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

In the Matter of the Accusation Against: **JOSEPH ALEXANDER URIAS** **1385 East 9th Street** **Chico, CA 95928** **Applicator License No. RA 51427, Branches 2 & 3** **Field Representative's License No. FR 46441** Respondent.	Case No. 2011-50

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 January 11, 2012.

It is so ORDERED December 12, 2011.

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General
State Bar No. 161082
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2212
Facsimile: (510) 622-2270
Attorneys for Complainant

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

In the Matter of the Accusation Against: JOSEPH ALEXANDER URIAS 1385 East 9th Street Chico, CA 95928 Applicator License No. RA 51427, Branches 2 & 3 Field Representative's License No. FR 46441, Branch 2 Respondent.	Case No. 2011-50 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

2. Joseph Alexander Urias (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about October 18, 2010, the Structural Pest Control Board issued Applicator License No. RA 51427, Branches 2 & 3 to Respondent. The Applicator License was in full force

and effect at all times relevant to the charges brought in Accusation No. 2011-50 and will expire on October 18, 2013, unless renewed.

4. On or about February 7, 2011, the Structural Pest Control Board issued Field Representative's License No. FR 46441, Branch 2 to Respondent. The Field Representative License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-50 and will expire on June 30, 2013, unless renewed.

JURISDICTION

5. Accusation No. 2011-50 was filed before the Structural Pest Control Board (Board), Department of Pesticide Regulation, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 10, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

A copy of Accusation No. 2011-50 is attached as exhibit A and incorporated here by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2011-50. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 2011-50.

10. Respondent agrees that his Applicator License and Field Representative License are subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Applicator License No. RA 51427, Branches 2 & 3 and Field Representative's License No. FR 46441, Branch 2 issued to Respondent are revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all laws and rules relating to the practice of structural pest control.

2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during the period of probation.

3. **Tolling of Probation.** Should Respondent leave California to reside outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

4. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in Accusation No. 2011-50 and the terms, conditions and restriction imposed on Respondent by said decision.

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in Accusation No. 2011-50.

5. **Completion of Probation.** Upon successful completion of probation, Respondent's license/certificate will be fully restored.

6. **Violation of Probation.** Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

7. **Continuing Education Courses.** Respondent Joseph Alexander Urias shall complete the twelve (12) hours of continuing education (four (4) hours Rules and Regulations and eight (8) hours Technical in Branch 1) that he was ordered to complete in Case No. 2007-16, within 90 days of the effective date of this decision.

8. **Random Inspections.** Respondent shall reimburse the Board for quarterly random inspections to be performed by Board specialists during the period of probation not to exceed $125 per inspection.

9. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying Manager.** Respondent is prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company during the period that discipline is imposed on Applicator License No. RA 51427, Branches 2 & 3 and Field Representative License No. FR 46441, Branch 2.

10. **Operator's License**. Should Respondent apply for an operator license and pass the examination, the Board shall issue an operator license, which shall be immediately placed on probation for the same duration and under the same terms and conditions as set forth in this decision.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of $1,792.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed by the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with t his condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

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ACCEPTANCE

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

DATED: 10/3/11

JOSEPH ALEXANDER URIAS
Respondent

ENDORSEMENT

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

Dated: September 29, 2011

Respectfully submitted,

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

DIANN SOKOLOFF
Supervising Deputy Attorney General
Attorneys for Complainant

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Stipulation.rtf

Exhibit A

Accusation No. 2011-50

KAMALA D. HARRIS
Attorney General of California
ALFREDO TERRAZAS
Senior Assistant Attorney General
DIANN SOKOLOFF
Supervising Deputy Attorney General
State Bar No. 161082
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2212
Facsimile: (510) 622-2270
Attorneys for Complainant

FILED
Date 4/5/11 By

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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