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7

8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2009-52

12 PAUL MICHAEL HELLER
2010 West Avenue K/PMB #447
13 Lancaster, CA 93536

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

14 Field Representative License No. FR 42170

15 Respondent.
16

17 FINDINGS OF FACT

18 1. On or about March 23, 2009, Complainant Kelli Okuma, in her official
19 capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of
20 Consumer Affairs, filed Accusation No. 2009-52 against Paul Michael Heller (Respondent)
21 before the Structural Pest Control Board.

22 2. On or about August 15, 2007, the Structural Pest Control Board (Board)
23 issued Field Representative License No. FR 42170 to Respondent. The Field Representative
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on June 30, 2010, unless renewed.

26 3. On or about March 30, 2009, Maria L. Camacho, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
28 2009-52, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

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

3 2010 West Avenue K/PMB #447
4 Lancaster, CA 93536.

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
7 provisions of Government Code section 11505, subdivision (c):

8 5. On or about April 20, 2009, the DOJ received a certified mail receipt from
9 the U.S. Postal Service indicating that Respondent took receipt of the Accusation on or about
10 April 1, 2009.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
17 Accusation No. 2009-52.

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

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

22 9. Pursuant to its authority under Government Code section 11520, the Board
23 finds Respondent is in default. The Board will take action without further hearing and, based on
24 the evidence on file herein, finds that the allegations in Accusation No. 2009-52 are true.

25 10. The total cost for investigation and enforcement in connection with the
26 Accusation are \$939.50 as of April 20, 2009.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Paul Michael Heller
3 has subjected his Field Representative License No. FR 42170 to discipline.

4 2. A copy of the Accusation is attached.

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

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

8 a. On or about August 5, 2008, in a criminal proceeding entitled
9 People of the State of California v. Paul Michael Heller, in Los Angeles County Superior Court
10 (North District), case number 7AV12615, Respondent pled nolo contendere to violating Penal
11 Code section 484, subdivision (a) (Theft of Property), a misdemeanor, conduct substantially
12 related to the qualifications, functions, and duties of a licensee.

13 ORDER

14 IT IS SO ORDERED that Field Representative License No. FR 42170, heretofore
15 issued to Respondent Paul Michael Heller, is revoked.

16 Pursuant to Government Code section 11520, subdivision (c), Respondent may
17 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
18 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
19 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
20 statute.

21 This Decision shall become effective on June 17, 2009.

22 It is so ORDERED May 18, 2009

23
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25 FOR THE STRUCTURAL PEST CONTROL BOARD
26 DEPARTMENT OF CONSUMER AFFAIRS

27 60403927.wpd

28 DOJ docket number: LA2008900634

Attachment: Exhibit A: Accusation No.2009-52

Exhibit A
Accusation No. 2009-52

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6 Attorneys for Complainant

FILED

Date 3/23/09 By Kelli Okuma

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-52

13 **PAUL MICHAEL HELLER**
2010 West Avenue K/PMB #447
Lancaster, California 93536

ACCUSATION

14 Field Representative License No. FR 42170

15 Respondent.

16
17 Kelli Okuma ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the
20 Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of
21 Consumer Affairs.

22 **Field Representative License**

23 2. On or about August 15, 2007, the Board issued Field Representative
24 License Number FR 42170 ("license") to Paul Michael Heller ("Respondent"). The license will
25 expire on June 30, 2010, unless renewed.

26 **JURISDICTION**

27 3. Section 8620 of the Business and Professions Code (Code) provides, in
28 pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while

1 a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary
2 action or in lieu of a suspension may assess a civil penalty.

3 4. Code section 8624 states:

4 "If the board suspends or revokes an operator's license and one or more branch
5 offices are registered under the name of the operator, the suspension or revocation may be
6 applied to each branch office."

7 5. Code section 8625 states:

8 The lapsing or suspension of a license or company
9 registration by operation of law or by order or decision of the board
10 or a court of law, or the voluntary surrender of a license or
11 company registration shall not deprive the board of jurisdiction to
12 proceed with any investigation of or action or disciplinary
13 proceeding against such licensee or company, or to render a
14 decision suspending or revoking such license or registration.

12 STATUTORY PROVISIONS

13 6. Code section 8649 states:

14 Conviction of a crime substantially related to the
15 qualifications, functions, and duties of a structural pest control
16 operator, field representative, applicator, or registered company is a
17 ground for disciplinary action. The certified record of conviction
18 shall be conclusive evidence thereof.

17 7. Section 8654 of the Code states:

18 Any individual who has been denied a license for any of the
19 reasons specified in Section 8568, or who has had his or her license
20 revoked, or whose license is under suspension, or who has failed to
21 renew his or her license while it was under suspension, or who has
22 been a member, officer, director, associate, qualifying manager, or
23 responsible managing employee of any partnership, corporation,
24 firm, or association whose application for a company registration
25 has been denied for any of the reasons specified in Section 8568, or
26 whose company registration has been revoked as a result of
27 disciplinary action, or whose company registration is under
28 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 8655 of the Code states:

2 A plea or verdict of guilty or a conviction following a plea
3 of nolo contendere made to a charge substantially related to the
4 qualifications, functions, and duties of a structural pest control
5 operator, field representative, applicator, or registered company is
6 deemed to be a conviction within the meaning of this article or
7 Section 8568 of this chapter. The board may order the license or
8 registration suspended or revoked, or may decline to issue a
9 license, when the appeal or when an order granting probation is
10 made suspending the imposition of sentence, irrespective of a
11 subsequent order under the provisions of Section 1203.4 of the
12 Penal Code allowing the individual or registered company to
13 withdraw a plea of guilty and to enter a plea of not guilty, or setting
14 aside the verdict of guilty, or dismissing the accusation,
information, or indictment.

15 **COST RECOVERY**

16 9. Code section 125.3 states, in pertinent part, that a Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations
18 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **CAUSE FOR DISCIPLINE**

21 **(Criminal Conviction)**

22 10. Respondent is subject to disciplinary action under section Code section
23 8649, in that on or about August 5, 2008, before the Superior Court of California, County of
24 Los Angeles, in the case entitled, *People of the State of California v. Paul Michael Heller*
(Super. Ct. Los Angeles County, 2008, Case No. 7AV12615), Respondent was convicted on his
25 plea of nolo contendere of violating Penal Code section 484, subdivision (a) (Theft of Property),
26 a misdemeanor. The circumstances of the conviction are that on November 28, 2007,
27 Respondent did take property belonging to Staples and Big Buy. Such conviction is substantially
28 related to the qualifications, functions, and duties of a licensee.

OTHER MATTERS

 11. Pursuant to Code section 7121, if Respondent's application for a license is
denied, then Respondent shall be prohibited from serving as an officer, director, associate,
partner, or qualifying individual of any license, and any licensee which employs, elects or

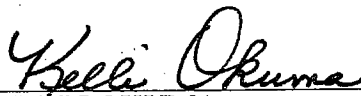
1 associates Respondent in any capacity other than as a non-supervising bona fide employee shall
2 be subject to disciplinary action.

3 PRAYER

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

- 6 1. Revoking or suspending Field Representative License Number FR 42170
7 issued to Paul Michael Heller;
8 2. Prohibiting Paul Michael Heller from serving as an officer, director,
9 associate, partner, or qualifying individual of any licensee;
10 3. Ordering Paul Michael Heller to pay the Board the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Code section 125.3; and,
12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 3/23/09

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16 
17 KELLI OKUMA
18 Registrar/Executive Officer
19 Structural Pest Control Board
20 Department of Consumer Affairs
21 State of California
22 Complainant
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