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

In the Matter of the Accusation Against:

**KEVIN BROWN, a.k.a. KEVIN
LEONNELL BROWN
1610 Moffet Street, Suite B
Salinas, CA 93905
Field Representative License No. FR 42207**

Respondent.

Case No. 2011-17
OAH No. 2011020172
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 6, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2011-17 against Kevin Brown, also known as Kevin Leonnell Brown (Respondent) before the Structural Pest Control Board. (Accusation attached as exhibit A.)
2. On or about August 23, 2007, the Structural Pest Control Board (Board) issued Field Representative License No. FR 42207 to Respondent. On or about March 25, 2010, Field Representative License FR 42207 was upgraded to include Branches 2 and 3. The Field Representative License was in full force and effect at all times relevant to the charges brought in the Accusation and will expire on June 30, 2013, unless renewed.

1 3. On or about December 13, 2010, Respondent was served by Certified Mail copies of
2 the Accusation No. 2011-17, Statement to Respondent, Notice of Defense, Request for Discovery,
3 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
5 required to be reported and maintained with the Board, which was and is: 1610 Moffet Street,
6 Suite B, Salinas, CA 93905.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about December 16, 2010, Respondent signed and returned a Notice of
11 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at
12 Respondent's address of record in addition to the address stated on Respondent's Notice of
13 Defense, and the Notice of Hearing informed him that an administrative hearing in this matter
14 was scheduled for June 7, 2011. Respondent failed to appear at that hearing.

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

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

21 7. California Government Code section 11520 states, in pertinent part:

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

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 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
file at the Board's offices regarding the allegations contained in Accusation No. 2011-17, finds

1 that the charges and allegations in Accusation No. 2011-17, are separately and severally, found to
2 be true and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$3,507.50 as of June 14, 2011.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Kevin Brown, also known as
8 Kevin Leonnell Brown has subjected his Field Representative License No. FR 42207 to
9 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. Business and Professions Code sections 490 (conviction of substantially related
15 crime) and 8649 (conviction of a crime substantially related to the qualifications, functions, and
16 duties of a structural pest control operator, field representative, applicator, or registered
17 company).

ORDER

IT IS SO ORDERED that Field Representative License No. FR 42207, issued to Respondent Kevin Brown, also known as Kevin Leonnell Brown 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 August 31, 2011.

It is so ORDERED August 1, 2011



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

90195559.DOC
DOJ Matter ID:SF2010900348

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 Attorneys for Complainant

FILED

Date 12/6/10 By Kelli Okuma

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

11 In the Matter of the Accusation Against:
12 KEVIN BROWN, a.k.a. KEVIN
LEONNELL BROWN
13 1610 Moffet Street, Suite B
Salinas, CA 93905
14 Field Representative License No. FR 42207
15 Respondent.

Case No. 2011-17

ACCUSATION

16
17 Complainant alleges:

18
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 August 23, 2007, the Structural Pest Control Board issued Field
24 Representative License Number FR 42207, Branch 3, to Kevin Brown, also known as Kevin
25 Leonnell Brown (Respondent). On or about March 25, 2010, Field Representative License FR
26 42207 was upgraded to include Branches 2 and 3. The Field Representative License was in full
27 force and effect at all times relevant to the charges brought in this Accusation and will expire on
28 June 30, 2013, unless renewed.

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JURISDICTION

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 unless otherwise indicated.

4. Section 8620 of the Business and Professions Code (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.”

6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Section 8649 of the Code states:

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

8. Section 490 of the Code states, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

COST RECOVERY

1
2 9. Section 125.3 of the Code states, in pertinent part, that a Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

CAUSE FOR DISCIPLINE
(Conviction)

6
7 10. Respondent has subjected his field representative license to disciplinary action under
8 Code sections 490 and 8649 in that he was convicted of a crime substantially related to the
9 qualifications, functions, or duties of a field representative. Specifically, on or about June 10,
10 2010, in a criminal proceeding entitled *People of the State of California v. Kevin Leonnell Brown*,
11 in the Superior Court of Monterey County, Case Number SS0703050A, Respondent was
12 convicted by plea of no contest to one count of violating Penal Code section 487(a) (grand theft),
13 a misdemeanor. Respondent was sentenced to three years of formal probation, ordered to pay
14 restitution to the victim in the amount of \$14,103.36, along with other fees, ordered to maintain
15 gainful employment or become enrolled as an active full-time student, and required to permit the
16 search of his person, car, personal effects, or place of residence without a search warrant at the
17 direction of any Probation Officer or Peace Officer.

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 42207, issued to Kevin Brown, also known as Kevin Leonnell Brown;

2. Ordering Kevin Brown, also known as Kevin Leonnell Brown 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;

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

DATED: 12/6/10

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

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