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

10 In the Matter of the Accusation Against:

Case No. 2011-11

11 **MATTHEW SCHNEIDER**
12 **1855 Eastlake Drive**
13 **Kelseyville, CA 95451**
14 **Field Representative No. FR39038**

DEFAULT DECISION AND ORDER

15 Respondent. [Gov. Code, §11520]

16 **FINDINGS OF FACT**

17 1. On or about September 23, 2010, Complainant Kelli Okuma, in her official capacity
18 as the Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs,
19 filed Accusation No. 2011-11 against Matthew P. Schneider, (Respondent) before the Structural
20 Pest Control Board. (Accusation attached as Exhibit A.)

21 2. On or about August 1, 2005, the Structural Pest Control Board issued Field
22 Representative License Number FR 39038 to Respondent. The Field Representative License was
23 in full force and effect at all times relevant to the charges brought in the Accusation and will
24 expire on June 30, 2011, unless renewed.

25 3. On or about October 7, 2010, Respondent was served by Certified and First Class
26 Mail copies of the Accusation No. 2011-11, Statement to Respondent, Notice of Defense, Request
27 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
28 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
section 136 and/or California Code of Regulations, title 16, section 1911, is required to be

1 reported and maintained with the Board. At the time of service, Respondent's address of record
2 was 1855 Eastlake Drive, Kelseyville, CA 95451.

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

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

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 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.

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
11 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
12 2011-11.

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

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

17 8. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
20 as well as taking official notice of all the investigatory reports, exhibits and statements contained
21 on file at the Board's offices regarding the allegations contained in Accusation No. 2011-11, finds
22 that the charges and allegations in Accusation No. 2011-11, are separately and severally true and
23 correct by clear and convincing evidence.

24 9. Taking official notice of its own internal records, pursuant to Business and
25 Professions Code section 125.3, it is hereby determined that the reasonable cost for investigation
26 and enforcement is \$872.50 as of December 9, 2010.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Matthew Schneider, has
3 subjected his Field Representative License No. FR 39038 to discipline.

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

5 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
6 Representative License No. FR 39038 based upon the following Business and Professions Code
7 violations alleged in the Accusation which are supported by the evidence contained in the Default
8 Decision Investigatory Evidence Packet in this case:

9 a. Sections 8649 and 490 (Conviction of a crime on or about June 3, 2010).


10 **ORDER**

11 IT IS SO ORDERED that Field Representative License No. FR 39038, issued to
12 Respondent Matthew Schneider, is revoked.

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

17 This Decision shall become effective on February 20, 2011.

18 It is so ORDERED January 21, 2011

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20 FOR THE STRUCTURAL PEST CONTROL BOARD
21 DEPARTMENT OF PESTICIDE REGULATION
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DOJ Matter ID:SF2010900347

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
4 State Bar No. 116945
1515 Clay Street, 20th Floor
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Oakland, CA 94612-0550
6 Telephone: (510) 622-2138
Facsimile: (510) 622-2270
7 Attorneys for Complainant

FILED

Date 9/23/10 By Kelli Okuma

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

12
13 In the Matter of the Accusation Against:

Case No. 2011-11

14 **MATTHEW P. SCHNEIDER**
1855 Eastlake Drive
15 Kelseyville, CA 95451
16 Field Representative No. FR 39038

ACCUSATION

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.

23 2. On or about August 1, 2005, the Structural Pest Control Board issued Field
24 Representative's License Number FR 39038 to Matthew P. Schneider (Respondent). The Field
25 Representative's License was in full force and effect at all times relevant to the charges brought
26 in this Accusation and will expire on June 30, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Structural Pest Control Board (Board), Department of Pesticide Regulation, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 8620 of the 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.

5. Section 8625 of the Code 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."

6. Section 118, subdivision (b) of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Section 8649 of the Code states:

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

8. Section 490 of the Code provides, in pertinent part, that a Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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COST RECOVERY

9. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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

(Substantially Related Conviction)

10. Respondent has subjected his Field Representative's License to disciplinary action under sections 490 and 8649 of the Code in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a field representative. On or about June 3, 2010, in Santa Barbara County Superior Court, Case No. 1332051, entitled *People v. Matthew Paul Schneider*, Respondent pled no contest and was convicted of violating Health and Safety Code sections 11359 (possession of marijuana for sale), 11360 (transportation of marijuana), both felonies. The factual circumstances underlying the conviction are that on or about March 23, 2010, Respondent unlawfully possessed marijuana for sale and transported marijuana in Santa Barbara County.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and that following the hearing, the Structural Pest Control Board issue a decision:

1. Revoking or suspending Field Representative's License Number FR 39038, issued to Matthew P. Schneider;

2. Ordering Matthew P. Schneider 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;

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

DATED:

9/23/10

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
State of California
Complainant

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