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8  
9 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF PESTICIDE REGULATION**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-20

13 **NAT E. GAGUI**  
14 **365 Third Avenue**  
**Daly City, California 94014**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

15  
16 Respondent.

17 FINDINGS OF FACT

18 1. On or about October 8, 2009, Complainant Kelli Okuma, in her official capacity as  
19 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide  
20 Regulation, filed Accusation No. 2010-20 against Nat E. Gagui (Respondent) before the  
21 Structural Pest Control Board.

22 2. On or about August 26, 2005, the Structural Pest Control Board (Board) issued Field  
23 Representative's License No. FR 39150, Branch 2 to Respondent. The Field Representative's  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on June 30, 2011, unless renewed.

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1           3.    On or about October 4, 2002, the Structural Pest Control Board issued Registered  
2   Applicator's License No. RA 21678 to Respondent. The Registered Applicator's License expired  
3   on October 4, 2008, and has not been renewed

4           4.    On or about October 20, 2009, Carol L. Grays, an employee of the Department of  
5   Justice, served by Certified and First Class Mail a copy of Accusation No. 2010-20, Statement to  
6   Respondent, Notice of Defense (2 copies), Request for Discovery, and Government Code sections  
7   11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and  
8   is 365 Third Avenue, Daly City, California 94014. (A copy of the Accusation is attached as  
9   Exhibit A, and is incorporated herein by reference.)

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

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

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

18          7.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
19   of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
20   2010-20.

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

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

26          9.    Pursuant to its authority under Government Code section 11520, the Board finds  
27   Respondent is in default. The Board will take action without further hearing and, based on the  
28   evidence on file herein, finds that the allegations in Accusation No. 2010-20 are true.

          10.   The total costs for investigation and enforcement in connection with the Accusation  
are \$1,515.00 as of November 5, 2009.

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DETERMINATION OF ISSUES

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2       1.    Based on the foregoing findings of fact, Respondent Nat E. Gagui has subjected his  
3 Field Representative's License No. FR 39150 to disciplinary action.

4       2.    A copy of the Accusation is attached.

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

6       4.    The Structural Pest Control Board is authorized to revoke Respondent's Field  
7 Representative's License based upon the following violations alleged in the Accusation:

8           a.    Business and Professions Code (Code) section 8641 in that Respondent failed to  
9 comply with the requirements of Title 16, California Code of Regulations, section 1950,  
10 subdivision (d) by failing to provide proof of having acquired 16 hours of continuing education,  
11 as claimed, under penalty of perjury, on his renewal application dated June 24, 2008, after having  
12 been requested by the Board in writing on December 15, 2008, January 20, 2009, and March 19,  
13 2009 to submit copies of his continuing education certificates for the three year renewal period of  
14 July 1, 2005 through June 30, 2008.

15           b.    Section 8637 of the Code in that Respondent obtained the renewal of his field  
16 representative's license by misrepresenting the material fact that he had acquired 16 hours of  
17 continuing education, when in fact he had not.

18           c.    Section 8642 of the Code in that Respondent committed a fraudulent act by  
19 certifying under penalty of perjury on his renewal application that he had acquired and could  
20 demonstrate 16 hours of continuing education in order to meet the license renewal requirements  
21 pursuant to Title 16, California Code of Regulations, section 1950, subdivision (d), when in fact  
22 he failed to obtain 16 hours of continuing education and/or failed to demonstrate that he had done  
23 so.

ORDER

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25       IT IS SO ORDERED that Field Representative's License No. FR 39150, heretofore issued  
26 to Nat E. Gagui (Respondent) is revoked.

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

This Decision shall become effective on January 29, 2010.

It is so ORDERED December 30, 2009

*Clifford J. Miller*  
\_\_\_\_\_  
FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION

Attachment:

Exhibit A: Accusation No. 2010-20

**Exhibit A**

**Accusation No. 2010-20**

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10-20

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7 Attorneys for Complainant

**FILED**

Date 10/8/09 By *Kelli Okuma*

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:  
12 **NAT E. GAGUI**  
13 **A.K.A. NATHANIEL E. GAGUI**  
14 **365 Third Avenue**  
15 **Daly City, California 94014**  
16 **Field Representative's License No. FR**  
17 **39150, Branch 2**

Case No. 2010-20  
**ACCUSATION**

Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about August 26, 2005, the Structural Pest Control Board issued Field  
24 Representative's License Number FR 39150, Branch 2 to Nat E. Gagui, also known as Nathaniel  
25 E. Gagui (Respondent). The Field Representative's License was in full force and effect at all  
26 times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

27 !!!  
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1 approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires,  
2 may take and successfully complete an examination given by the board, designed to test his or her  
3 knowledge of developments in the field of pest control since the issuance of his or her license.”

4 9. Section 8637 of the Code states:

5 “Misrepresentation of a material fact by the applicant in obtaining a license or company  
6 registration is a ground for disciplinary action.”

7 10. Section 8641 of the Code states, in pertinent part, that failure to comply with the  
8 provisions of this chapter, or any rule or regulation adopted by the Board is a ground for  
9 disciplinary action.

10 11. Section 8642 of the Code states:

11 “The commission of any grossly negligent or fraudulent act by the licensee as a pest  
12 control operator, field representative, or applicator is a ground for disciplinary action”

13 12. Title 16, California Code of Regulations, section 1950, subdivision (d) states, in  
14 pertinent part:

15 “Field representatives licensed in one branch of pest control shall have completed 16  
16 continuing education hours, field representatives licensed in two branches of pest control shall  
17 have completed 20 hours continuing education hours, field representative licensed in three  
18 branches of pest control shall have completed 24 hours continuing education hours during each  
19 three year renewal period. In each case, a minimum of four continuing education hours in a  
20 technical subject directly related to each branch of pest control held by the licensee must be  
21 gained for each branch of pest control licensed and a minimum of eight hours must be gained  
22 from Board approved courses on the Structural Pest Control Act and its rules and regulations.”

23 13. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licensee found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case.



1 California Code of Regulations, section 1950, subdivision (d), when in fact he failed to obtain 16  
2 hours of continuing education and/or failed to demonstrate that he had done so.

3 PRAYER

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

- 6 1. Revoking or suspending Field Representative's License Number FR 39150, issued to  
7 Nat E. Gagui, also known as Nathaniel E. Gagui (Respondent);  
8 2. Ordering Respondent to pay the Structural Pest Control Board the reasonable costs of  
9 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3; and  
11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 10/8/09

  
KELLI OKUMA  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
*Complainant*

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