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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:

12 RICARDO A. WINKLER  
12113 Beverly Boulevard #D  
13 Whittier, CA 90601  
Field Representative License No. FR37722,  
14 Branch 3

Case No. 2009-32

OAH No. Unassigned

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

15 Respondent.

16  
17 FINDINGS OF FACT

18 1. On or about December 5, 2008, Complainant Kelli Okuma, in her official  
19 capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of  
20 Consumer Affairs, filed Accusation No. 2009-32 against Ricardo A. Winkler (Respondent)  
21 before the Structural Pest Control Board.

22 2. On or about September 7, 2004, the Structural Pest Control Board (Board)  
23 issued Field Representative License No. FR37722, Branch 3 to Respondent. The Field  
24 Representative License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on June 10, 2010, unless renewed.

26 3. On or about December 11, 2008, Teresa Sutton, an employee of the  
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.  
28 2009-32, 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: 12113 Beverly Boulevard #D, Whittier, CA 90601. A copy of the Accusation  
3 is attached as exhibit A, and is incorporated herein by reference.

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

6 5. On or about December 17, 2008, an unknown signatory signed the  
7 domestic return receipt card at Respondent's address of record. A copy of the domestic return  
8 receipt card is attached as Exhibit B and is incorporated herein by reference.

9 6. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the  
11 respondent files a notice of defense, and the notice shall be deemed a specific  
12 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.

13 7. Respondent failed to file a Notice of Defense within 15 days after service  
14 upon him of the Accusation, and therefore waived his right to a hearing on the merits of  
15 Accusation No. 2009-32.

16 8. California Government Code section 11520 states, in pertinent part:

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

20 9. Pursuant to its authority under Government Code section 11520, the Board  
21 finds Respondent is in default. The Board will take action without further hearing and, based on  
22 the evidence on file herein, finds that the allegations in Accusation No. 2009-32 are true.

23 10. The total cost for investigation and enforcement in connection with the  
24 Accusation are \$1083.25 as of January 14, 2009.

25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent Ricardo A. Winkler  
27 has subjected his Field Representative License No. FR37722, Branch 3 to discipline.

28 2. A copy of the Accusation is attached.



Exhibit A

Accusation No. 2009-32

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
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**FILED**

Date 12/5/08 By *Kelli Okuma*

6 Attorneys for Complainant  
7

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. 2009-33

12 **RICARDO A. WINKLER**  
12113 Beverly Blvd., #D  
13 Whittier, California 90601

**ACCUSATION**

14 Field Representative's License No. FR 37722

15 Respondent.

16  
17 Kelli Okuma ("Complainant") alleges:

18 **PARTIES**

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

21 2. On or about September 7, 2004, the Board issued Field Representative's  
22 License Number FR 37722 ("license") to Ricardo A. Winkler ("Respondent"). The license will  
23 expire on June 30, 2010, unless renewed.

24 **STATUTORY PROVISIONS**

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



1 penalty of perjury on the renewal application form that he successfully completed 16 hours of  
2 continuing education during the 2007 renewal period.

3 9. On or about November 27, 2007, and March 3, 2008, the Board sent  
4 Respondent written requests instructing him to submit copies of his continuing education  
5 certificates to the Board within fourteen (14) days for the 2007 renewal period. Respondent was  
6 further advised on each occasion that if he failed to comply with the request, his license would be  
7 subject to disciplinary action. Respondent failed to provide copies of his continuing education  
8 certificates.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Failure to Verify Completion of Continuing Education)**

11 10. Respondent is subject to discipline under Code sections 8641 and 8593, in  
12 that Respondent failed to comply with California Code of Regulation, title 16, section 1950(a),  
13 by failing to submit verification of completing continuing education courses by producing  
14 certificates of completion for the 2007 renewal period, as requested by the Board on  
15 November 27, 2007, and March 3, 2008.

16 **OTHER MATTERS**

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

22 12. Pursuant to Code section 8654, if discipline is imposed on Field  
23 Representative's License Number FR 37722, issued to Ricardo A. Winkler, then Ricardo A.  
24 Winkler shall be prohibited from serving as an officer, director, associate, partner, qualifying  
25 manager, or responsible managing employee for any registered company during the time the  
26 discipline is imposed, and any registered company which employs, elects, or associates Ricardo  
27 A. Winkler shall be subject to disciplinary action.

28 ///

1. PRAYER

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

- 4 1. Revoking or suspending Field Representative's License Number  
5 FR 37722, issued to Ricardo A. Winkler;
- 6 2. Prohibiting Ricardo A. Winkler from serving as an officer, director,  
7 associate, partner, qualifying manager or responsible managing employee of any registered  
8 company during the period that discipline is imposed on Field Representative's License Number  
9 FR 37722, issued to Ricardo A. Winkler;
- 10 3. Ordering Ricardo A. Winkler to pay the Structural Pest Control Board the  
11 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
12 125.3; and,
- 13 4. Taking such other and further action as deemed necessary and proper.

14 DATED: 12/5/08

15 Kelli Okuma  
16 KELLI OKUMA  
17 Registrar  
18 Structural Pest Control Board  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

22 LA2008900401  
23 Accusation (kdg) 10/27/08  
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