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

In the Matter of the Accusation Against:

Case No. 2010-27

MICHAEL JAMES MOOSHABAD
33792 Violet Lantern Street
Dana Point, CA 92629

DEFAULT DECISION AND ORDER

Field Representative License No. FR 39647
Registered Applicator's License
No. RA 43338

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about November 9, 2009, Complainant Kelli Okuma, in her official capacity as the Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2010-27 against Michael James Mooshabad (Respondent) before the Structural Pest Control Board.

2. On or about February 17, 2006, the Structural Pest Control Board (Board) issued Field Representative License No. FR 39647 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, 2011, unless renewed.

3. On or about March 30, 2005, the Board issued Registered Applicator's License No. RA 43338 to Respondent. The Registered Applicator's License expired on March 30, 2008, and has not been renewed.

1 4. On or about December 18, 2009, S. Sotelo, an employee of the Department of Justice,
2 served by Certified and First Class Mail a copy of the Accusation No. 2010-27, Statement to
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

5 33792 Violet Lantern Street
6 Dana Point, CA 92629.

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

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

10 6. The documents served have not been returned to the Department of Justice by the
11 U.S. Postal Service.

12 7. 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 8. 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 2010-27.

21 9. 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 10. 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. 2010-27 are true.

 11. The total cost for investigation and enforcement in connection with the Accusation
are \$722.50 for fiscal year 2009-2010 for attorney fees and \$150.00 for fiscal year 2009-2010 for
paralegal costs for a total of \$872.50 as of March 23, 2010.

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Michael James Mooshabad has
3 subjected his Field Representative License No. FR 39647 to discipline.

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 License based upon the following violations alleged in the Accusation:

8 a. Business and Professions Code sections 8641 and 8593, Failure to Verify Completion
9 of Continuing Education and Business and Professions Code section 8637 and 8641,
10 Misrepresentation in Renewing License.

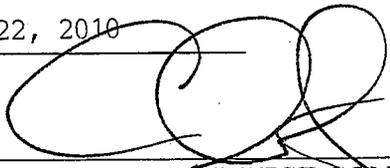
ORDER

11
12 IT IS SO ORDERED that Field Representative License No. FR 39647, heretofore issued to
13 Respondent Michael James Mooshabad, is revoked.

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

18 This Decision shall become effective on May 22, 2010.

19 It is so ORDERED April 22, 2010

20
21 
22 FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

23 80442900.DOC
24 DOJ docket number: SD2009804690

25 Attachment:

26 Exhibit A: Accusation No. 2010-27
27
28

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Attorneys for Complainant

FILED

Date 11/9/09 By Kelli Okuma

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

11 In the Matter of the Accusation Against:
12 **MICHAEL JAMES MOOSHABAD**
13 **33792 Violet Lantern Street**
14 **Dana Point, CA 92629**
15 **Field Representative License No. FR 39647**
16 Respondent.

Case No. 2010-27

ACCUSATION

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 Pesticide
22 Regulation.

23 2. On or about February 17, 2006, the Structural Pest Control Board issued Field
24 Representative License Number FR 39647 in Branch 2 to Michael James Mooshabad
25 (Respondent). The Field Representative License was in full force and effect at all times relevant
26 to the charges brought herein and will expire on June 30, 2011, unless renewed.

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9. 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.

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate 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.

REGULATORY PROVISIONS

11. California Code of Regulations, Title 16, section 1950(a), states:

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

BACKGROUND INFORMATION

12. On or about June 29, 2008, Respondent submitted a License Renewal form to the Board. Respondent certified under penalty of perjury on the form that he had completed the continuing education hours required to renew his license in accordance with regulations.

13. On or about December 15, 2008, January 20, 2009, April 29, 2009, and June 3, 2009, the Board sent Respondent a written request instructing him to submit copies of his continuing education certificates for the renewal period to the Board within fourteen (14) days. Respondent was advised that if he failed to comply with the request, his license would be subject to disciplinary action. Respondent was unable to provide the Board with any continuing education certificates for the renewal period of July 1, 2005 through June 30, 2008.

///

FIRST CAUSE FOR DISCIPLINE
(Failure to Verify Completion of Continuing Education)

1
2 14. Respondent is subject to discipline under Code sections 8641 and 8593, in that
3 Respondent failed to comply with California Code of Regulation, title 16, section 1950(a), by
4 failing to submit verification of completing continuing education courses by producing
5 certificates of completion for the renewal period of July 1, 2005 through June 30, 2008, as
6 requested by the Board on December 15, 2008, January 20, April 29, and June 3, 2009.
7

SECOND CAUSE FOR DISCIPLINE
(Misrepresentation in Renewing License)

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9
10 15. Respondent is subject to discipline under Code sections 8637 and 8641, in that
11 Respondent misrepresented a material fact on his June 29, 2008 license renewal by stating that he
12 had completed the required continuing education hours to renew his license, when in fact he had
13 not done so.
14

OTHER MATTERS

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

21 17. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
22 License Number FR 39647, issued to Respondent, then Respondent shall be prohibited from
23 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
24 employee for any registered company during the time the discipline is imposed, and any
25 registered company which employs, elects, or associates Respondent shall be subject to
26 disciplinary action.
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PRAYER

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

- 1. Revoking or suspending Field Representative License Number FR 39647, issued to Michael Mooshabad.
- 2. Ordering Michael Mooshabad 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;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 11/9/09

Kelli Okuma

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

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