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

In the Matter of the Accusation Against:

Case No. 2013-39

MARK ANTHONY GRUBERT 6278 Prentis Court Magalia, CA 95954 OAH No. 2013080396

Field Representative License No. FR 37981 Branches 2 and 3

Respondent.

# DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 25, 2014

It is so ORDERED \_ A

August 26, 2014

FOR THE STRUCTURAL PEST CONTROL BOARD

DEPARTMENT OF CONSUMER AFFAIRS

4	• ,	
	.1	Kamala D. Harris
	2	Attorney General of California KENT D. HARRIS
	3	Supervising Deputy Attorney General LESLIE A. BURGERMYER
	4	Deputy Attorney General State Bar No. 117576
		1300 I Street, Suite 125
	<u>5</u>	P.O. Box 944255 Sacramento, CA 94244-2550
	6	Telephone: (916) 324-5337 Facsimile: (916) 327-8643
	7	Attorneys for Complainant
	8	BEFORE THE
	9	STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF CONSUMER AFFAIRS
	10	STATE OF CALIFORNIA
	11	In the Matter of the First Amended Accusation Case No. 2013-39
,	12	Against: MARK ANTHONY GRUBERT OAH No. 2013080396
	13	6278 Prentis Court
		Magalia, CA 95954 STIPULATED SURRENDER OF LICENSE AND ORDER
	14	Field Representative License No. FR 37981 Branches 2 and 3
	15	
	16	Respondent.
·····	17	
	18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
	19 <sup>°</sup>	entitled proceedings that the following matters are true:
	20	PARTIES
	21	1. Susan Saylor ("Complainant") is the Registrar/Executive Officer of the Structural
,	22	Pest Control Board ("Board"), Department of Consumer Affairs. She brought this action solely
· ·	23	
		in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
	24	the State of California, by Leslie A. Burgermyer, Deputy Attorney General.
	25	2. Mark Anthony Grubert ("Respondent") is represented in this proceeding by attorney
	26	Maximilian Griffiths Barteau, Esq., whose address is P.O. Box 775, Paradise, CA 95967.
	27	3. On or about November 29, 2004, the Board issued Field Representative License No.
•	28	FR 37981, Branches 2 and 3, to Respondent. The Field Representative License was in full force
•••••••	·	
۰ ۹۰ ۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰۰		1

and effect at all times relevant to the charges brought in First Amended Accusation No. 2013-39 and will expire on June 30, 2016, unless renewed.

## JURISDICTION

4. Accusation No. 2013-39 was filed before the Board against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 25, 2013. Respondent timely filed his Notice of Defense contesting the Accusation. First Amended Accusation No. 2013-39 was filed before the Board on February 21, 2014, and is currently pending against Respondent. The First Amended Accusation supersedes the original Accusation in all respects. A copy of First Amended Accusation No. 2013-39 is attached as Exhibit A and incorporated by reference.

#### ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 2013-39. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
every right set forth above.

## **CULPABILITY**

Respondent admits the truth of each and every charge and allegation in First
 Amended Accusation No. 2013-39, agrees that cause exists for discipline and hereby surrenders
 his Field Representative License No. FR 37981 for the Board's formal acceptance.

Ctimulated Currandar of License (Case No. 2012-20)

Respondent understands that by signing this stipulation he enables the Board to issue 9. . an order accepting the surrender of his Field Representative License without further process.

### RESERVATION

The admissions made by Respondent herein are only for the purposes of this 10. proceeding, or any other proceedings in which the Structural Pest Control Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

### CONTINGENCY

11. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondent understands and agrees that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter. 18'

19 12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format 2021 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals. 22 13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. 23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 24 25 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order 26 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing 27 executed by an authorized representative of each of the parties.

3

28

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

# <u>ORDER</u>

IT IS HEREBY ORDERED that Field Representative License No. FR 37981, Branches 2 and 3, issued to Respondent Mark Anthony Grubert ("Respondent"), is surrendered and accepted by the Structural Pest Control Board ("Board").

The surrender of Respondent's Field Representative License and the acceptance of
 the surrendered license by the Board shall constitute the imposition of discipline against
 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
 Respondent's license history with the Structural Pest Control Board.

Respondent shall lose all rights and privileges as a Field Representative in California
 as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in
the State of California, then the Board shall treat it as a petition for reinstatement. Respondent
must comply with all the laws, regulations and procedures for reinstatement of a revoked license
in effect at the time the petition is filed, and all of the charges and allegations contained in First
Amended Accusation No. 2013-39 shall be deemed to be true, correct and admitted by
Respondent when the Board determines whether to grant or deny the petition.

Respondent shall pay the agency its costs of investigation and enforcement in the amount of (6, 650, 00) prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or re-apply for a new license or certification, or petition for reinstatement of a license, by any licensing agency in the State of California, then all of the charges and allegations contained in Accusation, No. 2013-39 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

28

21

22

23

24

25

26

27

1

2

3

4

5

6

7. Respondent shall not apply or re-apply for a new license or certification or petition
 for reinstatement of a license for a period of one (1) year from the effective date of the Board's
 Decision and Order in this matter.

## ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Maximilian Griffiths Barteau, Esq. I understand the stipulation and the effect it will have on my Field Representative License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

11 DATED:

12

13

14

·15

16

17

18

19

20

21

22

23

24

25

26

27

28

DATED:

4

5

6

7

8

9

10

MARK ANTHONY GRI

I have read and fully discussed with Respondent Mark Anthony Grubert the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I

Respondent

approve its form and content. DATED:

5/9/10

MAXIMILIAN GRIFFITHS BARTEAU, ESQ. Attorney for Respondent

#### ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Consumer Affairs.

5

Respectfully submitted,

KAMALA D. HARRIS Attorney General of California KENT D. HARRIS Supervising Deputy Attorney General

LESLIE A. BURGERMYER Deputy Attorney General Attorneys for Complainant

SA2013110317 / 11341986.doc