

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

In the Matter of the Statement of Issues
Against:

Case No. 2010-17

JAMES MONTE EARLES
8879 Hewitt Pl., #4
Garden Grove, CA 92844
Applicator's License

Respondent.

DECISION AND 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 March 4, 2010.

It is so ORDERED February 2, 2010



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

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2 MARC D. GREENBAUM
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8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

Case No. 2010-17

12 **JAMES MONTE EARLES**
13 **8879 Hewitt Pl., #4**
Garden Grove, CA 92844
14 **Applicator's License**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Structural Pest Control Board of the Department of Pesticide
19 Regulation, the parties hereby agree to the following Stipulated Settlement and Disciplinary
20 Order which will be submitted to the Board for approval and adoption as the final disposition of
21 the Statement of Issues.

22 PARTIES

23 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the Structural Pest
24 Control Board ("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 Michelle McCarron, Deputy Attorney General.

27 2. Respondent James Monte Earles (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

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2 3. On or about December 8, 2008, Respondent filed an application dated November 26,
3 2008, with the Structural Pest Control Board to obtain an Applicator's License.

4 JURISDICTION

5 4. Statement of Issues No. 2010-17 was filed before the Structural Pest Control Board,
6 Department of Pesticide Regulation, and is currently pending against Respondent. The Statement
7 of Issues and all other statutorily required documents were properly served on Respondent on
8 October 24, 2008. Respondent timely filed his Notice of Defense contesting the Statement of
9 Issues. A copy of Statement of Issues No. 2010-17 is attached as exhibit A and incorporated
10 herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Statement of Issues No. 2010-17. Respondent has also carefully read, and understands the effects
14 of this Stipulated Settlement and Disciplinary Order.

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

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

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Statement of
26 Issues No. 2010-17.

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 14. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Respondent James Monte Earles Applicator's License will
8 be issued and automatically revoked. However, revocation is stayed and Respondent is placed
9 on probation for three (3) years upon the following terms and conditions:

10 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and rules
11 relating to the practice of structural pest control.

12 2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during
13 the period of probation.

14 3. **Tolling of Probation.** Should Respondent leave California to reside outside this
15 state, Respondent must notify the Board in writing of the dates of departure and return. Periods
16 of residency or practice outside the state shall not apply to reduction of the probationary period.

17 4. **Notice to Employers.** Respondent shall notify all present and prospective employers
18 of the decision in case no. 2010-17, and the terms, conditions and restriction imposed on
19 Respondent by said decision.

20 Within 30 days of the effective date of this decision, and within 15 days of Respondent
21 undertaking new employment, Respondent shall cause his/her employer to report to the Board in
22 writing acknowledging the employer has read the decision in case No. 2010-17.

23 5. **Completion of Probation.** Upon successful completion of probation, Respondent's
24 license/certificate will be fully restored.

25 6. **Violation of Probation.** Should Respondent violate probation in any respect, the
26 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
27 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
28 Respondent during probation, the Board shall have continuing jurisdiction until the matter is final,

1 and the period of probation shall be extended until the matter is final.

2 7. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**
3 **Manager.** Respondent is prohibited from serving as an officer, director, associate, partner,
4 qualifying manager or branch office manager of any registered company during the period that
5 discipline is imposed on Applicator's License.

6 8. **No Interest In Any Registered Company.** Respondent shall not have any legal or
7 beneficial interest in any company currently or hereinafter registered by the Board.

8 9. **Field Representative License.** Should Respondent apply for a field representative
9 license and pass the examination, then the board shall issue the license and it shall be
10 automatically revoked. Revocation will be stayed and Respondent's field representative license
11 will be subject to the probationary period and the terms and conditions as described herein this
12 Stipulated Settlement and Disciplinary Order.
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16 ACCEPTANCE

17 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
18 stipulation and the effect it will have on my Applicator's License. I enter into this Stipulated
19 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
20 bound by the Decision and Order of the Structural Pest Control Board.
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22 DATED: 12-3-09

James Earles II
23 JAMES MONTE EARLES
Respondent

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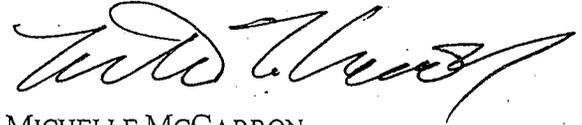
ENDORSEMENT

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: 12/4/2009

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



MICHELLE MCCARRON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2010-17

FILED

Date 10/6/09 By *Kelli Okuma*

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

11 In the Matter of the Statement of Issues Against:

Case No. 2010-17

12 **JAMES MONTE EARLES, II,**
13 **a.k.a. JAMES EARLES**
14 **c/o Western Exterminator**
1919 W. Wardlow Road
Long Beach, CA 90810

STATEMENT OF ISSUES

15 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about December 8, 2008, the Board received an application for a registered
23 applicator's license (hereinafter "application") from James Monte Earles, II, also known as James
24 Earles ("Respondent"). On or about November 26, 2008, Respondent certified under penalty of
25 perjury to the truth and accuracy of all statements and representations made in the application,
26 including all statements attached thereto, and acknowledged that falsifying information on the
27 application may result in the denial of the application. The Board denied the application on June
28 24, 2009.

1 suspension, or who has been a member, officer, director, associate, qualifying
2 manager, or responsible managing employee of any partnership, corporation, firm, or
3 association whose application for a company registration has been denied for any of
4 the reasons specified in Section 8568, or whose company registration has been
5 revoked as a result of disciplinary action, or whose company registration is under
6 suspension, and while acting as such member, officer, director, associate, qualifying
7 manager, or responsible managing employee had knowledge of or participated in any
8 of the prohibited acts for which the license or registration was denied, suspended or
9 revoked, shall be prohibited from serving as an officer, director, associate, partner,
10 qualifying manager, or responsible managing employee of a registered company, and
11 the employment, election or association of such person by a registered company is a
12 ground for disciplinary action.

13 8. Code section 8655 states:

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

26 FIRST CAUSE FOR DENIAL

27 (Criminal Convictions)

28 9. Respondent's application is subject to denial pursuant to Code sections 8568, 480,
subdivision (a)(1), and 480, subdivision (a)(3)(A), in that Respondent was convicted of crimes
which are substantially related to the qualifications, functions, and duties of a registered
applicator, as set forth in subparagraphs (a) through (c) below. Respondent's convictions would
constitute grounds for disciplinary action against him pursuant to Code section 8649 were he a
licentiate of the Board.

a. In or about May 2000, in the criminal proceeding titled *State of Arizona v. James
Earles* (Super. Ct. Graham County, 2000, Case No. CR2000-074), Respondent pled guilty to
violating A.R.S. Sections 13-1203 (A.1) and 13-1204 (A.8) (aggravated assault, a class 6 felony).
The incident on which Respondent's conviction is based occurred on or about September 19,
1999.

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PRAYER

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

1. Denying the application of James Monte Earles, II, also known as James Earles, for a registered applicator's license;

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

DATED: 10/6/09

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant