

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

In the Matter of the Accusation Against:

DUSTIN L. BOWMAN
29267 Poppy Meadow Street
Canyon Country, CA 91387
Field Representative License No. FR 40072

Respondent.

Case No. 2010-58

OAH No. L-2010041085

DECISION AND DISCIPLINARY 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.

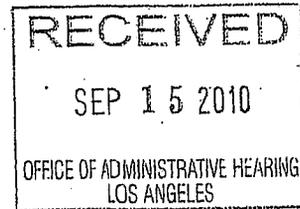
This Decision shall become effective on December 1, 2010.

It is so DISCIPLINARY ORDERED November 2, 2010.

Clifford A. Miller

FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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Deputy Attorney General
4 State Bar No. 141773
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Attorneys for Complainant



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

11 In the Matter of the Accusation Against:

Case No. 2010-58

12 **DUSTIN L. BOWMAN**
13 **29267 Poppy Meadow Street**
Canyon Country, CA 91387
14 **Field Representative License No. FR 40072**

OAH No. L-2010041085
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

Respondent.

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

19 PARTIES

20 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the Structural Pest
21 Control Board. She brought this action solely in her official capacity and is represented in this
22 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Rene
23 Judkiewicz, Deputy Attorney General.

24 2. Respondent Dustin L. Bowman (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about May 16, 2006, the Structural Pest Control Board issued Field
27 Representative License No. FR 40072 to Respondent. The Field Representative License was in
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1 full force and effect at all times relevant to the charges brought in Accusation No. 2010-58 and
2 will expire on June 20, 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2010-58 was filed before the Structural Pest Control Board (Board),
5 Department of Pesticide Regulation, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 March 9, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 2010-58 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 2010-58. Respondent has also carefully read, and understands the effects of this
12 Stipulated Settlement and Disciplinary Order.

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

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

22 CULPABILITY

23 8. Respondent admits that he has not timely submitted proof that he successfully
24 completed sixteen (16) hours of continuing education, having only submitted proof of completion
25 of thirteen (13) hours the morning of the administrative hearing set for September 15, 2010, and
26 he admits that he is missing proof of completion of the remaining three (3) hours of continuing
27 education.

RECEIVED
SEP 15 2010
OFFICE OF ADMINISTRATIVE HEARING
LOS ANGELES

DISCIPLINARY ORDER

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IT IS HEREBY ORDERED that in lieu of disciplinary action under the Accusation brought against Respondent's Field Representative License No. FR 40072, a citation and fine will be issued, and the Accusation will be withdrawn in lieu of the citation and fine, with the following terms and conditions:

1. **Fine.** Respondent shall pay to the Board a fine amounting to \$2,510.00.
2. **Completion of Continuing Education.** Respondent shall provide proof of successful completion of three (3) hours of continuing education within six (6) months of the effective date of the citation, and Respondent shall submit the certification of completion of a Technical Branch 2 Course No. 3786(g).
3. **Ethics Course.** Respondent shall provide proof of successful completion of a Board-approved ethics course within six (6) months of the effective date of the citation.
4. **Violation of Terms.** Should Respondent violate the terms and conditions of the Disciplinary Order in any respect, the Board may deny the renewal of the subject license.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my 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 Disciplinary Order of the Structural Pest Control Board.

DATED: 9/15/2010

Dustin L. Bowman
DUSTIN L. BOWMAN
Respondent

RECEIVED
SEP 15 2010
OFFICE OF ADMINISTRATIVE HEARING
SACRAMENTO

ENDORSEMENT

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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: 9/15/10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

Rene Judkiewicz
RENE JUDKIEWICZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2010-58

1 EDMUND G. BROWN JR.
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2 KAREN B. CHAPPELLE
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Deputy Attorney General
4 State Bar No. 141773
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5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804
Attorneys for Complainant

FILED

Date 2/22/10 By Kelli Okuma

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

10 In the Matter of the Accusation Against:

Case No. 2010-58

11 **DUSTIN L. BOWMAN**
12 29267 Poppy Meadow Street
13 Canyon Country, CA 91387
Field Representative License No. FR 40072

ACCUSATION

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about May 16, 2006, the Board issued Field Representative License Number
22 FR 40072, Branch 2, to Dustin L. Bowman ("Respondent"). The Field Representative License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 June 20, 2011, unless renewed.

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STATUTORY PROVISIONS

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3. Business and Professions Code ("Code") section 8620 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.

4. Code section 8641 states:

"Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action."

5. Code section 8593 states, in part:

"The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license."

REGULATORY PROVISION

6. California Code of Regulations, title 16, section 1950, states, in pertinent part:

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

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COST RECOVERY

7. 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.

BACKGROUND INFORMATION

8. In or about June 2008, the Board received Respondent's renewal application. Respondent certified under penalty of perjury on the renewal application form that he successfully completed sixteen (16) hours of continuing education.

9. In a letter dated December 15, 2008, the Board wrote Respondent instructing him to submit copies of his continuing education certificates within fourteen (14) days from the date of the Board's letter. The Board subsequently sent written requests for copies of the continuing education certificates in a letter dated January 20, 2009 and in a letter dated March 19, 2009. On each occasion, Respondent was advised that if he failed to comply with the request, his license would be subject to disciplinary action. Respondent failed to provide copies of his continuing education certificates.

CAUSE FOR DISCIPLINE

(Failure to Verify Completion of Continuing Education)

10. Respondent is subject to discipline under Code sections 8641 and 8593, in that Respondent failed to comply with California Code of Regulation, title 16, section 1950, subdivision (a), by failing to submit verification of completing continuing education courses by producing certificates of completion for the 2008 renewal period, as requested by the Board on December 15, 2008, January 20, 2009, and March 19, 2009. Complainant refers to, and by this reference incorporates; the allegations set forth above in paragraph 9 above as though set forth fully.

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OTHER MATTERS

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2 11. Code section 8620 provides, in pertinent part, that a respondent may request that a
3 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of one (1) to
4 nineteen (19) days, or not more than \$10,000 for an actual suspension of twenty (20) to forty-five
5 (45) days. Such request must be made at the time of the hearing and must be noted in the
6 proposed decision. The proposed decision shall not provide that a civil penalty shall be imposed
7 in lieu of a suspension.

8 12. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
9 License Number FR 40072, issued to Respondent, then Respondent shall be prohibited from
10 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
11 employee for any registered company during the time the discipline is imposed, and any
12 registered company which employs, elects, or associates Dustin Bowman shall be subject to
13 disciplinary action.

PRAYER

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

18 1. Revoking or suspending Field Representative's License Number FR 40072, issued to
19 Respondent Dustin Bowman;

20 2. Prohibiting Respondent from serving as an officer, director, associate, partner,
21 qualifying manager or responsible managing employee of any registered company during the
22 period that discipline is imposed on Field Representative's License Number FR 40072, issued to
23 Dustin Bowman;

24 3. Ordering Respondent to pay the Board the reasonable costs of the investigation and
25 enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 2/22/10

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

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