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

In the Matter of the Accusation Against:  
  
**MICHAEL IAN CLAYTON**  
649 South Waterman Ave.  
San Bernardino, CA 92408  
Field Representative's License No. FR 36583  
  
Respondent.

Case No. 2011-73

**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 20, 2011, Complainant William H. Douglas, in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2011-73 against Michael Ian Clayton (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about October 28, 2003, the Structural Pest Control Board (Board) issued Field Representative's License No. FR 36583 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.

3. On or about July 24, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-73, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is

1 required to be reported and maintained with the Board, which was and is: 649 South Waterman  
2 Ave., San Bernardino, CA 92408.

3 4. Service of the Accusation was effective as a matter of law under the provisions of  
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
5 124.

6 5. On or about June 28, 2011, a signed Domestic Return Receipt was returned by the  
7 U.S. Postal Service to the Office of the Attorney General indicating receipt of the above-  
8 mentioned documents at Respondent's address of record.

9 6. Government Code section 11506 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 parts  
12 of the accusation not expressly admitted. Failure to file a notice of defense shall  
13 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
14 may nevertheless grant a hearing.

15 7. 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 2011-73.

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

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

23 9. 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. 2011-73, finds  
28 that the charges and allegations in Accusation No. 2011-73, are separately and severally, found to  
be true and correct by clear and convincing evidence.

1           10. Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
3 and Enforcement is \$875.00 as of July 27, 2011.

4                                   DETERMINATION OF ISSUES

5           1. Based on the foregoing findings of fact, Respondent Michael Ian Clayton has  
6 subjected his Field Representative's License No. FR 36583 to discipline.

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

8           3. The Structural Pest Control Board is authorized to revoke Respondent's Field  
9 Representative's License based upon the following violations alleged in the Accusation which are  
10 supported by the evidence contained in the Default Decision Evidence Packet in this case:

11           a. Respondent's license is subject to disciplinary action under Code section 8649, in that  
12 on April 25, 2011, in the Superior Court, County of Riverside, California, in the matter entitled  
13 *People vs. Michael Clayton*, 2010, Case No. RIF10004393, Respondent was convicted by the  
14 Court following his plea of guilty to a violation of Penal Code section 311.11 subdivision (a)  
15 (knowingly control and possess any matter, representation of information, data and image in  
16 which the production involves the use of a person under the age of 18 years, knowing that the  
17 material or matter depicts a person under the age of 18 years personally engaging in or simulating  
18 sexual conduct), a felony. The circumstances of the crime are that on August 10, 2010, members  
19 of the Riverside County S.A.F.E. Task Force served a search warrant for Respondent's residence  
20 and computer equipment. Respondent admitted to the officers that he had been downloading  
21 child pornography. Respondent's computer equipment contained 123 child pornography titles  
22 and 93 videos of child pornography. Such conduct is substantially related to the qualifications,  
23 functions, and duties of a licensed field representative.

24                                   ORDER

25           IT IS SO ORDERED that Field Representative's License No. FR 36583, heretofore issued  
26 to Respondent Michael Ian Clayton, is revoked.

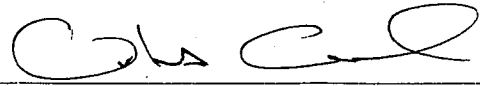
27           Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
28 written motion requesting that the Decision be vacated and stating the grounds relied on within

1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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This Decision shall become effective on October 29, 2011.

It is so ORDERED September 29, 2011



FOR THE STRUCTURAL PEST CONTROL  
BOARD  
DEPARTMENT OF PESTICIDE REGULATION

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DOJ Matter ID:LA2010601342

Attachment:  
Exhibit A: Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 State Bar No. 164015  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2520  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

**FILED**

Date 6/20/11

By William H. Douglas

7  
8 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
9 **DEPARTMENT OF PESTICIDE REGULATION**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-73

11 **MICHAEL IAN CLAYTON**  
12 **649 South Waterman Ave.**  
13 **San Bernardino, CA 92408**  
14 **Field Representative's License No. FR 36583,**  
**Branch 2**

**ACCUSATION**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

21 **Field Representative's License**

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

26 **STATUTORY PROVISIONS**

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

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

3 4. Code section 8625 states:

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

8 5. Code section 8649 states:

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

#### 12 COST RECOVERY

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

#### 17 CAUSE FOR DISCIPLINE

##### 18 (Criminal Conviction)

19 7. Respondent's license is subject to disciplinary action under Code section 8649, in that  
20 on April 25, 2011, in the Superior Court, County of Riverside, California, in the matter entitled  
21 *People vs. Michael Clayton*, 2010, Case No. RIF10004393, Respondent was convicted by the  
22 Court following his plea of guilty to a violation of Penal Code section 311.11 subdivision (a)  
23 (knowingly control and possess any matter, representation of information, data and image in  
24 which the production involves the use of a person under the age of 18 years, knowing that the  
25 material or matter depicts a person under the age of 18 years personally engaging in or simulating  
26 sexual conduct), a felony. The circumstances of the crime are that on August 10, 2010, members  
27 of the Riverside County S.A.F.E. Task Force served a search warrant for Respondent's residence  
28 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

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

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