

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation/Petition to
Revoke Probation Against:

GERALD WAYNE FINLEY, II
4219 Shadow Crest Drive
Santa Maria, CA 93455
Field Representative License No. FR 32663

Respondent.

Case No. 2014-54

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 22, 2014, Complainant Susan Saylor, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs, filed Accusation/Petition to Revoke Probation No. 2014-54 against Gerald Wayne Finley, II (Respondent) before the Structural Pest Control Board. (Accusation/Petition to Revoke Probation attached as Exhibit A.)
2. On or about August 22, 2000, the Structural Pest Control Board (Board) issued Field Representative License No. FR 32663 to Respondent. The Field Representative License was in

1 full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke
2 Probation No. 2014-54 and will expire on June 30, 2015, unless renewed

3 3. On or about May 12, 2014, Respondent was served by Certified and First Class Mail
4 copies of the Accusation/Petition to Revoke Probation No. 2014-54, Statement to Respondent,
5 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
6 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
7 and Professions Code section 136, is required to be reported and maintained with the Board.

8 Respondent's address of record was and is:

9 4219 Shadow Crest Drive
10 Santa Maria, CA 93455.

11 4. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
12 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
13 Professions Code section 124.

14 5. On or about May 20, 2014, the aforementioned documents were returned by the U.S.
15 Postal Service marked "Return to Sender, Attempted – Not known, Unable to Forward." The
16 address on the documents was the same as the address on file with the Board. Respondent failed
17 to maintain an updated address with the Board and the Board has made attempts to serve the
18 Respondent at the address on file. Respondent has not made himself available for service and
19 therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

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

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
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/Petition to Revoke Probation, and therefore waived his right to a hearing on the
26 merits of Accusation/Petition to Revoke Probation No. 2014-54.

27 ///

28 ///

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

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

6 9. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation/Petition to Revoke
11 Probation No. 2014-54, finds that the charges and allegations in Accusation/Petition to Revoke
12 Probation No. 2014-54, are separately and severally, found to be true and correct by clear and
13 convincing evidence.

14 10. Taking official notice of its own internal records, pursuant to Business and
15 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
16 and Enforcement is \$2,767.50 as of August 7, 2014.

17 DETERMINATION OF ISSUES

18 1. Based on the foregoing findings of fact, Respondent Gerald Wayne Finley, II has
19 subjected his Field Representative License No. FR 32663 to discipline.

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

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

25 a. Respondent is subject to discipline under Business and Professions Code section 8641
26 for failure to comply with California Code of Regulations, title 16, section 1950, by failing to
27 verify that he had completed 20 hours of continuing education.

28 b. Respondent is subject to discipline under Business and Professions Code section 8637
for misrepresenting a material fact on his license renewal application.

1 c. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 2 in that he failed to submit a quarterly report for August 2013 as required.

3 d. Respondent's probation is subject to revocation because he failed to comply with
4 Probation Condition 4 in that he failed to cause his employer to submit a written notice
5 acknowledging the terms and conditions of Respondent's probation.

6 e. Respondent's probation is subject to revocation because he failed to comply with
7 Probation Condition 8 in that he failed to submit any portion of his cost recovery obligation to the
8 Board.


9 ORDER

10 IT IS SO ORDERED that Field Representative License No. FR 32663, heretofore issued to
11 Respondent Gerald Wayne Finley, II, is revoked.

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

16 This Decision shall become effective on October 30, 2014.

17 It is so ORDERED October 1, 2014

18
19
20
21 
22 FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF CONSUMER AFFAIRS

23
24 51573482.DOC
DOJ Matter ID: LA2014511180

25 Attachment:
26 Exhibit A: Accusation/Petition to Revoke Probation
27
28