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FILED

Date 3/11/11 By *Kelli Okuma*

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:
12 **CURTIS RAY ROWLAND**
13 **79 Jackie Drive**
Chico, California 95973
14 **Operator's License No. OPR 11403**
15 Respondent.

Case No. 2011-44

ACCUSATION

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 September 22, 2006, the Board issued Operator's License Number OPR
22 11403, on inactive status, in Branch 2 (general pest) to Curtis Ray Rowland ("Respondent"). On
23 or about December 14, 2006, Respondent became partner and qualifying manager of Innovative
24 Pest Solutions. In or before June 2006, Respondent became employed by Hunters Pest Control.
25 On or about December 7, 2009, Respondent disassociated as qualifying manager of Innovative
26 Pest Solutions due to the cancellation of the company registration. Respondent's operator's
27 license will expire on June 30, 2012, unless renewed.

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1 STATUTORY AND REGULATORY PROVISIONS

2 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that
3 the Board may suspend or revoke a license when it finds that the holder, while a licensee or
4 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
5 of a suspension may assess a civil penalty.

6 4. Code section 8654 states:

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

22 5. Code section 8649 states:

23 Conviction of a crime substantially related to the qualifications, functions,
24 and duties of a structural pest control operator, field representative, applicator, or
25 registered company is a ground for disciplinary action. The certified record of
26 conviction shall be conclusive evidence thereof.

27 6. Code section 8655 states:

28 A plea or verdict of guilty or a conviction following a plea of nolo
contendere made to a charge substantially related to the qualifications, functions, and
duties of a structural pest control operator, field representative, applicator, or
registered company is deemed to be a conviction within the meaning of this article or
Section 8568 of this chapter. The board may order the license or registration
suspended or revoked, or may decline to issue a license, when the time for appeal has
elapsed, or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
the individual or registered company to withdraw a plea of guilty and to enter a plea
of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

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7. 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.

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 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.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars (\$ 50) for each examination.

9. California Code of Regulations, title 16, section ("Regulation") 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.

(b) Each licensee is required to gain a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

(c) Operators licensed in one branch of pest control shall complete 16 continuing education hours during each three year renewal period. Operators licensed in two branches of pest control shall complete 20 continuing education hours during each three year renewal period. Operators licensed in three branches of pest control

1 shall complete 24 continuing education hours during each three year renewal period.
2 In each case, a minimum of four continuing education hours in a technical subject
3 directly related to each branch of pest control held by the licensee must be completed
4 for each branch license, a minimum of two hours in Integrated Pest Management as
5 defined in section 1984 must be completed by Branch 2 and/or 3 licensees renewing
6 on or after June 30, 2010, and a minimum of eight hours must be completed from
7 Board approved courses on the Structural Pest Control Act, the Rules and
8 Regulations, or structural pest control related agencies' rules and regulations . . .

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10 **COST RECOVERY**

11 10. Code section 125.3 states, in pertinent part, that a Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Criminal Conviction)**

17 11. Respondent is subject to disciplinary action pursuant to Code section 8649 in that on
18 or about January 4, 2010, in the criminal proceeding titled *People v. Curtis Ray Rowland* (Super.
19 Ct. Butte County, 2010, Case No. CM029499), Respondent was found guilty by the court of
20 violating Penal Code section 12020, subdivision (a)(1) (possession of a short barreled shotgun, a
21 felony) and Butte County Code section 38-4(b) (illegal discharge of fireworks, a misdemeanor),
22 crimes substantially related to the qualifications, functions, and duties of a structural pest control
23 operator. The circumstances of the crimes are as follows: On or about July 4, 2008, an officer
24 with the Butte County Sheriff's Office was dispatched to Bonham Road at Torry Drive in
25 Oroville, Butte County, California, to assist Cal Fire. Upon arrival, the officer was advised by a
26 Cal Fire fireman that Respondent had been setting off fireworks without a permit and had a sawed
27 off shotgun lying in plain view in his vehicle. The Sheriff's officer looked through the window of
28 Respondent's vehicle and observed a sawed off shotgun lying on top of the passenger side of the
rear seat (the shotgun was open and unloaded). The officer also saw another rifle lying on the
floor behind the rear seat. The officer collected both firearms and arrested Respondent for a
violation of Penal Code section 12020, subdivision (a)(1). The officer searched Respondent's
person and located a plastic bag containing .3 grams of methamphetamine in Respondent's left
front pants pocket. The officer placed Respondent in the back of his patrol vehicle. Once

1 Respondent was detained and the two weapons were secured, the officer went back to
2 Respondent's vehicle and searched for other weapons. The officer located a blue nylon bag on
3 the floor in front of the passenger seat containing two glass methamphetamine smoking pipes
4 with burnt residue rolling papers, a lighter, razor blades, a marijuana smoking pipe with burnt
5 residue, a plastic bag containing a marijuana bud, and a metal tin containing three Oxycontin pills
6 (controlled substance). The officer also located a gray/silver nylon bag containing a glass
7 methamphetamine smoking pipe with burnt residue and two plastic bags, both of which contained
8 methamphetamine, a small glass vial containing methamphetamine, and a pouch containing four
9 plastic bags of marijuana.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Failure to Verify Completion of Continuing Education)**

12 12. In or about June or July 2009, Respondent submitted a license renewal application to
13 the Board. On or about June 30, 2009, Respondent certified under penalty of perjury on the
14 application form that he successfully completed 16 hours of continuing education during his last
15 renewal period.

16 13. On March 29, 2010, July 5, 2010, September 2, 2010, and September 30, 2010, a
17 representative of the Board sent Respondent written requests for copies of his continuing
18 education certificates for the renewal period of July 1, 2006, through June 30, 2009. Respondent
19 was advised that his failure to verify his continuing education hours or to supply the requested
20 information could subject his field representative's license to disciplinary action.

21 14. Respondent is subject to disciplinary action pursuant to Code section 8641 in that
22 Respondent failed to comply with Regulation 1950 by failing to verify that he completed courses
23 of continuing education in pest control approved by the Board. Specifically, Respondent failed to
24 submit copies of his continuing education certificates for the renewal period of July 1, 2006,
25 through June 30, 2009, as requested by the Board's representative.

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OTHER MATTERS

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2 15. 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 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 16. Pursuant to Code section 8654, if discipline is imposed on Operator's License
8 Number OPR 11403, issued to Curtis Ray Rowland, Curtis Ray Rowland shall be prohibited from
9 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
10 employee for any registered company during the time the discipline is imposed, and any
11 registered company which employs, elects, or associates Curtis Ray Rowland shall be subject to
12 disciplinary action.

PRAYER

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

- 16 1. Revoking or suspending Operator's License Number OPR 11403, issued to Curtis
17 Ray Rowland;
- 18 2. Prohibiting Curtis Ray Rowland from serving as an officer, director, associate,
19 partner, qualifying manager or responsible managing employee of any registered company during
20 the period that discipline is imposed on Operator's License Number OPR 11403, issued to Curtis
21 Ray Rowland;
- 22 3. Ordering Curtis Ray Rowland to pay the Structural Pest Control Board the
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
24 Professions Code section 125.3;

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

DATED: 3/11/11

Kelli Okuma

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

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