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

In the Matter of the Petition to Revoke
Probation Against:

RUDOLPH J. ARIAS
746 Cedar Avenue
Long Beach, CA 90813

Field Representative's License No. FR 29288

Respondent.

Case No. 2010-73

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 20, 2012, Complainant Susan Saylor, in her official capacity as the Assistant Executive Officer of the Structural Pest Control Board, filed Petition to Revoke Probation No. 2010-73 against Rudolph J. Arias ("Respondent") before the Structural Pest Control Board, Department of Pesticide Regulation. (Petition to Revoke Probation attached as Exhibit A.)

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1 2. On or about April 16, 1998, the Structural Pest Control Board, Department of
2 Pesticide Regulation ("Board") issued Field Representative's License No. FR 29288 to
3 Respondent. The Field Representative's License will expire on June 30, 2015, unless renewed.

4 3. In a disciplinary action entitled *In the Matter of the Accusation Against Rudolph J.*
5 *Arias*, Case No. 2010-73, the Structural Pest Control Board issued a decision, effective August
6 26, 2011, in which Respondent's Field Representative License was revoked. However, the
7 revocation was stayed and Respondent's Field Representative License was placed on probation
8 for a period of one (1) year with certain terms and conditions. A copy of that decision is attached
9 as an exhibit to the aforementioned Petition to Revoke Probation and is incorporated herein by
10 reference.

11 4. On or about August 24, 2012, Respondent was served by Certified and First Class
12 Mail copies of the Petition to Revoke Probation No. 2010-73, Statement to Respondent, Notice of
13 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
14 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
15 Professions Code section 136, is required to be reported and maintained with the Board.
16 Respondent's address of record was and is:

17 746 Cedar Avenue
18 Long Beach, CA 90813.

19 5. Service of the Petition to Revoke Probation was effective as a matter of law under the
20 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
21 Code section 124.

22 6. On or about October 15, 2012, the aforementioned documents were returned by the
23 U.S. Postal Service marked "Unclaimed."

24 7. Government Code section 11506 states, in pertinent part:

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

1 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
2 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
3 Petition to Revoke Probation No. 2010-73.

4 9. California Government Code section 11520 states, in pertinent part:

5 (a) If the respondent either fails to file a notice of defense or to appear at the
6 hearing, the agency may take action based upon the respondent's express admissions
7 or upon other evidence and affidavits may be used as evidence without any notice to
8 respondent.

9 10. Pursuant to its authority under Government Code section 11520, the Structural Pest
10 Control Board, Department of Pesticide Regulation, finds Respondent is in default. The Board
11 will take action without further hearing and, based on the relevant evidence contained in the
12 Default Decision Evidence Packet in this matter, as well as taking official notice of all the
13 investigatory reports, exhibits and statements contained therein on file at the Board's offices
14 regarding the allegations contained in Petition to Revoke Probation No. 2010-73, finds that the
15 charges and allegations in Petition to Revoke Probation No. 2010-73, are separately and
16 severally, found to be true and correct by clear and convincing evidence.

17 DETERMINATION OF ISSUES

18 1. Based on the foregoing findings of fact, Respondent Rudolph J. Arias has subjected
19 his Field Representative's License No. FR 29288 to discipline.

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

21 3. The Board is authorized to revoke Respondent's Field Representative's License based
22 upon the following violations alleged in the Petition to Revoke Probation which are supported by
23 the evidence contained in the Default Decision Investigatory Evidence Packet in this case,
24 incorporated herein by reference.:

25 a. Respondent's probation is subject to revocation because he failed to comply with
26 Probation Condition B, *In the Matter of the Accusation Against Rudolph J. Arias*, Case No. 2010-
27 73, to wit, Respondent has not provided quarterly reports to the Board that were due on February
28 26, 2012 and May 26, 2012.

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1 b. Respondent's probation is subject to revocation because he failed to pay the
2 Structural Pest Control Board costs in the amount of \$1,590.00.


3 **ORDER**

4 IT IS SO ORDERED that Field Representative's License No. FR 29288, heretofore issued
5 to Respondent Rudolph J. Arias, is revoked.

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

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11 This Decision shall become effective on February 23, 2013.

12 It is so ORDERED January 24, 2013

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16 FOR THE STRUCTURAL PEST CONTROL
17 BOARD

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DOJ Matter ID: LA2012507296

27 Attachment:
28 Exhibit A: Petition to Revoke Probation