

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Ca

GUSTAVO HURTADO, JR.
1520 Sweetwater Lane
Spring Valley, CA 91977

Registered Applicator's License No. RA 45948

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 17, 2009.

It is so ORDERED September 17, 2009.


FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KAREN L. GORDON, State Bar No. 137969
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8 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 2009-29

14 GUSTAVO HURTADO, JR.
15 1520 Sweetwater Lane
16 Spring Valley, CA 91977

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

Registered Applicator's License No. RA 45948

Respondent.

17 In the interest of a prompt and speedy resolution of this matter, consistent with the
18 public interest and the responsibility of the Structural Pest Control Board of the Department of
19 Consumer Affairs, the parties hereby agree to the following Stipulated Surrender of License and
20 Order which will be submitted to the Board for approval and adoption as the final disposition of
21 the Accusation.

22 PARTIES

23 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the
24 Structural Pest Control Board. She brought this action solely in her official capacity and is
25 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
26 by Karen L. Gordon, Deputy Attorney General.

27 2. Gustavo Hurtado, Jr. (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

1 9. Respondent understands that by signing this stipulation he enables the
2 Board to issue an order accepting the surrender of his Registered Applicator's License without
3 further process.

4 CONTINGENCY

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

15 11. The parties understand and agree that facsimile copies of this Stipulated
16 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
17 and effect as the originals.

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

21 ORDER

22 IT IS HEREBY ORDERED that Registered Applicator's License No. RA 45948,
23 issued to Respondent Gustavo Hurtado, Jr. is surrendered and accepted by the Structural Pest
24 Control Board.

25 13. The surrender of Respondent's Registered Applicator's License and the
26 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
27 against Respondent. This stipulation constitutes a record of the discipline and shall become a
28 part of Respondent's license history with the Board.

1 14. Respondent shall lose all rights and privileges as a Registered Applicator
2 in California as of the effective date of the Board's Decision and Order.

3 15. Respondent shall cause to be delivered to the Board both his wall license
4 certificate and, if one was issued, pocket license on or before the effective date of the Decision
5 and Order.

6 16. If he ever applies for licensure or petitions for reinstatement in the State of
7 California, the Board shall treat it as a new application for licensure. Respondent must comply
8 with all the laws, regulations and procedures for licensure in effect at the time the application or
9 petition is filed, and all of the charges and allegations contained in Accusation No. 2009-29 shall
10 be deemed to be true, correct and admitted by Respondent when the Board determines whether to
11 grant or deny the application or petition.

12 17. Should Respondent ever apply or reapply for a new license or certification,
13 or petition for reinstatement of a license, all of the charges and allegations contained in
14 Accusation No. 2009-29 shall be deemed to be true, correct, and admitted by Respondent for the
15 purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

16 18. Respondent shall pay the Board its costs of investigation and enforcement
17 in the amount of \$909.75 prior to issuance of a new or reinstated license.

18 ACCEPTANCE

19 I have carefully read the Stipulated Surrender of License and Order. I understand
20 the stipulation and the effect it will have on my Registered Applicator's License. I enter into this
21 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
22 be bound by the Decision and Order of the Structural Pest Control Board.

23 DATED: _____

24 *Gustavo Hurtado, Jr.*
25 _____
26 GUSTAVO HURTADO, JR.
27 Respondent
28

1 14. Respondent shall lose all rights and privileges as a Registered Applicator
2 in California as of the effective date of the Board's Decision and Order.

3 15. Respondent shall cause to be delivered to the Board both his wall license
4 certificate and, if one was issued, pocket license on or before the effective date of the Decision
5 and Order.

6 16. If he ever applies for licensure or petitions for reinstatement in the State of
7 California, the Board shall treat it as a new application for licensure. Respondent must comply
8 with all the laws, regulations and procedures for licensure in effect at the time the application or
9 petition is filed, and all of the charges and allegations contained in Accusation No. 2009-29 shall
10 be deemed to be true, correct and admitted by Respondent when the Board determines whether to
11 grant or deny the application or petition.

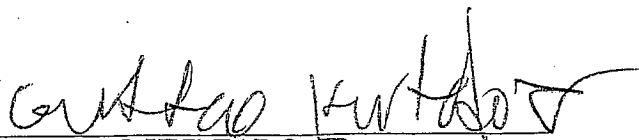
12 17. Should Respondent ever apply or reapply for a new license or certification,
13 or petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in Accusation No. 2009-29 shall be
15 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
16 Issues or any other proceeding seeking to deny or restrict licensure.

17 18. Respondent shall pay the Board its costs of investigation and enforcement
18 in the amount of \$909.75 prior to issuance of a new or reinstated license.

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20 ACCEPTANCE

21 I have carefully read the Stipulated Surrender of License and Order. I understand
22 the stipulation and the effect it will have on my Registered Applicator's License. I enter into this
23 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
24 be bound by the Decision and Order of the Structural Pest Control Board.

25 DATED: 5/12/09

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28 GUSTAVO HURTADO, JR.
Respondent

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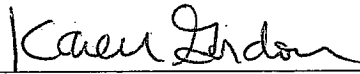
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Consumer Affairs.

DATED: 9-3-09

EDMUND G. BROWN JR., Attorney General
of the State of California

JAMES M. LEDAKIS
Supervising Deputy Attorney General



KAREN L. GORDON
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SD2008802594
Revised Surrender.wpd

Exhibit A

Accusation No. 2009-29

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of the State of California
2 JAMES LEDAKIS,
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3 KAREN GORDON, State Bar No. 137969
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8 Attorneys for Complainant
9

FILED

Date 11-21-08 By *Kelli Okuma*

10 **BEFORE THE**
11 **STRUCTURAL PEST CONTROL BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:
14 GUSTAVO ADOLFO HURTADO, JR.
15 1520 Sweetwater Lane
Spring Valley, CA 91977

Case No. 2009-29

ACCUSATION

16 Registered Applicator's License No. RA 45948
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about July 6, 2006, the Board issued Registered Applicator's License
25 Number RA 45948 in Branches 2 (general pest) and 3 (termite) to Gustavo Adolfo Hurtado, Jr.
26 ("Respondent"), employee of Orkin Exterminating Company, Inc. Respondent's registered
27 applicator's license will expire on July 6, 2009, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Structural Pest Control Board of
3 California (Board), Department of Consumer Affairs, under the authority of the following laws.

4 All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 490 of the Code states:

6 A board may suspend or revoke a license on the ground that the licensee has
7 been convicted of a crime, if the crime is substantially related to the qualifications,
8 functions, or duties of the business or profession for which the license was issued.
9 A conviction within the meaning of this section means a plea or verdict of guilty
10 or a conviction following a plea of nolo contendere. Any action which a board is
11 permitted to take following the establishment of a conviction may be taken when
12 the time for appeal has elapsed, or the judgment of conviction has been affirmed
13 on appeal, or when an order granting probation is made suspending the imposition
14 of sentence, irrespective of a subsequent order under the provisions of Section
15 1203.4 of the Penal Code.

16 5. Section 493 of the Code states, in pertinent part:

17 Notwithstanding any other provision of law, in a proceeding conducted by a
18 board within the department pursuant to law to deny an application for a license or
19 to suspend or revoke a license or otherwise take disciplinary action against a
20 person who holds a license, upon the ground that the applicant or the licensee has
21 been convicted of a crime substantially related to the qualifications, functions, and
22 duties of the licensee in question, the record of conviction of the crime shall be
23 conclusive evidence of the fact that the conviction occurred, but only of that fact,
24 and the board may inquire into the circumstances surrounding the commission of
25 the crime in order to fix the degree of discipline or to determine if the conviction
26 is substantially related to the qualifications,

27 6. Business and Professions Code ("Code") section 8620 provides, in
28 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.

29 7. 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.

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8. 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.

9. Code section 8655 states:

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.

Cost Recovery

10. 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.

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1 CAUSE FOR DISCIPLINE

2 (June 6, 2008 Criminal Conviction - Petty Theft on April 15, 2008)

3 11. Respondent is subject to disciplinary action pursuant to Code sections 490,
4 493, and 8649 in that on or about June 6, 2008, in the criminal proceeding titled *People v.*
5 *Gustavo Adolfo Hurtado, Jr.* (Super. Ct. San Diego County, 2008, Case No. C279821),
6 Respondent pled guilty to Penal Code section 484 (petty theft), a crime substantially related to
7 the qualifications, functions, and duties of a registered applicator. The circumstances of the
8 crime are as follows:

9 12. On or about April 15, 2008, Respondent unlawfully stole,
10 misappropriated, and fraudulently took property valued at less than \$400 from Home Depot,
11 Lemon Grove, California.

12 13. Pursuant to the Plea Agreement, on or about June 10, 2008, Respondent
13 was sentenced to three (3) years of probation, one (1) day in custody, fines, and ordered to stay
14 away from Home Depot.

15 OTHER MATTERS

16 14. Code section 8620 provides, in pertinent part, that a respondent may
17 request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of
18 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request
19 must be made at the time of the hearing and must be noted in the proposed decision. The
20 proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

21 15. Pursuant to Code section 8654, if discipline is imposed on Registered
22 Applicator's License Number RA 45948, issued to Respondent Gustavo Adolfo Hurtado, Jr.,
23 Gustavo Adolfo Hurtado, Jr. shall be prohibited from serving as an officer, director, associate,
24 partner, qualifying manager, or responsible managing employee for any registered company
25 during the time the discipline is imposed, and any registered company which employs, elects, or
26 associates Gustavo Adolfo Hurtado, Jr. shall be subject to disciplinary action.

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1 P R A Y E R

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

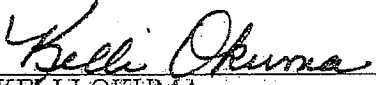
4 1. Revoking or suspending Registered Applicator's License Number
5 RA 45948, issued to Gustavo Adolfo Hurtado, Jr.;

6 2. Prohibiting Gustavo Adolfo Hurtado, Jr. from serving as an officer,
7 director, associate, partner, qualifying manager or responsible managing employee of any
8 registered company during the period that discipline is imposed on Registered Applicator's
9 License Number RA 45948, issued to Gustavo Adolfo Hurtado, Jr.;

10 3. Ordering Gustavo Adolfo Hurtado, Jr. to pay the Structural Pest Control
11 Board the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 125.3;

13 4. Taking such other and further action as deemed necessary and proper.
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15 DATED: 11-21-08

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18 KELLI OKUMA
19 Registrar
20 Structural Pest Control Board
21 Department of Consumer Affairs
22 State of California

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Complainant