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

In the Matter of the Accusation Against:

Case No. 2011-53

**JOSEPH BROWN
1010 Olinder Court
San Jose, CA 95122**

DEFAULT DECISION AND ORDER

**Field Representative's License No. FR
43306, Branches 2 and 3**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about April 18, 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. 2011-53 against Joseph Brown (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about August 13, 1997, the Structural Pest Control Board issued Field Representative's License No. FR 43306, Branch 3, to Joseph Brown (Respondent). On or about November 25, 2008, Field Representative's License No FR 43306 was upgraded to include Branches 2 & 3. The Field Representative's License is due to expire on June 30, 2011, unless renewed.

3. On or about April 21, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-53, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
2 required to be reported and maintained with the Board, which was and is 1010 Olinder Court, San
3 Jose, CA 94244.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. On or about May 2, 2011, the aforementioned documents were returned by the U.S.
8 Postal Service marked "No Forwarding Address."

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 2011-53.

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. 2011-53, finds
28 that the charges and allegations in Accusation No. 2011-53, are separately and severally, found to
be true and correct by clear and convincing evidence.

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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 \$1,170.00 as of May 10, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Joseph Brown has subjected his
6 Field Representative's License Number. FR 43306, Branches 2 and 3, 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. Business and Professions Code (Code) sections 490 and 8649 ((Conviction).


12 ORDER

13 IT IS SO ORDERED that Field Representative's License Number FR 43306, heretofore
14 issued to Respondent Joseph Brown, is revoked.

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

19 This Decision shall become effective on July 23, 2011

20 It is so ORDERED June 23, 2011

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22 
23 FOR THE STRUCTURAL PEST CONTROL
24 BOARD
25 DEPARTMENT OF PESTICIDE REGULATION

26 default decision_LIC.rtf
27 DOJ Matter ID:SF2010900613

28 Attachment:
Exhibit A: Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 CAROL ROMEO
Deputy Attorney General
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5 P.O. Box 70550
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6 Telephone: (510) 622-2141
Facsimile: (510) 622-2270
7 Attorneys for Complainant

FILED

Date 4/18/11

By William H. Douglas

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

11 In the Matter of the Accusation Against:

Case No. 2011-53

12 **JOSEPH BROWN**
13 **1010 Olinder Court**
San Jose, CA 95122

ACCUSATION

14 **Field Representative's License No. FR**
15 **43306, Branches 2 and 3**

Respondent.

17 Complainant alleges:

18 PARTIES

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

22 2. On or about August 13, 1997, the Structural Pest Control Board issued Field
23 Representative's License No. FR 43306, Branch 3, to Joseph Brown (Respondent). On or about
24 November 25, 2008, Field Representative's License No FR 43306 was upgraded to include
25 Branches 2 & 3. The Field Representative's License is due to expire on June 30, 2011, unless
26 renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Structural Pest Control Board (Board),
3 Department of Pesticide Regulation, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 8620 of the Business and Professions Code (Code) provides, in pertinent part,
6 that the Board may suspend or revoke a license when it finds that the holder, while a licensee or
7 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
8 of a suspension may assess a civil penalty.

9 5. Section 8625 of the Code states:

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

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

STATUTORY PROVISIONS

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19 7. Section 490 of the Code states, in pertinent part, that the Board may suspend or
20 revoke a license when it finds that the licensee has been convicted of a crime substantially related
21 to the qualifications, functions, or duties of the business or profession for which the license was
22 issued.

23 8. Section 8649 of the Code states:

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

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PRAYER

1
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Structural Pest Control Board issue a decision:

- 4 1. Revoking or suspending Field Representative's License Number FR 43306, issued to
5 Joseph Brown;
- 6 2. Ordering Joseph Brown to pay the Structural Pest Control Board the reasonable costs
7 of the investigation and enforcement of this case, pursuant to Business and Professions Code
8 section 125.3; and
- 9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: _____

4/18/11

William H. Douglas

William H. Douglas
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

15 SF2010900613
16 CR: 04/18/11