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

In the Matter of the Accusation Against:  
  
**JOSE CERVANTES**  
**12710 Magnolia Avenue**  
**Riverside, CA 92503**  
  
**Field Representative License No. FR 40628**  
  
Respondent.

Case No. 2011-52

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 15, 2011, Complainant William H. Douglas, in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2011-52 against Jose Cervantes (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about August 18, 2006, the Structural Pest Control Board (Board) issued Field Representative License No. FR 40628 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, 2012, unless renewed.

3. On or about April 25, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-52, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is

1 required to be reported and maintained with the Board, which was and is 12710 Magnolia  
2 Avenue, Riverside, CA 92503.

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

6 5. On or about May 4, 2011, the First Class Mail copies of the Accusation No. 2011-52  
7 and attachments, were returned by the U.S. Postal Service marked "Undeliverable as addressed."  
8 On or about May 5, 2011, the Certified Mail copies of the Accusation No. 2011-52 and  
9 attachments, were returned by the U.S. Postal Service marked "Undeliverable as addressed." The  
10 address on the documents was the same as the address on file with the Board. Respondent failed  
11 to maintain an updated address with the Board and the Board has made attempts to serve the  
12 Respondent at the address on file. Respondent has not made himself available for service and  
13 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

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 2011-52.

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  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 2011-52, finds  
2 that the charges and allegations in Accusation No. 2011-52, are separately and severally, found to  
3 be true and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
6 and Enforcement is \$697.50 as of May 17, 2011.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Jose Cervantes has subjected his  
9 Field Representative License No. FR 40628 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Structural Pest Control Board is authorized to revoke Respondent's Field  
12 Representative License based upon the following violations alleged in the Accusation which are  
13 supported by the evidence contained in the Default Decision Evidence Packet in this case:

14 a. Respondent is subject to discipline under section 8641 of the Code on the grounds  
15 that Respondent failed to comply with title 16, California Code of Regulation, section 1950(a), by  
16 failing to submit verification of completing continuing education courses by producing  
17 certificates of completion for the renewal period of July 1, 2006 through June 30, 2009, as  
18 requested by the Board. On or about May 15, 2009, Respondent submitted a License Renewal  
19 Application to the Board. Respondent certified under penalty of perjury on the form that he had  
20 completed the continuing education hours required to renew his license in accordance with  
21 regulations. On or about December 8, 2009, February 8, 2010, May 11, 2010, and October 5,  
22 2010, the Board sent Respondent written requests instructing him to submit copies of his  
23 continuing education certificates for the renewal period to the Board within fourteen (14) days.  
24 Respondent was advised that if he failed to comply with the requests, his license would be subject  
25 to disciplinary action. Respondent was unable to provide the Board with any continuing  
26 education certificates for the renewal period of July 1, 2006 through June 30, 2009.

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b. Respondent is subject to discipline under section 8637 of the Code for misrepresentation of a material fact on his May 15, 2009 License Renewal Application by stating that he had completed the required continuing education hours to renew his license, when in fact he had not done so.

ORDER

IT IS SO ORDERED that Field Representative License No. FR 40628, heretofore issued to Respondent Jose Cervantes, 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 September 1, 2011.

It is so ORDERED August 2, 2011



FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION

80503646.DOC  
DOJ Matter ID:SD2010703604

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 KAREN L. GORDON  
Deputy Attorney General  
4 State Bar No. 137969  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2073  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

**FILED**

Date 4/15/11

By *William Douglas*

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

11 In the Matter of the Accusation Against:  
12  
13 **JOSE CERVANTES**  
**12710 Magnolia Avenue**  
**Riverside, CA 92503**  
14  
15 **Field Representative License No. FR 40628**  
**Branch 2**  
16 Respondent.

Case No. 2011-52  
**ACCUSATION**

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18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. William Douglas (Complainant) brings this Accusation solely in his official capacity  
22 as the Interim Executive Officer of the Structural Pest Control Board, Department of Pesticide  
23 Regulation.  
24 2. On or about August 18, 2006, the Structural Pest Control Board issued Field  
25 Representative License Number FR 40628 in Branch 2 to Jose Cervantes (Respondent). The  
26 Field Representative License was in full force and effect at all times relevant to the charges  
27 brought herein and will expire on June 30, 2012, unless renewed.

28







1 **FACTS**

2 13. On or about May 15, 2009, Respondent submitted a License Renewal Application  
3 to the Board. Respondent certified under penalty of perjury on the form that he had completed  
4 the continuing education hours required to renew his license in accordance with regulations.

5 14. On or about December 8, 2009, February 8, 2010, May 11, 2010, and October 5,  
6 2010, the Board sent Respondent written requests instructing him to submit copies of his  
7 continuing education certificates for the renewal period to the Board within fourteen (14) days.  
8 Respondent was advised that if he failed to comply with the requests, his license would be subject  
9 to disciplinary action. Respondent was unable to provide the Board with any continuing  
10 education certificates for the renewal period of July 1, 2006 through June 30, 2009.  
11

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

14 15. Respondent is subject to discipline under section 8641 of the Code on the grounds  
15 that Respondent failed to comply with California Code of Regulation, Title 16, section 1950(a),  
16 by failing to submit verification of completing continuing education courses by producing  
17 certificates of completion for the renewal period of July 1, 2006 through June 30, 2009, as  
18 requested by the Board on December 8, 2009, February 8, 2010, May 11, 2010, and October 5,  
19 2010.  
20

21 **SECOND CAUSE FOR DISCIPLINE**  
22 **(Misrepresentation in Renewing License)**

23 16. Respondent is subject to discipline under section 8637 of the Code for  
24 misrepresentation of a material fact on his May 15, 2009 License Renewal Application by stating  
25 that he had completed the required continuing education hours to renew his license, when in fact  
26 he had not done so.  
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**OTHER MATTERS**

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

18. Pursuant to Code section 8654, if discipline is imposed on Field Representative's License Number FR 40628, issued to Respondent, then Respondent shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Respondent shall be subject to disciplinary action.

**PRAYER**

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 40628, issued to Jose Cervantes
- 2. Ordering Jose Cervantes 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;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/15/11

*William Douglas*  
WILLIAM DOUGLAS  
Interim Executive Officer  
Structural Pest Control Board  
Department of Pesticide Regulation  
State of California  
*Complainant*

SD2010703604  
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