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

In the Matter of the Accusation Against:

MICHELLE L. FROST
6930 Commerce Blvd. #67
Rohnert Park, CA 94928
Field Representative License No. FR 39735,
Branch 2

Respondent.

Case No. 2010-51

OAH No. 2010080470

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 3, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2010-51 against Michelle L. Frost (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about March 10, 2006, the Structural Pest Control Board (Board) issued Field Representative License No. FR 39735, Branch 2 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 June 23, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2010-51, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

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1 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
2 required to be reported and maintained with the Board, which was and is:

3 6930 Commerce Blvd. #67
4 Rohnert Park, CA 94928

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

8 5. On or about June 28, 2010, Respondent signed and returned a Notice of Defense,
9 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
10 address of record and it informed her that an administrative hearing in this matter was scheduled
11 for February 16, 2011. Respondent failed to appear at that hearing.

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. 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 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 2010-51, finds
28 that the charges and allegations in Accusation No. 2010-51, are separately and severally, found to
be true and correct by clear and convincing evidence.

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1 9. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$542.50 as of February 14, 2011.

4 DETERMINATION OF ISSUES

- 5 1. Based on the foregoing findings of fact, Respondent Michelle L. Frost has subjected
6 her Field Representative License No. FR 39735, Branch 2 to discipline.
- 7 2. The agency has jurisdiction to adjudicate this case by default.
- 8 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
9 Representative License based upon the following violations alleged in the Accusation which are
10 supported by the evidence contained in the Default Decision Evidence Packet in this case.:

11 FIRST CAUSE FOR DISCIPLINE

12 (Documentation of Continuing Education Requirements)

13 4. Respondent's license is subject to disciplinary action pursuant to Code sections 8620,
14 8593, and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision
15 (a), by failing to provide the Board with verifiable documentation to demonstrate that she
16 completed 16 hours of continuing education requirements for the renewal period of July 1, 2005,
17 through June 30, 2008, as stated in her License Renewal Application, signed under penalty of
18 perjury and dated June 30, 2008.

19 ORDER

20 IT IS SO ORDERED that Field Representative License No. FR 39735, Branch 2, heretofore
21 issued to Respondent Michelle L. Frost, is revoked.

22 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
23 written motion requesting that the Decision be vacated and stating the grounds relied on within

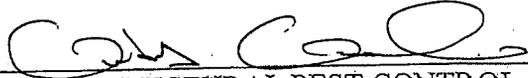
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seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 14, 2011.

It is so ORDERED April 14, 2011


FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

10672244.DOC
DOJ Matter ID:SA2009102217

Attachment:
Exhibit A: Accusation

1 EDMUND G. BROWN JR.
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2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

7 *Attorneys for Complainant*

FILED

Date 2/3/10 By Kelli Okuma

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

13 In the Matter of the Accusation Against:

Case No. 2010-51

14 **MICHELLE L. FROST**
15 **6652 Goldenwood Circle**
Sacramento, CA 95841

ACCUSATION

16 **Field Representative License No. FR 39735,**
17 **Branch 2**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 **License History**

25 2. On or about March 10, 2006, the Structural Pest Control Board issued Field
26 Representative License Number FR 39735, Branch 2 to Michelle L. Frost ("Respondent"). The
27 Field Representative License was in full force and effect at all times relevant to the charges
28 brought herein and will expire on June 30, 2011, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Structural Pest Control Board ("Board"),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code ("Code"), unless otherwise indicated.

5 4. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a
6 license when it finds that the holder, while a licensee or applicant, has committed any acts or
7 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
8 penalty.

9 5. Code section 8624 states:

10 "If the board suspends or revokes an operator's license and one or more branch
11 offices are registered under the name of the operator, the suspension or revocation may be applied
12 to each branch office."

13 6. Code section 8625 states:

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

20 7. Code section 8654 states:

21 Any individual who has been denied a license for any of the reasons
22 specified in Section 8568, or who has had his or her license revoked, or whose
23 license is under suspension, or who has failed to renew his or her license while
24 it was under suspension, or who has been a member, officer, director, associate,
25 qualifying manager, or responsible managing employee of any partnership,
26 corporation, firm, or association whose application for a company registration
27 has been denied for any of the reasons specified in Section 8568, or whose
28 company registration has been revoked as a result of 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.

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1 8. Code section 8593 states:

2 The board shall require as a condition to the renewal of each operator's
3 and field representative's license that the holder thereof submit proof
4 satisfactory to the board that he or she has informed himself or herself of
5 developments in the field of pest control by completion of courses of
6 continuing education in pest control approved by the board or equivalent
7 activity approved by the board.

8 **STATUTORY PROVISION**

9 9. Code section 8641 states:

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

12 **REGULATORY PROVISION**

13 10. California Code of Regulations, section 1950, subdivision (a), states:

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

20 **COST RECOVERY**

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

25 **FIRST CAUSE FOR DISCIPLINE**

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

27 12. Respondent's license is subject to disciplinary action pursuant to Code sections 8620,
28 8593, and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision
(a), by failing to provide the Board with verifiable documentation to demonstrate that she
completed 16 hours of continuing education requirements for the renewal period of July 1, 2005,
through June 30, 2008, as stated in her License Renewal Application, signed under penalty of
perjury and dated June 30, 2008.

