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

In the Matter of the Accusation Against:

AMADOR G. HERNANDEZ
2518 South Tiara Avenue
Ontario, CA 91761
Field Representative License No. FR 33755

Respondents.

Case No. 2012-32

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 31, 2012, Complainant William Douglas, in his official capacity as the former Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2012-32 against Amador G. Hernandez (Respondent) before the Structural Pest Control Board. (Accusation attached as **Exhibit A.**)
2. On or about August 20, 2001, the Structural Pest Control Board (Board) issued Field Representative License No. FR 33755 to Respondent. The Field Representative License was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 2012-32 and
2 will expire on June 30, 2013, unless renewed.

3 3. On or about February 8, 2012, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 2012-32, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
7 section 136, is required to be reported and maintained with the Board. Respondent's address of
8 record was and is:

9 **2518 South Tiara Avenue**
10 **Ontario, CA 91761**

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

14 5. On or about February 23, 2012, the aforementioned documents were returned by the
15 U.S. Postal Service marked "No Forwarding Address." The address on the documents was the
16 same as the address on file with the Board. Respondent failed to maintain an updated address
17 with the Board and the Board has made attempts to serve the Respondent at the address on file.
18 Respondent has not made himself available for service and therefore, has not availed himself of
19 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
24 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
25 may nevertheless grant a hearing.

26 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
27 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
28 2012-32.

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

(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

1 or upon other evidence and affidavits may be used as evidence without any notice to
2 respondent.

3 9. Pursuant to its authority under Government Code section 11520, the Board finds
4 Respondent is in default. The Board will take action without further hearing and, based on the
5 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
6 taking official notice of all the investigatory reports, exhibits and statements contained therein on
7 file at the Board's offices regarding the allegations contained in Accusation No. 2012-32, finds
8 that the charges and allegations in Accusation No. 2012-32, are separately and severally, found to
9 be true and correct by clear and convincing evidence.

10 10. Taking official notice of its own internal records, pursuant to Business and
11 Professions Code section 125.3, it is hereby determined that the Respondent's allocation of
12 reasonable costs for Investigation and Enforcement is \$1,618.75 as of January 9, 2013.

13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent Amador G. Hernandez has
15 subjected his Field Representative License No. FR 33755 to discipline.

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

17 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
18 Representative License No. FR 33755 based upon the following violations alleged in the
19 Accusation which are supported by the evidence contained in the Default Decision Evidence
20 Packet in this case.:

21 a. Bus. & Prof. Code §§ 8620 and 8639, in that Respondent aided and abetted an
22 unlicensed company by performing fumigations for Respondent 5 Star Fumigation, Inc. even
23 though Respondent 5 Star Fumigation, Inc. was on suspension for not having a Qualifying
24 Manager and failing to maintain an insurance policy.

25 b. Bus. & Prof. Code §§ 8620 and 8641 in conjunction with Cal. Code of Regs. title 16,
26 section 1911, in that Respondent failed to notify the Board of his change of address within 10
27 days of the change.
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ORDER

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2 IT IS SO ORDERED that Field Representative License No. FR 33755, heretofore issued to
3 Respondent Amador G. Hernandez, is revoked.

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

8 This Decision shall become effective on March 27, 2013.

9 It is so ORDERED February, 25, 2013

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11 
12 FOR THE STRUCTURAL PEST CONTROL
13 BOARD
14 DEPARTMENT OF PESTICIDE REGULATION

15 51217899.DOC
DOJ Matter ID:LA2011505800

16 Attachment:
17 Exhibit A: Accusation