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

In the Matter of the Accusation Against:

EDWARD LARRY MENDEZ
908 S. Danehurst Ave.
Glendora, CA 91740
Operator's License No. OPR 11200
Field Representative License No. FR 15499

Case No. 2010-44

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about January 14, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of Pesticide Regulation, filed Accusation No. 2010-44 against Edward Larry Mendez (Respondent) before the Structural Pest Control Board.

2. On or about October 20, 2005, the Board issued Operator's License No. OPR 11200 to Respondent. The Operator's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

3. On or about January 27, 2010, Anna A. Carpentner, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-44, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
2 was and is: 908 S. Danhurst Ave., Glendora, CA 91740.

3 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c).

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

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

12 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
13 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
14 2010-44.

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

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

20 8. Pursuant to its authority under Government Code section 11520, the Board finds
21 Respondent is in default. The Board will take action without further hearing and, based on the
22 evidence on file herein, finds that the allegations in Accusation No. 2010-44 are true.

23 9. The total cost for investigation and enforcement in connection with the Accusation
24 are 1,140.00 as of March 4, 2010.

25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent Edward Larry Mendez has
27 subjected his Operator's License No. OPR 11200 to discipline.

28 2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Structural Pest Control Board is authorized to revoke Respondent's Operator's
License based upon the following violations alleged in the Accusation:

1 a. Business and Professions Code section 8649. On or about June 8, 2009, in the
2 Superior Court, County of Los Angeles, California, in the matter entitled *People vs. Edward*
3 *Larry Mendez*, 2008, Case No. KA086675, Respondent was convicted by the court following his
4 plea of nolo contendere to a violation of Penal Code section 288, subdivision (a) (lewd act with a
5 child under the age of 14), a felony. The circumstances of the crime are that between January 1,
6 2007, and December 31, 2008, Respondent inappropriately touched child JA in a sexual manner
7 on numerous occasions. During the time of the incidents, Respondent was the live-in boyfriend
8 of JA's mother; and JA was between the ages of 11 and 12 years old when the acts occurred.
9 Such conduct is substantially related to the qualifications, functions, and duties of a structural pest
10 control operator.

11 RECORD

12 The record upon which this Default Decision and Order are based is located at the
13 Sacramento headquarters of the Board.


14 ORDER

15 IT IS SO ORDERED that Operator's License No. OPR 11200, heretofore issued to
16 Respondent Edward Larry Mendez, is revoked.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on May 15, 2010.

22 It is so ORDERED April 15, 2010

23 

24 FOR THE STRUCTURAL PEST CONTROL BOARD
25 DEPARTMENT OF PESTICIDE REGULATION

26 50597576.DOC
27 DOJ docket number: LA2009603750

28 Attachment: Exhibit A: Accusation No.2010-44

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Attorneys for Complainant

FILED

Date 1/14/10 By *Kelli Okuma*

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

12 In the Matter of the Accusation Against:

Case No. 2010-44

13 **EDWARD LARRY MENDEZ**
14 **908 S. Danehurst Avenue**
15 **Glendora, California 91740**
16 **Operator's License No. OPR 11200**

ACCUSATION

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as
21 the Executive Officer of the Structural Pest Control Board ("Board"), Department of Consumer
22 Affairs.

23 **Operator's License**

24 2. On or about October 20, 2005, the Board issued Operator's License Number OPR
25 11200 in Branch 3 to Edward Larry Mendez ("Respondent"). The operator's license was in full
26 force and effect at all times relevant to the charges brought herein and will expire on June 30,
27 2011, unless renewed.

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JURISDICTION

3. 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.

STATUTORY PROVISIONS

4. Code section 8649 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.

COST RECOVERY

5. Code section 125.3 provides, in pertinent part, that the Registrar 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

(Criminal Conviction)

6. Respondent's license is subject to disciplinary action under Code section 8649, in that on June 8, 2009, in the Superior Court, County of Los Angeles, California, in the matter entitled *People vs. Edward Larry Mendez*, 2008, Case No. KA086675, Respondent was convicted by the court following his plea of nolo contendere to a violation of Penal Code section 288, subdivision (a) (lewd act with a child under the age of 14), a felony. The circumstances of the crime are that between January 1, 2007, and December 31, 2008, Respondent inappropriately touched child JA in a sexual manner on numerous occasions. During the time of the incidents, Respondent was the live-in boyfriend of JA's mother; and JA was between the ages of 11 and 12 years old when the acts occurred. Such conduct is substantially related to the qualifications, functions, and duties of a structural pest control operator.

\\

1 OTHER MATTERS

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

7 8. Pursuant to Code section 8654, if discipline is imposed on Operator's License
8 Number OPR 11200, issued to Respondent, then Edward Larry Mendez shall be prohibited from
9 serving as an officer, director, associate, partner or responsible managing employee of a licensee,
10 and any licensee which employs, elects, or associates him shall be subject to disciplinary action.

11 PRAYER

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

14 1. Revoking or suspending Operator's License Number OPR 11200, issued to Edward
15 Larry Mendez;

16 2. Ordering Edward Larry Mendez to pay the Structural Pest Control Board the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
18 125.3; and,

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

20 DATED: 1/14/10

21 Kelli Okuma
22 KELLI OKUMA
23 Registrar/Executive Officer
24 Structural Pest Control Board
25 Department of Consumer Affairs
26 State of California
27 Complainant

28 LA2009603750
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