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6 **BEFORE THE**  
7 **STRUCTURAL PEST CONTROL BOARD**  
8 **DEPARTMENT OF PESTICIDE REGULATION**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2013-1

11 **N SERVICE PEST MANAGEMENT;**  
12 **DONALD HANSBERGER, Owner and QM**  
13 **3120 Oakview Lane**  
14 **Chino Hills, CA 91709**

**DEFAULT DECISION AND ORDER (AS**  
**TO RESPONDENT TODD ELLIOT**  
**HANSBERGER ONLY)**

15 **Company Registration Certificate No. PR**  
16 **4097, Br. 2 and 3**  
17 **Operator's License No. OPR 8475, Br. 2 and**  
18 **3**

[Gov. Code, §11520]

19 **and**

20 **TODD ELLIOT HANSBERGER**  
21 **3120 Oakview Lane**  
22 **Chino Hills, CA 91709**

23 **Field Representative's License No. FR**  
24 **19237, Br. 2 and 3**

25 Respondents.

26 **FINDINGS OF FACT**

27 1. On or about July 2, 2012, Complainant William H. Douglas, in his official capacity as  
28 the Interim Executive Officer/Registrar of the Structural Pest Control Board, Department of  
Pesticide Regulation, filed Accusation No. 2013-1 against Todd Elliot Hansberger  
("Respondent"), amongst others, before the Structural Pest Control Board ("Board").  
(Accusation attached as Exhibit A.)

1           2.    On or about February 6, 1991, the Board issued Field Representative's License  
2   Number FR 19237 in Branch 2 to Respondent. On or about October 6, 1997, Field  
3   Representative's License Number FR 19237 was upgraded to include Branches 2 and 3. Field  
4   Representative's License Number FR 19237 expired on June 30, 2011 and has not been renewed.  
5   Pursuant to Business and Professions Code section 8625, this lapse in licensure does not deprive  
6   the Board of its authority to institute or continue this disciplinary proceeding.

7           3.    On or about July 9, 2012, Respondent was served by Certified and First Class Mail  
8   copies of Accusation No. 2013-1, Statement to Respondent, Notice of Defense, Request for  
9   Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
10   Respondent's address of record which, pursuant to Business and Professions Code section 136, is  
11   required to be reported and maintained with the Board. Respondent's address of record was and  
12   is: 3120 Oakview Lane, Chino Hills, CA 91709.

13          4.    Service of the Accusation was effective as a matter of law under the provisions of  
14   Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
15   124.

16          5.    The aforementioned documents were not returned by the U.S. Postal Service as  
17   undelivered.

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

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

24          7.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
25   of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
26   2013-1.

27          8.    California Government Code section 11520 states, in pertinent part:

28               (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.

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2013-1, finds that the charges and allegations in Accusation No. 2013-1, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation is \$987.45 and Enforcement is \$3,290.00 as of August 24, 2012, for a combined total of \$4907.45. Respondent reasonably is responsible for one-third of the total amount of these costs i.e., \$1,635.65.

### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Todd Elliot Hansberger has subjected his Field Representative's License Number FR 19237 to discipline.

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

3. The Structural Pest Control Board is authorized to revoke Respondent's Field Representative's License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Business and Professions code sections 8516, subdivision (b)(10) and 8641 and California Code of Regulations, title 16, section 1991, subdivision (a) in that Respondent failed to make a proper finding and recommendation regarding reported decay fungi and decay fungi damage in Respondent's inspection report.

b. Business and Professions code section 8616, subdivision (b)(7) and 8641 and California Code of Regulations, title 16, section 1990, subdivision (a)(3) in that Respondent failed to make a drywood termite damage finding to correspond with a drywood termite recommendation.

1 c. Business and Profession code sections 8516, subdivision (c) and 8641 and  
2 California Code of Regulations, title 16, section 1990, subdivision (f) in that Respondent's  
3 inspection report incorrectly identified old evidence of drywood termites and decay fungi damage  
4 as Section II findings. Respondent should have identified them as Section I findings.

5 d. Business and Professions code section 8619 and 8641 and California Code of  
6 Regulations, title 16, section 1996.1, subdivision (c) in that Respondent failed to indicate whether  
7 any other tags, less than 2 years, were noted on his inspection report.

8 **ORDER**

9 IT IS SO ORDERED that Field Representative's License Number FR 19237 heretofore  
10 issued to Respondent Todd Elliot Hansberger is revoked.

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

15 This Decision shall become effective on October 14, 2012.

16 It is so ORDERED September 14, 2012

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18   
19 FOR THE STRUCTURAL PEST CONTROL  
20 BOARD

21 51148671.DOC  
22 DOJ Matter ID:LA2012506972

23 Attachment:  
24 Exhibit A: Accusation  
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