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FILED

Date 4/5/11 By Susan Saylor

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

In the Matter of the Accusation Against: **JOSEPH ALEXANDER URIAS** **2842 Bascom Avenue** **San Jose, CA 95124** **Applicator No. RA 51427, Branches 2 & 3** **Field Representative's License No. FR 46441** Respondent.	Case No. 2011-50 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.

2. On or about October 18, 2010, the Structural Pest Control Board issued Applicator Number RA 51427, Branches 2 & 3 to Joseph Alexander Urias (Respondent). The Applicator License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on October 18, 2013, unless renewed.

3. On or about February 7, 2011, the Structural Pest Control Board issued Field Representative's License Number FR 46441 to Joseph Alexander Urias (Respondent). The Field

Representative License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on June 30, 2013, unless renewed.

JURISDICTION

4. 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.

5. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation 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.

6. 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

7. Section 498 of the Code states:

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

8. 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.

9. 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."

COST RECOVERY

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.

CAUSE FOR DISCIPLINE
(Misrepresentation in Obtaining License)
(Bus. & Prof. Code §§498, 8620, 8637)

11. Respondent has subjected his Field Representative's License and his Applicator License to disciplinary action under Business and Professions Code sections 498, 8620 and 8637, in that he procured both licenses from the Board through misrepresentation. The circumstances are as follows:

12. On or about September 3, 2010, Respondent submitted an Application for Structural Pest Control Applicator Examination and License to the Structural Pest Control Board. Also, on or about January 24, 2011, Respondent submitted an Application for Field Representative License to the Structural Pest Control Board. In both of these applications, Respondent specifically denied ever having been found guilty of any violation or provision of the Structural Pest Control Act. However, on September 7, 2006, an Accusation entitled In the Matter of the Accusation Against Joseph Alexander Urias before the Structural Pest Control Board, in Case Number 2007-16 was filed against Respondent. The Accusation charged Respondent with violating provisions of (1) the Structural Pest Control Act, and (2) pesticide application and fumigation laws of the state. Respondent agreed to a Stipulated Settlement to resolve the Accusation. On August 27, 2007, the Structural Pest Control Board adopted the Stipulated Settlement and Disciplinary Order. Respondent's Field Representative's License Number FR 31332 (this license has since been canceled) was revoked but the revocation was stayed and Respondent was placed on probation for three years on several terms and conditions.

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DISCIPLINE CONSIDERATIONS

13. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that Respondent was the subject of a prior disciplinary action described in paragraph 12, above. In resolving that Accusation, Respondent admitted that there was a factual basis for the imposition of discipline based on the charges and allegations contained in the Accusation. Respondent's license was revoked but the revocation was stayed and Respondent was placed on probation for three years. Respondent agreed to comply with standard terms and conditions of probation, including submitting quarterly reports and completing a continuing education course. The Board's Decision and Order adopting the Stipulated Settlement became effective August 27, 2007. That decision is now final and is incorporated by reference as if fully set forth.

14. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that Respondent failed to comply with some of the probationary terms of the Stipulated Settlement discussed above. Specifically, Respondent did not submit quarterly reports and did not complete a continuing education course.

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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 Applicator Number RA 51427, Branches 2 & 3, issued to Joseph Alexander Urias;

2. Revoking or suspending Field Representative's License Number FR 46441, issued to Joseph Alexander Urias;

3. Ordering Joseph Alexander Urias 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: 4/5/11

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

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