

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. 2009-25

**TAE SUNG KIM
1208 N. Niagara Street
Burbank, CA 91505**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Field Representative License No. FR 38810,
Branch 3**

Respondent.

FINDINGS OF FACT

1. On or about November 5, 2008, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board (Board), filed Accusation No. 2009-25 against Tae Sung Kim (Respondent) before the Board.

2. On or about June 17, 2005, the Board issued Field Representative License No. FR 38810, Branch 3 to Respondent. The Field Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2010, unless renewed.

3. On or about November 21, 2008, Thurman Peden, an employee of the Department of Justice, served by First Class Mail a copy of the Accusation No. 2009-25, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

1 1208 N. Niagara Street
Burbank, CA 91505

2 Last known employment:
3 Unicare Pest Management
4 10419 Lower Azusa Rd.
5 Temple City, Ca 91780.

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

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

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

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 2009-25.

18 7. California Government Code section 11520 states, in pertinent part:

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 evidence on file herein, finds that the allegations in Accusation No. 2009-25 are true.

26 9. The total cost for investigation and enforcement in connection with the Accusation
27 are \$2,009.75 as of December 4, 2009.

28 DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Tae Sung Kim has subjected his
Field Representative License No. FR 38810, Branch 3 to discipline.

2. A copy of the Accusation is attached.

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

Exhibit A
Accusation No. 2009-25

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE,
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY, State Bar No. 131800
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2520
Facsimile: (213) 897-2804

6 Attorneys for Complainant

FILED

Date 11/5/08 By *Kelli Okuma*

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

12 In the Matter of the Accusation Against:

Case No. 2009-25

13 **TAE SUNG KIM**
1208 North Niagara Street
14 Burbank, California 90020

ACCUSATION

15 Field Representative License No. FR 38810,
Branch 3

16 Respondent.
17

18 Kelli Okuma ("Complainant") alleges:

19 **PARTIES**

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

23 **Field Representative License**

24 2. On or about June 17, 2005, the Board issued Field Representative License
25 Number FR 38810, Branch 3, to Tae Sung Kim ("Respondent"). The license will expire on
26 June 30, 2010.

27 ///

28 ///

JURISDICTION

1
2 3. Section 8620 of the Business and Professions Code (Code) provides, in
3 pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while
4 a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary
5 action or in lieu of a suspension may assess a civil penalty.

6 4. Code section 8624 states:

7 “If the board suspends or revokes an operator's license and one or more branch
8 offices are registered under the name of the operator, the suspension or revocation may be
9 applied to each branch office.”

10 5. Code section 8625 states:

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

18 6. Section 8654 of the Code states:

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

29 7. Code section 8593 states:

30 The board shall require as a condition to the renewal of
31 each operator's and field representative's license that the holder
32 thereof submit proof satisfactory to the board that he or she has

1 informed himself or herself of developments in the field of pest
2 control by completion of courses of continuing education in pest
3 control approved by the board or equivalent activity approved by
4 the board.

5 **STATUTORY PROVISION**

6 8. Code section 8641 states:

7 Failure to comply with the provisions of this chapter, or any
8 rule or regulation adopted by the board, . . . is a ground for
9 disciplinary action.

10 **REGULATORY PROVISION**

11 9. California Code of Regulations, section 1950, subdivision (a), states:

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

19 **COST RECOVERY**

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

24 **CAUSE FOR DISCIPLINE**

25 **(Documentation of Continuing Education Requirements)**

26 11. Respondent's license is subject to disciplinary action pursuant to Code
27 sections 8620, 8593, and 8641, in that Respondent failed to comply with Regulation section
28 1950, subdivision (a), by failing to provide the Board with verifiable documentation to
demonstrate that he completed the continuing education requirements as a condition of renewal
of his license.

///

///

///

1 OTHER MATTERS

2 12. Pursuant to Code section 8654, if Respondent's application for a license is
3 denied, then Respondent shall be prohibited from serving as an officer, director, associate,
4 partner, or qualifying individual of any license, and any licensee which employs, elects or
5 associates Respondent in any capacity other than as a non-supervising bona fide employee shall
6 be subject to disciplinary action.

7 PRAYER

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

10 1. Revoking or suspending Field Representative License Number FR 38810,
11 Branch 3, issued to Tae Sung Kim;

12 2. Prohibiting Tae Sung Kim from serving as an officer, director, associate,
13 partner, or qualifying individual of any licensee;

14 3. Ordering Tae Sung Kim to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Code section 125.3; and

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

17
18 DATED: 11/5/08

19
20 Kelli Okuma
21 KELLI OKUMA
22 Registrar/Executive Officer
23 Structural Pest Control Board
24 Department of Consumer Affairs
25 State of California
26 Complainant