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7	BEFORE THE STRUCTURAL PEST CONTROL BOARD
8	DEPARTMENT OF PESTICIDE REGULATION STATE OF CALIFORNIA
	STATE OF CALIFORIUM
9	
10	In the Matter of the Accusation Against: Case No. 2010-39
11	PAUL MONTECINO DEFAULT DECISION AND ORDER 5506 Zola Avenue 000000000000000000000000000000000000
12	Pico Rivera, Ca. 90660 Operator License No. OPR 11243 [Gov. Code, §11520]
13	Respondent.
14	
15	<u>FINDINGS OF FACT</u>
16	1. On or about December 24, 2009, Complainant Kelli Okuma, in her official capacity
17	as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
18	Regulation, filed Accusation No. 2010-39 against Paul Montecino (Respondent) before the
19	Structural Pest Control Board.
20	2. On or about January 12, 2006, the Structural Pest Control Board (Board) issued
21.	Operator License No. OPR 11243 to Respondent. The Operator License was in full force and
22	effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless
23	renewed.
24	3. On or about February 24, 2010, Teresa Sutton, an employee of the Department of
25	Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-39, Statement
26	to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
27	11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
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· 1	5506 Zola Avenue, Pico Rivera, Ca. 90660.
2	A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.
3	4. Service of the Accusation was effective as a matter of law under the provisions of
4	Government Code section 11505, subdivision (c).
5	5. On or about February 25, 2010, the U.S. Postal Service delivered the Return Certified
6	Mail Receipt which was signed by Respondent.
7	6. Government Code section 11506 states, in pertinent part:
8 9 10 ⁻	(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
11	7. Respondent failed to file a Notice of Defense within 15 days after service upon him
12	of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
13	2010-39.
14	8. California Government Code section 11520 states, in pertinent part:
15 16 17	(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.
18	9. Pursuant to its authority under Government Code section 11520, the Board finds
19	Respondent is in default. The Board will take action without further hearing and, based on the
20	evidence on file herein, finds that the allegations in Accusation No. 2010-39 are true.
21	10. The total cost for investigation and enforcement in connection with the Accusation
22	are \$1035.00 as of March 29, 2010.
23	
24	DETERMINATION OF ISSUES
25	1. Based on the foregoing findings of fact, Respondent Paul Montecino has subjected
26	his Operator License No. OPR 11243 to discipline.
27	2. A copy of the Accusation is attached.
28	3. The agency has jurisdiction to adjudicate this case by default.
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DEFAULT DECISION AND ORDER (Case number 2010-39)

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1	4. The Structural Pest Control Board is authorized to revoke Respondent's Operator
2 .	License based upon the following violations alleged in the Accusation:
3	a. Respondent's license is subject to disciplinary action pursuant to Code sections 8620,
4	8593, and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision
5	(a), by failing to provide the Board with verifiable documentation to demonstrate that he
6	completed 16 hours of continuing education requirements for the renewal period of July 1, 2005,
7	through June 30, 2008, as stated in his License Renewal Application, signed under penalty of
8	perjury and dated June 30, 2008.
9	ORDER
10	IT IS SO ORDERED that Operator License No. OPR 11243, heretofore issued to
11	Respondent Paul Montecino, is revoked.
12	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
13	written motion requesting that the Decision be vacated and stating the grounds relied on within
14	seven (7) days after service of the Decision on Respondent. The agency in its discretion may
15	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
16	This Decision shall become effective onJune 25, 2010
17	It is so ORDERED May 26, 2010
18	
19	FOR THE STRUCTURAL PEST CONTROL BOARD
20	DEPARTMENT OF PESTICIDE REGULATION
21	60529009.DOC DOJ docket number:LA2009604391
22	Attachment:
23	Exhibit A: Accusation No.2010-39
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DEFAULT DECISION AND ORDER (Case number 2010-39)

Exhibit A Accusation No. 2010-39

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1	EDMUND G. BROWN JR. Attorney General of California
2	ALFREDO TERRAZAS
3	Senior Assistant Attorney General GREGORY J. SALUTE
4	GREGORY J. SALUTE Supervising Deputy Attorney General J. J. J. J. J. State Bar No. 164015
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7	Attorneys for Complainant
8	
9	BEFORE THE
10	STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF PESTICIDE REGULATION STATE OF CALIFORNIA
11	STATE OF CALIFORNIA
12	
13	In the Matter of the Accusation Against: Case No. 2010-39
14	PAUL I. MONTECINO
15	P. O. Box 9563 San Bernardino, CA 92427 A C C U S A T I O N
16	Operator License No. OPR 11243, Branch 2
17	Respondent.
18	
19	Complainant alleges:
20	PARTIES
21	1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as
22	the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
. 23	Regulation.
24	License History
25	2. On or about January 12, 2006, the Structural Pest Control Board issued Operator
26	License Number OPR 11243, Branch 2 to Paul I. Montecino ("Respondent"). The license was in
27	full force and effect at all times relevant to the charges brought herein and will expire on June 30,
28	2011, unless renewed.
	1
	Accusation

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JURISDICTION

3. 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 ("Code"), unless otherwise indicated.

4. 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.

5. Code section 8624 states:

"If the board suspends or revokes an operator's license and one or more branch
offices are registered under the name of the operator, the suspension or revocation may be applied
to each branch office."

6. Code section 8625 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.

7. Code section 8654 states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

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8. Code section 8593 states:

The board shall require as a condition to the renewal of each operator's and field representative's license that the holder thereof submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board.

STATUTORY PROVISION

9. Code section 8641 states:

Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, . . . is a ground for disciplinary action.

REGULATORY PROVISION

10. California Code of Regulations, section 1950, subdivision (a), states:

Except as provided in section 1951, every licensee is required, as a condition to a 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 required to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

COST RECOVERY

11. 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

20 enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Documentation of Continuing Education Requirements)

12. Respondent's license is subject to disciplinary action pursuant to Code sections 8620,
8593, and 8641, in that Respondent failed to comply with Regulation section 1950, subdivision
(a), by failing to provide the Board with verifiable documentation to demonstrate that he
completed 16 hours of continuing education requirements for the renewal period of July 1, 2005,
through June 30, 2008, as stated in his License Renewal Application, signed under penalty of
perjury and dated June 30, 2008.

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1	<u>UTHER MATTERS</u>	
2	13. Pursuant to Code section 8654, if Respondent's license is disciplined, then	
3	Respondent shall be prohibited from serving as an officer, director, associate, partner, or	,
4	qualifying individual of any license, and any licensee which employs, elects or associates	
5	Respondent in any capacity other than as a non-supervising bona fide employee shall be subject	
6	to disciplinary action.	
.7	PRAYER	
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
9	and that following the hearing, the Structural Pest Control Board issue a decision:	
10	1. Revoking or suspending Operator License Number OPR 11243 issued to Paul I.	
11	Montecino;	
12	2. Ordering Paul I. Montecino to pay the Board the reasonable costs of the investigation	
13	and enforcement of this case, pursuant to Code section 125.3; and,	
14	3. Taking such other and further action as deemed necessary and proper.	
15		-
16	DATED: 12/24/09 Belli Ruma	
17	Registrar/Executive Officer Structural Pest Control Board	
18	Department of Pesticide Regulation State of California	
19	Complainant	
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Accusation