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**FILED**

*Date 2/8/12 By William H. Douglas*

7  
8 **BEFORE THE**  
9 **STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF PESTICIDE REGULATION**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-34

13 **MICHAEL A GUEVARA**  
14 **1605 E Pine Aveue,**  
**Lompoc, CA 93436**  
15 **Field Representative's License No. FR 43691**  
**Branch 2**

**ACCUSATION**

Respondent

16 Complainant alleges:

17 **PARTIES**

- 18 1. William H. Douglas ("Complainant") brings this Accusation solely in his official  
19 capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board  
20 ("Board"), Department of Pesticide Regulation.
- 21 2. On or about October 14, 2008, the Board issued Field Representative's License  
22 Number FR 43691 in Branch 2 (general pest) to Michael A. Guevara ("Respondent").  
23 Respondent's field representative's license will expire on June 30, 2014, unless renewed.
- 24 3. On or about March 21, 2007, the Board issued Applicator License Number RA 47095  
25 in Branch 2 (general pest) and Branch 3 (termite) to Michael A. Guevara ("Respondent"). On or  
26 about October 14, 2008, Applicator License No. RA 47095 was downgraded to Branch 3  
27 (termite) due to the issuance of a field representative license. On or about March 21, 2010,  
28 Respondent's Applicator license expired and has not been renewed.



1 branch of pest control pursuant to this section in an amount sufficient to cover the  
2 cost of administering each examination, provided, however, that in no event shall the  
3 fee exceed fifty dollars (\$ 50) for each examination.

4 8. California Code of Regulations, title 16, section ("Regulation") 1950 states, in  
5 pertinent part:

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

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

19 . . . .

20 (d) Field representatives licensed in one branch of pest control shall have  
21 completed 16 continuing education hours, field representatives licensed in two  
22 branches of pest control shall have completed 20 continuing education hours, field  
23 representatives licensed in three branches of pest control shall have completed 24  
24 continuing education hours during each three year renewal period. In each case, a  
25 minimum of four continuing education hours in a technical subject directly related to  
26 each branch of pest control held by the licensee must be gained for each branch of  
27 pest control licensed and a minimum of eight hours must be gained from Board  
28 approved courses on the Structural Pest Control Act, the Rules and Regulations, or  
structural pest control related agencies' rules and regulations . . .

### COST RECOVERY

9. Code section 125.3 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.

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### FIRST CAUSE FOR DISCIPLINE

(Failure to Verify Completion of Continuing Education)

1                   10. In or before June 2011, Respondent submitted a license renewal  
2 application to the Board wherein Respondent certified under penalty of perjury that he  
3 successfully completed four (4) hours of continuing education during his last renewal period.

4                   11. On or about July 25, 2011, a representative of the Board sent Respondent  
5 a letter indicating that his renewal application was deficient in that his personal signature and/or  
6 date were missing from the application and his continuing education hours were insufficient in  
7 that Respondent had only reported completing four (4) hours of continuing education during his  
8 last renewal period. On or about July 27, 2011, Respondent sent back to the Board a completed  
9 statement under penalty of perjury that he had completed sixteen (16) hours of continuing  
10 education required for renewal of his license.

11                   12. On or about October 20, 2011, a representative of the Board sent  
12 Respondent a letter asking Respondent to submit copies of course completion that verify his  
13 continuing education hours for the renewal period of July 1, 2008 through June 30, 2011, to the  
14 Board.

15                   13. On or about November 7, 2011, Respondent sent to the Board a letter to  
16 the Board detailing his financial difficulties but failing to supply the Board with certificates of  
17 completion verifying his continuing education hours for the renewal period in question. On or  
18 about November 28, 2011, a representative of the Board sent Respondent a letter indicating that  
19 Respondent was eight (8) hours short on Rules and Regulations, three (3) hours short on  
20 Technical Branch 2, two (2) hours short on general and one (1) hour short on IPM and that  
21 Respondent needed to produce the certificates to the Board on or before December 12, 2011. On  
22 or about December 5, 2011, Respondent sent a letter to the Board indicating that he was not able  
23 to produce any more certificates verifying his continuing education hours for the renewal period  
24 in question.

25                   14. Respondent is subject to disciplinary action pursuant to Code sections  
26 8641 and 8593 in that he failed to comply with Regulation 1950 by failing to verify that he  
27 completed all of the required courses of continuing education in pest control approved by the  
28 Board. Specifically, Respondent failed to produce copies documenting completion of sixteen

1 (16) hours of continuing education for the 2011 renewal cycle as requested by the Board's  
2 representative.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Misrepresentation of Material Fact)**

5 15. Respondent is subject to disciplinary action pursuant to Code sections  
6 8641 and 8637 in that he made a misrepresentation of a material fact to the Board or its designee  
7 in that on or about July 27, 2011, Respondent sent back to the Board a completed statement under  
8 penalty of perjury that he had completed all sixteen (16) hours of continuing education required  
9 for renewal of his license when in fact he had completed only two (2) of the hours required for  
10 renewal of his license. Paragraphs 10-14 are hereby incorporated by reference as though alleged  
11 herein.

12 **OTHER MATTERS**

13 16. Code section 8620 provides, in pertinent part, that a respondent may  
14 request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of  
15 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request  
16 must be made at the time of the hearing and must be noted in the proposed decision. The  
17 proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

18 17. Pursuant to Code section 8654, if discipline is imposed on Field  
19 Representative's License Number FR 43691, issued to Michael A. Guevara, Michael A. Guevara  
20 shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or  
21 responsible managing employee for any registered company during the time the discipline is  
22 imposed, and any registered company which employs, elects, or associates Michael A. Guevara  
23 shall be subject to disciplinary action.

24 **PRAYER**

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

- 27 1. Revoking or suspending Field Representative's License Number  
28 FR 43691, issued to Michael A. Guevara;

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2. Prohibiting Michael A. Guevara from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Field Representative's License Number FR 43691, issued to Michael A. Guevara;

3. Ordering Michael A. Guevara 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;

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

DATED: 2/8/12

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

LA2012601917