

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

In the Matter of the Accusation Against:

Case No. 2011-48

**MARC RICHARD ALLEN**  
2175 Darnis Circle  
Morgan Hill, CA 95037

Field Representative License No. FR 41718

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Order is hereby adopted by the Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on August 26, 2011.

It is so ORDERED July 27, 2011.



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FOR THE STRUCTURAL PEST CONTROL  
BOARD  
DEPARTMENT OF PESTICIDE REGULATION

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 2011-48

12 **MARC RICHARD ALLEN**  
2175 Darnis Circle  
13 Morgan Hill, CA 95037

**STIPULATED SETTLEMENT AND  
ORDER**

14 **Field Representative License No. FR 41718**

15 Respondent.

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. William H. Douglas (Complainant) is the Interim Registrar/Executive Officer of the  
22 Structural Pest Control Board. He brought this action solely in his official capacity and is  
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
24 Shana A. Bagley, Deputy Attorney General.

25 2. Respondent Marc Richard Allen (Respondent) is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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1 3. On or about May 11, 2007, the Structural Pest Control Board issued Field  
2 Representative License No. FR 41718 to Respondent. The Field Representative License was in  
3 full force and effect at all times relevant to the charges brought in Accusation No. 2011-48 and  
4 will expire on June 30, 2012, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 2011-48 was filed before the Structural Pest Control Board (Board),  
7 Department of Pesticide Regulation, and is currently pending against Respondent. The  
8 Accusation and all other statutorily required documents were properly served on Respondent on  
9 April 6, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy  
10 of Accusation No. 2011-48 is attached as Exhibit A and incorporated in this Stipulated Settlement  
11 and Order by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, and understands the charges and allegations in  
14 Accusation No. 2011-48. Respondent has also carefully read, and understands the effects of this  
15 Stipulated Settlement and Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
20 the attendance of witnesses and the production of documents; the right to reconsideration and  
21 court review of an adverse decision; and all other rights accorded by the California  
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24 every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of the allegations in Paragraph 13, subparts (a) through  
27 (d), in the First Cause for Discipline in Accusation No. 2011-48.

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**CIRCUMSTANCES IN MITIGATION**

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2 9. Respondent Marc Richard Allen has never been the subject of any disciplinary action.  
3 He is admitting responsibility at an early stage in the proceedings.

**CONTINGENCY**

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5 10. This stipulation shall be subject to approval by the Structural Pest Control Board.  
6 Respondent understands and agrees that counsel for Complainant and the staff of the Structural  
7 Pest Control Board may communicate directly with the Board regarding this stipulation and  
8 settlement, without notice to or participation by Respondent. By signing the stipulation,  
9 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the  
10 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
11 stipulation, the Stipulated Settlement and Order shall be of no force or effect, except for this  
12 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
13 be disqualified from further action by having considered this matter.

14 11. The parties understand and agree that facsimile copies of this Stipulated Settlement  
15 and Order, including facsimile signatures thereto, shall have the same force and effect as the  
16 originals.

17 12. This Stipulated Settlement and Order is intended by the parties to be an integrated  
18 writing representing the complete, final, and exclusive embodiment of their agreement. It  
19 supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
20 negotiations, and commitments (written or oral). This Stipulated Settlement and Order may not  
21 be altered, amended, modified, supplemented, or otherwise changed except by a writing executed  
22 by an authorized representative of each of the parties.

23 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
24 the Board may, without further notice or formal proceeding, issue and enter the following Order:

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**ORDER**

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2 14. Complainant William H. Douglas, Interim Registrar/Executive Officer of the  
3 Structural Pest Control Board, shall withdraw the pending Accusation No. 2011-48 upon the  
4 issuance of a citation to Field Representative License No. FR 41718 issued to Respondent,  
5 pursuant to California Code of Regulations, title 16, section 1920, as follows:

6 (a) Respondent shall be cited for violation Business and Professions Code section 8593, in  
7 that he failed to submit timely proof to the Board that he completed 16 hours of courses of  
8 continuing education in pest control for the renewal period of July 1, 2006, through June 30,  
9 2009;

10 (b) Within six months, Respondent shall successfully complete a Board-approved  
11 continuing education course in Ethics. This course is in addition to and cannot be used to satisfy  
12 continuing education license renewal requirements; and

13 (c) Within six months of the issuance of the citation provided for in this Stipulation,  
14 Respondent shall pay to the Registrar a citation fine of \$1,997.50.

15 15. Failure to comply with this agreement within the time agreed upon will subject  
16 Respondent's license to discipline.

17 **ACCEPTANCE**

18 I have carefully read the Stipulated Settlement and Order. I understand the stipulation and  
19 the effect it will have on my Field Representative License. I enter into this Stipulated Settlement  
20 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and  
21 Order of the Structural Pest Control Board.

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23 DATED: 5-18-11

  
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MARC RICHARD ALLEN  
Respondent

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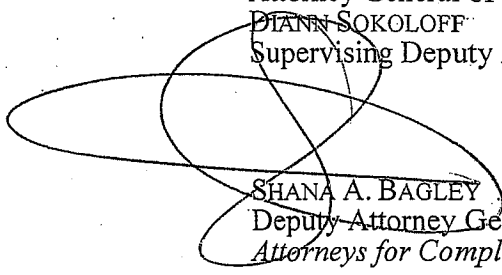
ENDORSEMENT

The foregoing Stipulated Settlement and Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation.

Dated: May 16, 2011  
23

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
~~DIANN SOKOLOFF~~  
Supervising Deputy Attorney General



SHANA A. BAGLEY  
Deputy Attorney General  
*Attorneys for Complainant*

SF2011900023/ Stipulation.rtf

**Exhibit A**

**Accusation No. 2011-48**

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 SHANA A. BAGLEY  
Deputy Attorney General  
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Facsimile: (510) 622-2270  
7 Attorneys for Complainant

**FILED**

Date 3/29/11 By Kelli Okuma

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

11 In the Matter of the Accusation Against:  
12 **MARC R. ALLEN**  
13 **2175 Darnis Circle**  
**Morgan Hill, CA 95037**  
14 **Field Representative License No. FR 41718**  
15 **(Branch 3)**  
16 Respondent.

Case No. 2011-48

**ACCUSATION**

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 May 11, 2007, the Structural Pest Control Board issued Field  
25 Representative License Number FR 41718 (Branch 3) to Marc Richard Allen (Respondent). The  
26 Field Representative License was in full force and effect at all times relevant to the charges  
27 brought in this Accusation and will expire on June 30, 2012, unless renewed.

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JURISDICTION

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2       3. This Accusation is brought before the Structural Pest Control Board (Board),  
3 Department of Pesticide Regulation, 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 118, subdivision (b), provides that the suspension, expiration, surrender,  
6 or cancellation of a license shall not deprive the Board or Registrar of jurisdiction to proceed with  
7 a disciplinary action during the period within which the license may be renewed, restored,  
8 reissued or reinstated.

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

13       6. Code section 8625 states:

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

STATUTORY PROVISIONS

19       7. Code section 498 states:

20               A board may revoke, suspend, or otherwise restrict a license on the ground  
21 that the licensee secured the license by fraud, deceit, or knowing misrepresentation  
22 of a material fact or by knowingly omitting to state a material fact.

23       8. Code section 8593 states, in pertinent part:

24               The board shall require as a condition to the renewal of each operator's and  
25 field representative's license that the holder submit proof satisfactory to the board  
26 that he or she has informed himself or herself of developments in the field of pest  
27 control either by completion of courses of continuing education in pest control  
28 approved by the board or equivalent activity approved by the board. . . .

9. Code section 8637 states that misrepresentation of a material fact by the applicant in  
obtaining a license is a ground for disciplinary action.

1 10. Code section 8641 provides:

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

7 **REGULATORY PROVISION**

8 11. California Code of Regulations, title 16, section 1950, states, in pertinent part:

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

15 (b) Each licensee is required to gain a certain number of continuing  
16 education hours during the three year renewal period. . . .

17 (d) Field representatives licensed in one branch of pest control shall have  
18 completed 16 continuing education hours, . . .

19 **COST RECOVERY**

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

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Bus. & Prof. Code §§ 8620 and 8593)  
26 (Failure to Provide Proof of Continuing Education)

27 13. Respondent's license is subject to discipline under Code section 8620 for violation of  
28 Code section 8593, in that he failed to submit proof satisfactory to the Board that he completed 16  
hours of courses of continuing education in pest control as required. The circumstances are as  
follows:

1 a. On or about June 29, 2009, respondent submitted a signed License Renewal  
2 Application, under penalty of perjury, stating that he had successfully completed 16 hours of  
3 courses of continuing education as required for the renewal.

4 b. In or about December 8, 2009, the Board conducted a random continuing education  
5 audit and requested from Respondent certificates of course completion to verify the continuing  
6 education hours for the renewal period of July 1, 2006 through June 30, 2009. Respondent did  
7 not respond to the Board and did not verify completion of continuing education because he failed  
8 to produce certificates of course completion.

9 c. In or about March 23, 2010, as part of its random continuing education audit, the  
10 Board made a second request to Respondent for certificates of course completion to verify the  
11 continuing education hours for the renewal period of July 1, 2006 through June 30, 2009.  
12 Respondent did not respond to the Board and did not verify completion of continuing education  
13 because he failed to produce certificates of course completion.

14 d. In or about May 11, 2010, as part of its random continuing education audit, the Board  
15 made a third request to Respondent for certificates of course completion to verify the continuing  
16 education hours for the renewal period of July 1, 2006 through June 30, 2009. Respondent did  
17 not respond to the Board and did not verify completion of continuing education because he failed  
18 to produce certificates of course completion.

19 e. In or about October 5, 2010, as part of its random continuing education audit, the  
20 Board made a fourth request to Respondent for certificates of course completion to verify the  
21 continuing education hours for the renewal period of July 1, 2006 through June 30, 2009.  
22 Respondent did not respond to the Board and did not verify completion of continuing education  
23 because he failed to produce certificates of course completion.

24 f. Respondent had not completed 16 hours of courses of continuing education at the  
25 time he certified his license renewal application. If Respondent had completed the foregoing  
26 continuing education, he would have been able to produce certificates of completion.

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**SECOND CAUSE FOR DISCIPLINE**

**(Bus. & Prof. Code §§ 498, 8620, and 8637)  
(Misrepresentation of Material Fact)**

14. Respondent's license is subject to discipline under Code sections 498 and 8620 for violation of Code section 8637, in that Respondent misrepresented that he had completed 16 hours of continuing education, when he certified his license renewal. The circumstances are described in detail in Paragraph 13, subsections a-f, above, and incorporated by reference.

**THIRD CAUSE FOR DISCIPLINE**

**(Bus. & Prof. Code §§ 8620 and 8641 and Cal. Code Regs., tit. 16, § 1950)  
(Failure to Comply with the Statutes and Regulations Adopted by the Board)**

15. Respondent's license is subject to discipline under Code 8620 for violation of code section 8641, in that Respondent failed to comply with the provisions of California Code of Regulations, title 16, section 1950, subdivision (a), by failing to submit to the Board as a condition of renewal of his field representative's license satisfactory proof of his completion of Board-approved courses of continuing education in pest control, or equivalent activity. The circumstances are described in detail in Paragraph 13, subsections a-f, above, and incorporated by reference.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Structural Pest Control Board issue a decision:

1. Revoking or suspending Field Representative License Number FR 41718 (Branch 3), issued to Marc Richard Allen
2. Ordering Marc Richard Allen 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

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

DATED: 3/29/11

*Kelli Okuma*

KELLI OKUMA  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Pesticide Regulation  
State of California  
*Complainant*

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