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FILED

Date 4/4/11 By Susan Taylor

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

11 In the Matter of the Accusation Against:

Case No. 2011-49

12 **TRAN T. LY**
13 **12710 Magnolia Avenue**
14 **Riverside, CA 92503**

A C C U S A T I O N

15 **Field Representative's License**
No. FR 41507, Branch 2

16 Respondent.

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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 March 20, 2007, the Structural Pest Control Board issued Field
24 Representative's License Number FR 41507 to Tran T. Ly (Respondent). The Field
25 Representative's License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2012, unless renewed.

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JURISDICTION

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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 (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.

STATUTORY PROVISIONS

6. Section 8593 of the Code states:

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

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

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

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REGULATIONS

9. California Code of Regulations, title 16, section 1950 states:

(a) 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.

(b) Each licensee is required to complete a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

....

(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations.

COSTS

10. Section 125.3 of the Code states, 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.

FIRST CAUSE FOR DISCIPLINE

(Proof of Continuing Education)

11. Respondent is subject to disciplinary action under Code section 8593 in that he failed to submit proof of completion of continuing education requirements for the renewal of his Field

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1 Representative License for the renewal period of July 1, 2006 through June 30, 2009. The
2 circumstances are as follows:

3 12. On or about June 30, 2009, Respondent signed his license Renewal Application for a
4 Field Representative license under penalty of perjury indicating that he had completed 16 hours
5 of continuing education that were required for renewal of his license. Respondent listed his
6 address of record as 12710 Magnolia Avenue, Riverside, CA 92503 (address of record).

7 13. On December 8, 2009, the Board sent Respondent a letter at his address of record,
8 informing him he was selected for the 2009 continuing education audit and was requested to
9 submit copies of the certificates of course completion that verify his continuing education hours
10 for the renewal period of July 1, 2006 through June 30, 2009. The Board requested that
11 Respondent provide the continuing education certificates within 14 days and that failure to do so,
12 would subject Respondent's license to disciplinary action. Respondent did not respond to the
13 Board's December 8, 2009 letter, nor did he submit any continuing education certificates to the
14 Board.

15 14. On February 8, 2010, the Board sent Respondent a "Second Request" to his address
16 of record, informing him that a letter had been sent to him in December 2009 informing him he
17 had been selected for the 2009 continuing education audit. The Board informed Respondent that
18 it did not receive the requested continuing education certification and that Respondent had 14
19 days to submit the certificates to the Board and that failure to do so, would subject Respondent's
20 license to disciplinary action. Respondent did not respond to the Board's February 8, 2010 letter,
21 nor did he submit any continuing education certificates to the Board.

22 15. On May 11, 2010, the Board sent Respondent a "Final Request" letter at his address
23 of record, informing him that a letter had been sent to him in December 2009 informing him he
24 had been selected for the 2009 continuing education audit. The Board informed Respondent that
25 it did not receive the requested continuing education certification and that Respondent had until
26 June 20, 2010 to submit the certificates to the Board and that failure to do so, would subject
27 Respondent's license to disciplinary action. Respondent did not respond to the Board's May 11,
28 2010 letter, nor did he submit any continuing education certificates to the Board.

1 16. On October 5, 2010, the Board sent Respondent a “Final Request” letter at his address
2 of record, informing him he was selected for a continuing education audit and was requested to
3 submit copies of the certificates of course completion that verify his continuing education hours
4 for the renewal period of July 1, 2006 through June 30, 2009. The Board requested that
5 Respondent provide the continuing education certificates within 14 days and that failure to do so,
6 would subject Respondent’s license to disciplinary action. Respondent did not respond to the
7 Board’s October 5, 2010 letter, nor did he submit any continuing education certificates to the
8 Board.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Misrepresentation of a Material Fact)

11 17. Respondent is subject to disciplinary action under Code section 8637 in that he
12 misrepresented a material fact to the Board when he applied to renew his Field Representative
13 License, and certified under penalty of perjury that he had completed 16 hours of continuing
14 education for the renewal period of July 1, 2006 through June 30, 2009, when he had not
15 completed the hours. The circumstances are set forth in paragraphs 11 through 16, above, and are
16 incorporated herein as though fully set forth.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Failure to Comply with Board Regulation-Continuing Education Requirements)

19 18. Respondent is subject to disciplinary action under Code section 8641 for failure to
20 comply with California Code of Regulations, title 16, section 1950, which required him to
21 complete 16 continuing education hours for the renewal period of July 1, 2006 through June 30,
22 2009, for his Field Representative License. The circumstances are set forth in paragraphs 11
23 through 16, above, and are incorporated herein as though fully set forth.

24 PRAYER

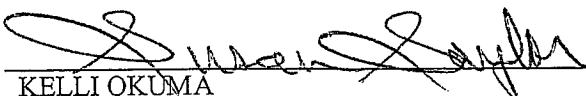
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Structural Pest Control Board issue a decision:

27 1. Revoking or suspending Field Representative's License Number FR 41507, issued to
28 Tran T. Ly;

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2. Ordering Tran T. Ly 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; and

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

DATED: 4/4/11 for 
KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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