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**FILED**

**Date** 6/20/11

**By** William H. Douglas

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

In the Matter of the Accusation Against:

Case No. 2011-73

**MICHAEL IAN CLAYTON**  
649 South Waterman Ave.  
San Bernardino, CA 92408  
Field Representative's License No. FR 36583,  
Branch 2

**ACCUSATION**

Respondent.

Complainant alleges:

**PARTIES**

1. William H. Douglas ("Complainant") brings this Accusation solely in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation.

**Field Representative's License**

2. On or about October 28, 2003, the Board issued Field Representative's License Number FR 36583 in Branch 2 to Michael Ian Clayton ("Respondent"). The field representative's license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

**STATUTORY PROVISIONS**

3. Section 8620 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a

licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

4. Code section 8625 states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

5. Code section 8649 states:

Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

#### **COST RECOVERY**

6. Code section 125.3 states, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### **CAUSE FOR DISCIPLINE**

##### **(Criminal Conviction)**

7. Respondent's license is subject to disciplinary action under Code section 8649, in that on April 25, 2011, in the Superior Court, County of Riverside, California, in the matter entitled *People vs. Michael Clayton*, 2010, Case No. RIF10004393, Respondent was convicted by the Court following his plea of guilty to a violation of Penal Code section 311.11 subdivision (a) (knowingly control and possess any matter, representation of information, data and image in which the production involves the use of a person under the age of 18 years, knowing that the material or matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct), a felony. The circumstances of the crime are that on August 10, 2010, members of the Riverside County S.A.F.E. Task Force served a search warrant for Respondent's residence and computer equipment. Respondent admitted to the officers that he had been downloading

1 child pornography. Respondent's computer equipment contained 123 child pornography titles  
2 and 93 videos of child pornography. Such conduct is substantially related to the qualifications,  
3 functions, and duties of a licensed field representative.

4 **OTHER MATTERS**

5 8. Code section 8620 provides, in pertinent part, that a respondent may request that a  
6 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,  
7 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made  
8 at the time of the hearing and must be noted in the proposed decision. The proposed decision  
9 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

10 9. Pursuant to Code section 8654, if discipline is imposed on Field Representative's  
11 License FR 36583, issued to Respondent, then Michael Ian Clayton, shall be prohibited from  
12 serving as an officer, director, associate, partner or responsible managing employee of a licensee,  
13 and any licensee which employs, elects, or associates him shall be subject to disciplinary action.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Structural Pest Control Board issue a decision:

17 1. Revoking or suspending Field Representative's License Number FR 36583, issued to  
18 Michael Ian Clayton;

19 2. Ordering Michael Ian Clayton to pay the Structural Pest Control Board the reasonable  
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
21 Code section 125.3; and,

22 3. Taking such other and further action as deemed necessary and proper.  
23

24 DATED: 6/20/11

*William H. Douglas*  
25 WILLIAM H. DOUGLAS  
26 Interim Registrar/Executive Officer  
27 Structural Pest Control Board  
28 Department of Pesticide Regulation  
State of California  
Complainant

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