim ("Respondent"). On or about September 30, 2009, 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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3. Section 8620 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

4. Code section 8625 states:

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

5. Code section 8641 states:

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

6. Code section 8593 states:

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

REGULATORY PROVISION

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

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

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COST RECOVERY

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

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BACKGROUND INFORMATION

9. On or about June 30, 2009, the Board received Respondent's renewal application. Respondent certified that he had successfully completed 16 hours of continuing education.

10. On or about December 8, 2009, February 8, 2010, May 11, 2010, and October 5, 2010, the Board sent Respondent written requests instructing him to submit copies of his continuing education certificates to the Board within fourteen (14) days. On each occasion, Respondent was advised that if he failed to comply with the request, his license would be subject to disciplinary action. To date, Respondent has not provided copies of his continuing education certificates.

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CAUSE FOR DISCIPLINE

(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, May 11, 2010, and October 5, 2010.

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


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1 13. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
2 License Number FR 36650, issued to Sok Won Kim then Sok Won Kim shall be prohibited from
3 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
4 employee for any registered company during the time the discipline is imposed, and any
5 registered company which employs, elects, or associates him shall be subject to disciplinary
6 action.

7 PRAYER

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

- 10 1. Revoking or suspending Field Representative License Number FR 36650, issued to
11 Sok Won Kim;
- 12 2. Ordering Sok Won Kim to pay the Structural Pest Control Board the reasonable costs
13 of the investigation and enforcement of this case, pursuant to Business and Professions Code
14 section 125.3; and,
- 15 3. Taking such other and further action as deemed necessary and proper.
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18 DATED: 2/18/11 for 
19 KELLI OKUMA
20 Registrar/Executive Officer
21 Structural Pest Control Board
22 Department of Pesticide Regulation
23 State of California
24 Complainant

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