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

11 In the Matter of the Accusation Against:

Case No. 2010-16

12 **OTIS CHARLES ROBERTS**
13 **25200 Carlos Bee Blvd., #138**
14 **Hayward, California 94541**

DEFAULT DECISION AND ORDER

15 Respondent. [Gov. Code, §11520]

16
17 FINDINGS OF FACT

18 1. On or about October 6, 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. 2010-16 against Otis Charles Roberts (Respondent) before the
21 Structural Pest Control Board.

22 2. On or about June 19, 2006, the Structural Pest Control Board (Board) issued Field
23 Representative's License No. FR 40315, Branch 3 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 21, 2009, Carol L. Grays, an employee of the Department of
2 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-16, Statement
3 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
4 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
5 is 25200 Carlos Bee Blvd., #138, Hayward, California 94541. (A copy of the Accusation is
6 attached as Exhibit A, and is incorporated herein by reference.)

7 4. On or about October 14, 2009, Carol L. Grays, an employee of the Department of
8 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-16, Statement
9 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
10 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was 555
11 N Guild Avenue, Lodi, California 95240.

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

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

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 2010-16.

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

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

28 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
evidence on file herein, finds that the allegations in Accusation No. 2010-16 are true.

ORDER

IT IS SO ORDERED that Field Representative's License No. FR 40315, heretofore issued to Respondent Otis Charles Roberts, 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 February 10, 2010.

It is so ORDERED January 11, 2010



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment:

Exhibit A: Accusation No.2010-60

Exhibit A

Accusation No. 2010-16

1 EDMUND G. BROWN JR.
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FILED

Date 10/6/09 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:

Case No. 2010-16

12 **OTIS CHARLES ROBERTS**
13 **555 N Guild Avenue**
14 **Lodi, California 95240**
15 **Field Representative's License No. FR**
16 **40315, Branch 3**

A C C U S A T I O N

Respondent.

17
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 June 19, 2006, the Structural Pest Control Board issued Field
24 Representative's License Number FR 40315, Branch 3, to Otis Charles Roberts (Respondent).
25 The Field Representative's License was in full force and effect at all times relevant to the charges
26 brought herein and will expire on June 30, 2011, unless renewed.

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1 8. Section 8637 of the Code states:

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

4 9. Section 8641 of the Code states:

5 “Failure to comply with the provisions of this chapter, or any rule or regulation adopted
6 by the board, or the furnishing of a report of inspection without the making of a bona fide
7 inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work
8 completed prior to the completion of the work specified in the contract, is a ground for
9 disciplinary action.”

10 10. 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 11. 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 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate 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.

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1 THIRD CAUSE FOR DISCIPLINARY ACTION

2 (Fraudulent Act)

3 16. Respondent has subjected his field representative's license to disciplinary action
4 under Section 8642 of the Code in that he committed a fraudulent act by certifying under penalty
5 of perjury on his renewal application that he had acquired and could demonstrate 16 hours of
6 continuing education in order to meet the license renewal requirements pursuant to Title 16,
7 California Code of Regulations, section 1950, subdivision (d), when in fact he failed to obtain 16
8 hours of continuing education and/or failed to demonstrate that he had done so.

9 PRAYER

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

- 12 1. Revoking or suspending Field Representative's License Number FR 40315, issued to
13 Otis Charles Roberts (Respondent);
- 14 2. Ordering Respondent to pay the Structural Pest Control Board the reasonable costs of
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 10/6/09

Kelli Okuma
19 KELLI OKUMA
20 Registrar/Executive Officer
21 Structural Pest Control Board
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 SF2009404863
26 CSR: 09/23/09