

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2010-8

DAVID J. ORNELAS
27430 Plumwood Avenue, #86
Canyon County, CA 91351
Field Representative No. 37093, Branches 2
and 3

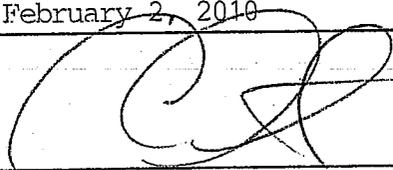
Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

The Decision shall become effective on March 4, 2010.

IT IS SO ORDERED February 2, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HELENE E. SWANSON
Deputy Attorney General
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Attorneys for Complainant.

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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. 2010-8

11 **DAVID J. ORNELAS**
12 **27430 Plumwood Avenue, #86**
13 **Canyon County, CA 91351**
14 **Field Representative No. 37093, Branches 2**
and 3

STIPULATED SURRENDER OF
LICENSE AND ORDER

Respondent.

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17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the Structural Pest
21 Control Board. She brought this action solely in her official capacity and is represented in this
22 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Helene E.
23 Swanson, Deputy Attorney General.

24 2. David J. Ornelas (Respondent) is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about March 29, 2004, the Structural Pest Control Board issued Field
27 Representative License No. 37093, Branch 2 to David J. Ornelas (Respondent), which was
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1 upgraded on March 17, 2006 to include both Branches 2 and 3. The license expired on June 30,
2 2009 and has not been renewed.

3 JURISDICTION

4 4. Accusation No. 2010-8 was filed before the Structural Pest Control Board (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on August 26,
7 2009. Respondent did not file a timely Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2010-8 is attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 2010-8. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 2010-8, agrees that cause exists for discipline, and hereby surrenders his Field Representative
25 No. 37093, Branches 2 and 3 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue
27 an order accepting the surrender of his Field Representative without further process.

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CONTINGENCY

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2 10. This stipulation shall be subject to approval by the Structural Pest Control Board.
3 Respondent understands and agrees that counsel for Complainant and the staff of the Structural
4 Pest Control Board may communicate directly with the Board regarding this stipulation and
5 surrender, without notice to or participation by Respondent. By signing the stipulation,
6 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
7 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
8 stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of
9 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
10 the parties, and the Board shall not be disqualified from further action by having considered this
11 matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
13 License and Order, including facsimile signatures thereto, shall have the same force and effect as
14 the originals.

15 12. This Stipulated Surrender of License and Order is intended by the parties to be an
16 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
17 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
18 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
19 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
20 executed by an authorized representative of each of the parties.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the (Board) may, without further notice or formal proceeding, issue and enter the following
23 Order:

ORDER

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25 IT IS HEREBY ORDERED that Field Representative No. 37093, Branches 2 and 3, issued
26 to Respondent David J. Ornelas is surrendered and accepted by the Structural Pest Control Board.

27 14. The surrender of Respondent's Field Representative position and the acceptance of
28 the surrendered license by the Board shall constitute the imposition of discipline against

1 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
2 Respondent's license history with the Board.

3 15. Respondent shall lose all rights and privileges as a Field Representative in California
4 as of the effective date of the Board's Decision and Order.

5 16. Respondent shall cause to be delivered to the Board both his wall license certificate
6 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

7 17. Respondent fully understands and agrees that if he ever files an application for
8 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
10 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
11 charges and allegations contained in Accusation No. 2010-8 shall be deemed to be true, correct
12 and admitted by Respondent when the Board determines whether to grant or deny the petition.

13 18. Respondent shall pay the Board its costs of investigation and enforcement in the
14 amount of \$895.75 prior to issuance of a new or reinstated license.

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ACCEPTANCE

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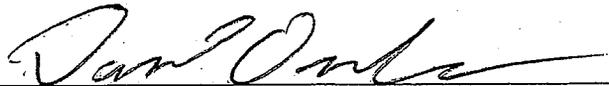
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I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Field Representative License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

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DATED: 10-13-09



DAVID J. ORNELAS, Respondent

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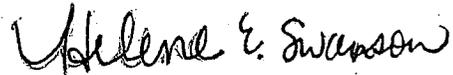
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Consumer Affairs.

Dated: October 23, 2009

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



HELENE E. SWANSON
Deputy Attorney General
Attorneys for Complainant.

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Attorneys for Complainant

FILED

Date 8/18/09 By *Kelli Okuma*

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

10 In the Matter of the Accusation Against:
11 **DAVID J. ORNELAS**
12 **CDC NO. G43638**
13 **c/o NORTH KERN STATE PRISON**
14 **RECEPTION CENTER**
15 **P.O. Box 567**
Delano, California 93216
16 **And/or**
17 **27430 Plumwood Avenue, #86**
Canyon Country, California 91351
18 **Field Representative No. FR 37093,**
19 **Branches 2 & 3**
20 **Respondent.**

Case No. 2010-8
ACCUSATION

21 Complainant alleges:

22 **PARTIES**

- 23 1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as
24 the Registrar of the Structural Pest Control Board ("Registrar"), Department of Consumer Affairs.
25 **Field Representative's License**
26 2. On or about March 29, 2004, the Registrar issued Field Representative Number FR
27 37093 to David J. Ornelas ("Respondent"). On March 17, 2006, the field representative's license
28

1 was upgraded to include Branches 2 & 3. The field representative's license expired on June 30,
2 2009, and has not been renewed.

3 **JURISDICTION**

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

8 4. Code section 8625 states:

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

15 5. Code section 8654 states:

16 Any individual who has been denied a license for any of the reasons
17 specified in Section 8568, or who has had his or her license revoked, or whose license
18 is under suspension, or who has failed to renew his or her license while it was under
19 suspension, or who has been a member, officer, director, associate, qualifying
20 manager, or responsible managing employee of any partnership, corporation, firm, or
21 association whose application for a company registration has been denied for any of
22 the reasons specified in Section 8568, or whose company registration has been
23 revoked as a result of disciplinary action, or whose company registration is under
24 suspension, and while acting as such member, officer, director, associate, qualifying
25 manager, or responsible managing employee had knowledge of or participated in any
26 of the prohibited acts for which the license or registration was denied, suspended or
27 revoked, shall be prohibited from serving as an officer, director, associate, partner,
28 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.

STATUTORY PROVISION

6. Code section 8649 states:

Conviction of a crime substantially related to the qualifications, functions,
and duties of a structural pest control operator, field representative, applicator, or
registered company is a ground for disciplinary action. The certified record of
conviction shall be conclusive evidence thereof.

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7. Code section 8655 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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.

CAUSE FOR DISCIPLINE

9. Respondent has subjected his license to discipline pursuant to Code section 8649, in that on October 29, 2008, in the Superior Court, County of Los Angeles, California in the matter entitled *People v. David John Ornelas*, Case No. PA062147, Respondent was convicted by the court following his plea of nolo contendere to 2 counts of violating Penal Code section 288, subdivision (b)(1) (lewd acts with a child by force and/or fear). The circumstances of the crime are that between June 11, 2006, and May 29, 2008, Respondent sexually abused his nine-year old stepdaughter several times per week through the use of force, as follows:

a. On May 29, 2008, the victim's mother discovered the abuse when she walked into the bathroom of their home to find Respondent seated on the toilet with his boxer shorts around his ankles and the victim standing naked between his legs. The victim told her mother that Respondent had taken her out of the shower and placed two fingers inside her vagina and moved them in and out.

b. The sexual abuse took place in different areas of the family home, including the bathroom, garage, living room, the victim's bedroom, and Respondent's vehicle and consisted of various acts, including Respondent digitally penetrating the victim's vagina, masturbating to

1 ejaculation in front of her, forcing her to orally copulate him, placing his tongue into her mouth,
2 and touching her vagina with his penis while facing her and from behind.

3 c. On one occasion, Respondent entered the shower with the victim and laid her on the
4 floor of the shower while he stood over her masturbating. When she covered her face in an effort
5 to not look at his penis, Respondent stepped on her fingers so she would keep looking at him.

6 d. On various occasions, Respondent told the victim that if he went to jail, that he would
7 kill her when he got out. Respondent also warned the victim not to tell anyone, especially her
8 mother, because she would be taken away from her mother if the police found out.

9 **OTHER MATTERS**

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

15 11. Pursuant to Code section 8654, if discipline is imposed on Representative's License
16 No. FR 37093 issued to Respondent, then David J. Ornelas shall be prohibited from serving as an
17 officer, director, associate, partner, qualifying manager, or responsible managing employee for
18 any registered company during the time the discipline is imposed, and any registered company
19 which employs, elects, or associates him shall be subject to disciplinary action.

20 **PRAYER**

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

23 1. Revoking or suspending Field Representative Number FR 37093, issued to David J.

24 Ornelas;

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- 2. Ordering David J. Ornelas 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,
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 8/18/09

Kelli Okuma

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

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