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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 **MATTHEW AARON PLUNKETT**
393 Laurie Meadow Dr., #229
13 San Mateo, California 94403

14 Field Representative License
No. FR 38124, Br.(s) 2 and 3

Case No. 2009-13

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

15 Respondent.
16

17 **FINDINGS OF FACT**

18 1. On or about December 5, 2007, Complainant Kelli Okuma, in her official
19 capacity as the Registrar of the Structural Pest Control Board, Department of Consumer Affairs,
20 filed Accusation No. 2009-13, against Matthew Aaron Plunkett, with the Structural Pest Control
21 Board ("Board").

22 2. On or about January 11, 2005, the Board issued Field Representative's
23 License Number FR 38124, in Branch 2, to Matthew Aaron Plunkett ("Respondent"). On or
24 about June 21, 2007, the license was upgraded to include Branch 3. Respondent's license will
25 expire on June 30, 2010, unless renewed.

26 3. On or about September 16, 2008, Praveen Singh, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of Accusation
28 No. 2009-13, Request for Discovery, Statement to Respondent, Notice of Defense, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
2 with the Board, which was 15 Commerce Ct., Suite 150, Chico, California 95928. A copy of the
3 Accusation, the related documents, and Declaration of Service are attached as **Exhibit A**, and are
4 incorporated herein by reference.

5 4. On or about September 29, 2008, the aforementioned documents were
6 returned by the U.S. Postal Service marked "Not Deliverable As Addressed - Unable to
7 Forward."

8 5. On or about October 6, 2008, Praveen Singh, an employee of the
9 Department of Justice, served by Certified Mail a copy of Accusation No. 2009-13, Request for
10 Discovery, Statement to Respondent, Notice of Defense, and Government Code sections
11 11507.5, 11507.6, and 11507.7 to Respondent's new address of record with the Board, which was
12 and is 393 Laurie Meadow Drive, #229, San Mateo, California 94403.

13 6. On or about November 6, 2008, the aforementioned documents were
14 returned by the U.S. Postal Service marked "Not Deliverable As Addressed - Unable to
15 Forward."

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

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

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

24 9. California Government Code section 11520 states, in pertinent part:

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

29 10. Pursuant to its authority under Government Code section 11520, the Board
30 finds Respondent is in default. The Board will take action without further hearing and, based on
31 the evidence on file herein, finds that the allegations in Accusation No. 2009-13 are true.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent has subjected his
3 Field Representative's License No. FR 38124, in Branches 2 and 3, to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of
5 Service are attached.

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

7 4. The Structural Pest Control Board is authorized to revoke Respondent's
8 Field Representative's License No. FR 38124, in Branches 2 and 3, based upon the following
9 violation alleged in the Accusation:

10 a. Business and Professions Code sections 8641/8593 (failure to verify
11 completion of continuing education). The agency has jurisdiction to adjudicate this case by
12 default.

13 **ORDER**

14 **IT IS SO ORDERED** that Field Representative's License No. FR 38124, in
15 Branches 2 and 3, heretofore issued to Respondent Matthew Aaron Plunkett, is revoked.

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

20 This Decision shall become effective on July 12, 2009.

21 It is so ORDERED June 12, 2009

22 *Cynthia J. Hillier*
23 **FOR THE STRUCTURAL PEST CONTROL BOARD**
DEPARTMENT OF CONSUMER AFFAIRS

24 Attachment:

25 Exhibit A:

26 Accusation No.2009-13, Related Documents, and Declaration of Service
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28

Exhibit A

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

Date 9/11/08 By Kelli Okuma

7 Attorneys for Complainant
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10 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 2009-13

14 **MATTHEW AARON PLUNKETT**

15 15 Commerce Ct., Suite 150
Chico, California 95928

16 Field Representative License
No. FR 38124, Br.(s) 2 and 3

17 Respondent.
18

ACCUSATION

19
20 Kelli Okuma ("Complainant") alleges:

21 **PARTIES**

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

24 2. On or about January 11, 2005, the Board issued Field Representative's
25 License Number FR 38124, in Branch 2, to Matthew Aaron Plunkett ("Respondent"). On or
26 about June 21, 2007, the license was upgraded to include Branch 3. Respondent's license will
27 expire on June 30, 2010, unless renewed.

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

7 COST RECOVERY

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

12 BACKGROUND INFORMATION

13 8. In or about June 2007, Respondent submitted a license renewal application
14 to the Board. On June 22, 2007, Respondent certified under penalty of perjury on the application
15 form that he successfully completed 20 hours of continuing education during his last renewal
16 period.

17 9. On November 27, 2007, January 15, 2008, and February 5, 2008, the
18 Board sent Respondent written requests for copies of his certificates of course completion that
19 verify his continuing education hours. Respondent was advised on each occasion that if he failed
20 to comply with the request, his field representative's license would be subject to disciplinary
21 action.

22 FIRST CAUSE FOR DISCIPLINE

23 (Failure to Verify Completion of Continuing Education)

24 10. Respondent is subject to discipline under Code section 8641, in that he
25 failed to comply with California Code of Regulation, title 16, section 1950, by failing to verify
26 that he had completed courses of continuing education by producing continuing education
27 certificates for the last renewal period, as requested by the Board on November 27, 2007,
28 January 15, 2008, and February 5, 2008.

1 OTHER MATTERS

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

7 12. Pursuant to Code section 8654, if discipline is imposed on Field
8 Representative's License Number FR 38124, issued to Matthew Aaron Plunkett, then Matthew
9 Aaron Plunkett shall be prohibited from serving as an officer, director, associate, partner,
10 qualifying manager, or responsible managing employee for any registered company during the
11 time the discipline is imposed, and any registered company which employs, elects, or associates
12 Matthew Aaron Plunkett shall be subject to disciplinary action.

13 PRAYER

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

16 1. Revoking or suspending Field Representative's License Number
17 FR 38124, issued to Matthew Aaron Plunkett;

18 2. Prohibiting Matthew Aaron Plunkett from serving as an officer, director,
19 associate, partner, qualifying manager or responsible managing employee of any registered
20 company during the period that discipline is imposed on Field Representative's License Number
21 FR 38124, issued to Matthew Aaron Plunkett;

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3. Ordering Matthew Aaron Plunkett 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; and,

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

DATED: 9/11/08



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

Complainant

SA2008303789
Accusation (kdg) 8/13/08