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

In the Matter of the Accusation Against:  
  
**JAVIER SANCHEZ**  
1202 Morena Blvd., Suite 400  
San Diego, CA 92110  
  
Field Representative License No. FR 40197  
  
Respondent.

Case No. 2010-26  
  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 3, 2009, 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. 2010-26 against Javier Sanchez (Respondent) before the Structural Pest Control Board.

2. On or about June 2, 2006, the Structural Pest Control Board (Board) issued Field Representative License No. FR 40197 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 November 9, 2009, Joanne Millot, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-26, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections

1 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and  
2 is:

3 1202 Morena Blvd., Suite 400  
4 San Diego, CA 92110.

5 A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

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

8 5. On or about November 23, 2009, the aforementioned documents were returned by the  
9 U.S. Postal Service marked "Addressee Unknown."

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
18 2010-26.

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

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

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

27 10. The total cost for investigation and enforcement in connection with the Accusation  
28 are \$1,407.50 as of March 10, 2010.

#### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Javier Sanchez has subjected his  
Field Representative License No. FR 40197 to discipline.

2. A copy of the Accusation is attached.

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

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

a. Respondent's license is subject to disciplinary action under Code section 8641, for failure to comply with Code section 8593 and Regulation section 1950, subdivision (a), in that Respondent failed to provide the Board with verifiable documentation to demonstrate that he completed the continuing education requirements as a condition of renewal of his license.


ORDER

IT IS SO ORDERED that Field Representative License No. FR 40197, heretofore issued to Respondent Javier Sanchez, is revoked.

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 May 15, 2010.

It is so ORDERED April 15, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION

80439503.DOCX  
DOJ docket number:SD2009702362

Attachment:

Exhibit A: Accusation No.2010-26

Exhibit A  
Accusation No. 2010-26

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 CARL W. SONNE  
Deputy Attorney General  
4 State Bar No. 116253  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3164  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

FILED

Date 11/3/09 By Kelli Okuma

9  
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. 2010-26

14 **JAVIER SANCHEZ**  
1202 Morena Blvd., Suite 400  
15 San Diego, CA 92110

**ACCUSATION**

16 **Field Representative License No. FR 40197**

17 Respondent.

18  
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 2. On or about June 2, 2006, the Structural Pest Control Board issued Field  
25 Representative License Number FR 40197 to Javier Sanchez (Respondent). The Field  
26 Representative License was in full force and effect at all times relevant to the charges brought  
27 herein 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 suspension/ expiration/ surrender/ cancellation of a license shall not deprive the Board/ Registrar/ Director 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 8654 of the Code states:

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

1 8. Section 8593 of the Code states:

2 The board shall require as a condition to the renewal of each operator's and field  
3 representative's license that the holder submit proof satisfactory to the board that he  
4 or she has informed himself or herself of developments in the field of pest control  
5 either by completion of courses of continuing education in pest control approved by  
6 the board or equivalent activity approved by the board. In lieu of submitting that  
7 proof, the licenseholder, if he or she so desires, may take and successfully complete  
8 an examination given by the board, designed to test his or her knowledge of  
9 developments in the field of pest control since the issuance of his or her license.

10 The board shall develop a correspondence course or courses with any educational  
11 institution or institutions as it deems appropriate. This course may be used to fulfill  
12 the requirements of this section. The institution may charge a reasonable fee for each  
13 course.

14 The board may charge a fee for the taking of an examination in each branch of pest  
15 control pursuant to this section in an amount sufficient to cover the cost of  
16 administering each examination, provided, however, that in no event shall the fee  
17 exceed fifty dollars (\$50) for each examination.

18 9. Section 8637 of the Code states that "[m]isrepresentation of a material fact by the  
19 applicant in obtaining a license or company registration is a ground for disciplinary action."

20 10. Section 8641 of the Code provides in pertinent part that "[f]ailure to comply with the  
21 provisions of this chapter, or any rule or regulation adopted by the board, . . . is a ground for  
22 disciplinary action."

#### 23 COST RECOVERY

24 11. Section 125.3 of the Code provides, in pertinent part, that the Board/ Registrar/  
25 Director may request the administrative law judge to direct a licentiate found to have committed a  
26 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
27 investigation and enforcement of the case.

#### 28 REGULATORY PROVISION

12. Title 16, California Code of Regulations ("Regulation"), section 1950, subdivision  
(a), states:

Except as provided in section 1951, every licensee is required, as a condition to a  
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

1 continuing education by producing certificates of activity completion, whenever  
2 required to do so by the Board, may be subject to disciplinary action under section  
3 8641 of the code.

4 FACTS

5 13. On or before June 30, 2008, Respondent submitted a renewal application to the Board  
6 in which he certified to the Board that that he had taken all required continuing education  
7 coursework required of him. Specifically, Respondent signed a License Renewal Application  
8 card, which provided in pertinent part:

9 Continuing Education Certification – I have completed 16 [blank filled in with the  
10 number 16] hours of continuing education required for renewal of my license. I  
11 DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE  
12 STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

13 Respondent signed his name below the above certification, and dated his signature “6/30/08.”

14 14. In fact, Respondent had not taken those hours of continuing education required of him  
15 as provided by law and as represented by him, and was not able to provide proof of the continuing  
16 education to the Board when requested to do so.

17 FIRST CAUSE FOR DISCIPLINE

18 (Failure to Provide Proof of Continuing Education)

19 15. Respondent’s license is subject to disciplinary action under Code section 8641, for  
20 failure to comply with Code section 8593 and Regulation section 1950, subdivision (a), in that  
21 Respondent failed to provide the Board with verifiable documentation to demonstrate that he  
22 completed the continuing education requirements as a condition of renewal of his license.

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