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

In the Matter of the Accusation Against:
TIM DEAN AVILA
10309 Vassar Street
Chatsworth, CA 91311

10630 Lynrose Street
Temple City, CA 91780

Field Representative's License No. FR 35553

Respondent.

Case No. 2016-54

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 3, 2016, Complainant Susan Saylor, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs, filed Accusation No. 2016-54 against Tim Dean Avila ("Respondent") before the Structural Pest Control Board. (Accusation attached as Exhibit A.)
2. On or about February 7, 2003, the Structural Pest Control Board ("Board") issued Field Representative's License No. FR 35553 to Respondent. The Field Representative's License was in full force and effect at all times relevant to the charges brought in Accusation No. 2016-54 and will expire on June 30, 2017, unless renewed.

1 3. On or about December 12, 2001, the Structural Pest Control Board issued
2 Applicator's License Number RA 19671 to Respondent Tim Dean Avila. The Applicator's
3 License was cancelled on February 7, 2003, and has not been renewed.

4 4. On or about July 8, 1998, the Structural Pest Control Board issued Field
5 Representative's License Number FR 29805 to Respondent Tim Dean Avila. The Field
6 Representative's License was cancelled on June 30, 2001, and has not been renewed.

7 5. On or about February 8, 1995, the Structural Pest Control Board issued Applicator's
8 License Number RA 170 to Respondent Tim Dean Avila. The Applicator's License was
9 cancelled on February 8, 2001, and has not been renewed.

10 6. On or about May 10, 2016, Respondent was served by Certified and First Class Mail
11 copies of the Accusation No. 2016-54, Statement to Respondent, Notice of Defense, Request for
12 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
13 Respondent's address of record which, pursuant to California Code of Regulations, title 16, 1911
14 and Business and Professions Code section 136, is required to be reported and maintained with
15 the Board. Respondent's address of record was and is: 10309 Vassar Street, Chatsworth, CA
16 91311. Respondent's mailing address on file with the Board was and is 10630 Lynrose Street,
17 Temple City, CA 91780. On or about May 20, 2016, Respondent was served by Certified and
18 First Class Mail copies of the same documents listed above at 529 W. Puente St., #4, Covina, CA
19 91722, an address identified as a possible residence for Respondent.

20 7. Service of the Accusation was effective as a matter of law under the provisions of
21 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
22 124.

23 8. On or about May 19, 2016, May 23, 2016, May 31, 2016, June 3, 2016, and June 8,
24 2016, the aforementioned documents were returned by the U.S. Postal Service marked
25 "Undeliverable as Addressed," "No Forwarding Order on File," "Return to Sender," and "Unable
26 to Forward." The address on the documents was the same as the address on file with the Board.

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1 9. On May 26, 2016, the copy served by First Class Mail to the Covina address was
2 forwarded by the U.S. Postal Service to 10645 Lynrose St., Temple City, CA 91780 but was
3 ultimately returned by the U.S. Postal Service and marked as "Return to Sender," "Attempted –
4 Not Known," and "Unable to Forward."

5 10. Respondent failed to maintain an updated address with the Board and the Board has
6 made attempts to serve the Respondent at the address on file. Respondent has not made himself
7 available for service and therefore, has not availed himself of his right to file a notice of defense
8 and appear at hearing.

9 11. Government Code section 11506(c) states, in pertinent part:

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

15 12. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 2016-54.

18 13. California Government Code section 11520(a) states, in pertinent part:

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

23 14. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 2016-54, finds
28 that the charges and allegations in Accusation No. 2016-54, are separately and severally, found to
be true and correct by clear and convincing evidence.

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ORDER

IT IS SO ORDERED that Field Representative's License No. FR 35553, heretofore issued to Respondent Tim Dean Avila, is revoked.

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

This Decision shall become effective on September 30, 2016.

It is so ORDERED August 31, 2016



FOR THE STRUCTURAL PEST CONTROL
BOARD, DEPARTMENT OF CONSUMER
AFFAIRS

52133362.DOC
DOJ Matter ID:LA2016600985

Attachment:
Exhibit A: Accusation