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

In the Matter of the Accusation Against: **ROBERT SCOTT ROSS** **555 North Guild Avenue** **Lodi, California 95240** **Field Representative's License No. FR 42763, Branch 2** **Registered Applicator's License No. RA 47205** Respondent.	Case No. 2011-16 **DEFAULT DECISION AND ORDER** [Gov. Code §11520]

FINDINGS OF FACT

1. On or about November 23, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation, filed Accusation No. 2011-16 against Robert Scott Ross ("Respondent") before the Board. (Accusation attached as Exhibit A.)

2. On or about February 1, 2008, the Board issued Field Representative's License No. FR 42763, Branch 2 to 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, 2013, unless renewed.

3. On or about April 16, 2007, the Board issued Registered Applicator's License No. RA 47205 to Respondent. The Registered Applicator's License expired on April 16, 2010, and has not been renewed.

4. On or about December 2, 2010, Respondent was served by Certified and First Class Mail copies of Accusation No. 2011-16, 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 and/or agency specific statutes or regulations, is required to be reported and maintained with the Board, and which was and is:

555 North Guild Avenue
Lodi, California 95240.

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

6. Government Code section 11506 states, in pertinent part:

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

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2011-16.

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

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,

as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-16, finds that the charges and allegations in Accusation No. 2011-16 are separately and severally true and correct by clear and convincing evidence.

10. Upon taking official notice of the Board's own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for investigation and enforcement of this matter is $3,864.80 as of December 23, 2010.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Robert Scott Ross has subjected his Field Representative's License No. FR 42763, Branch 2, and his Registered Applicator's License No. RA 47205 to discipline.

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

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

a. Violation of Business & Professions Code section 8649 (conviction for burglary).

b. Violation of Business & Professions Code section 490 (conviction for burglary).

c. Violation of California Code of Regulations, title 16, section 1937.1, subdivisions (a) and (b)(3) (conviction for burglary).

ORDER

IT IS HEREBY ORDERED that Field Representative's License No. FR 42763, Branch 2, and Registered Applicator's License No. RA 47205 heretofore issued to Respondent Robert Scott Ross, are 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 Structural Pest Control Board 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 February 26, 2011.

It is so ORDERED January 27, 2011

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment:
Exhibit A: Accusation

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FILED
Date 11/23/10 By Kelli Okuma

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

In the Matter of the Accusation Against: **ROBERT SCOTT ROSS** **555 North Guild Avenue** **Lodi, California 95240** **Field Representative's License No. FR 42763, Branch 2** **Registered Applicator's License No. RA 47205** Respondent.	Case No. 2011-16 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation.

2. On or about February 1, 2008, the Board issued Field Representative's License Number FR 42763, Branch 2 to Robert Scott Ross ("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, 2013, unless renewed.

3. On or about April 16, 2007, the Board issued Registered Applicator's License Number RA 47205 to Respondent. The Registered Applicator's License was cancelled on April 16, 2010.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

5. Section 8620 of the 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.

6. Section 8649 of the Code provides:

"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."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. California Code of Regulations, title 16, section 1937.1 provides in relevant part:

"For the purposes of denial, suspension or revocation of a license or company registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensee or registered company under Chapter 14 of Division 3 of the code if to a substantial degree it evidences present or potential unfitness of such licensee or registered company to perform the functions authorized by the license or company registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, the following:

"(a) Any violation of the provisions of Chapter 14 of Division 3 of the code.

"(b) Commission of any of the following in connection with the practice of structural pest control:

. . .

"(3) Theft

. . ."

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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.

10. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

FACTUAL BACKGROUND

11. Between approximately December 2009 and July 2010, Respondent was employed by a pest control company located in Santa Rosa, California.

12. During that time period, Respondent, while on duty for the company, entered at least six homes in the Santa Rosa area to ostensibly inspect and/or spray them for insects. Once inside the homes, Respondent located and took various pieces of gold jewelry without the owners' knowledge or permission.

13. Respondent took the stolen pieces of gold jewelry to a pawn shop located in Santa Rosa where he sold them for cash. Respondent told the owner of the pawn shop that he had inherited the jewelry. In total, Respondent was paid approximately $13,684.41 for the jewelry.

14. Respondent stole and pawned the jewelry in order to support his addiction to Oxycodone.

15. On or about July 15, 2010, Respondent was charged with two counts of violating Penal Code section 459 (burglary), a felony, and one count of violating Penal Code section 496,

subdivision (b) (buying or receiving stolen property), a felony. On or about September 3, 2010, the criminal complaint against Respondent was amended such that Respondent was charged with eight felony counts of violating Penal Code section 459 and one felony count of violating Penal Code section 496, subdivision (a).

16. On or about September 13, 2010, in a criminal proceeding entitled *The People of the State of California v. Robert Scott Ross,* in Sonoma County Superior Court, Case Number SCR-586561, Respondent pleaded guilty to three counts of violating Penal Code section 459.

17. On or about October 27, 2010, Respondent was sentenced to state prison for six years and eight months, execution of sentence suspended, and granted three years probation. Respondent was also ordered to pay a $30 fine, $620 in restitution fines, and $7,437.59 in restitution.

CAUSE FOR DISCIPLINE

(Criminal Conviction)

18. Respondent is subject to disciplinary action under sections 8649 and 490 of the Code, and California Code of Regulations, title 16, section 1937.1, subdivisions (a) and (b)(3), in that on or about September 13, 2010, in a criminal proceeding entitled *The People of the State of California v. Robert Scott Ross,* in Sonoma County Superior Court, Case Number SCR-586561, Respondent pleaded guilty to violating Penal Code section 459.

The circumstances of Respondent's conviction are set forth above in Paragraphs 11 through 17.

PRAYER

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

1. Revoking or suspending Field Representative's License Number FR 42763, Branch 2, issued to Robert Scott Ross;

2. Revoking or suspending Registered Applicator's License Number RA 47205, issued to Robert Scott Ross;

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3. Ordering Robert Scott Ross to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 11/23/10

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

SF2010202809