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

In the Matter of the Petition to Revoke
Probation Against:

Case No. 2008-40

**PAUL J. SMITH
6681 N. Malsbary Avenue
Fresno, CA 93711-0805**

DEFAULT DECISION AND ORDER

Field Representative License No. FR 43612

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about August 31, 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 Petition to Revoke Probation No. 2008-40 against Paul J. Smith (Respondent) before the Structural Pest Control Board. (Petition to Revoke Probation attached as Exhibit A.)

2. On or about September 19, 2008, the Structural Pest Control Board (Board) issued Field Representative License No. FR 43612 to Respondent. The Field Representative License expired on June 30, 2011, and has not been renewed.

3. On or about September 8, 2011, Respondent was served by Certified and First Class Mail copies of the Petition to Revoke Probation No. 2008-40, 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 California Code of

1 Regulations, title 16, section 1911, and Business and Professions Code section 136, is required to
2 be reported and maintained with the Board, which was and is:

3 7100 Cerritos Avenue # 65
4 Stanton, CA 90680

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

8 5. On or about September 22, 2011, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Forwarding Address Expired" with a forwarding address of 6681 N.
10 Malsbary Avenue, Fresno, CA 93711-0805.

11 6. On or about September 27, 2011, Respondent was served by Certified and First Class
12 Mail copies of the Petition to Revoke Probation No. 2008-40, Statement to Respondent, Notice of
13 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
14 11507.6, and 11507.7) at the forwarding address of 6681 N. Malsbary Avenue, Fresno, CA
15 93711-0805.

16 7. On or about September 30, 2011, Respondent signed the U.S. Postal Service
17 Domestic Return Receipt indicating he received service of the Petition to Revoke Probation at his
18 address of 6681 N. Malsbary Avenue, Fresno, CA 93711-0805.

19 8. Government Code section 11506 states, in pertinent part:

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

25 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
26 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
27 Petition to Revoke Probation No. 2008-40.

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10. 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.

11. 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 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 Petition to Revoke Probation No. 2008-40, finds that the charges and allegations in Petition to Revoke Probation No. 2008-40 are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Paul J. Smith has subjected his Field Representative License No. FR 43612 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 License based upon Respondent's failure to comply with Probation Condition 2 in that Respondent did not provide quarterly reports to the Board that were due on February 28, 2010, May 29, 2010, August 29, 2010, November 29, 2010, February 28, 2011, May 29, 2011, and August 29, 2011. Said violation alleged in the Petition to Revoke Probation is supported by the Default Decision Investigatory Evidence Packet in this case.

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ORDER

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2 IT IS SO ORDERED that Field Representative License No. FR 43612, heretofore issued to
3 Respondent Paul J. Smith, is revoked.

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

8
9 This Decision shall become effective on December 21, 2011.

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11 It is so ORDERED November 21, 2011

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15 FOR THE STRUCTURAL PEST CONTROL
16 BOARD
17 DEPARTMENT OF PESTICIDE REGULATION
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26 DOJ Matter ID:SD2011800950

27 Attachment:
28 Exhibit A: Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
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Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED

Date 8/31/11

By *William H. Douglas*

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

13 In the Matter of the Petition to Revoke
Probation Against:
14 **PAUL J. SMITH**
7100 Cerritos Avenue, Suite 65
15 Stanton, CA 90680
16 **Field Representative License No. FR 43612**
17 Respondent.

Case No. 2008-40
OAH No. 2008030546
PETITION TO REVOKE PROBATION

19 Complainant alleges:

20 **PARTIES**

- 21 1. William H. Douglas (Complainant) brings this Petition to Revoke Probation solely in
22 his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control
23 Board, Department of Pesticide Regulation.
- 24 2. On or about September 19, 2008, the Structural Pest Control Board issued Field
25 Representative License Number FR 43612 to Paul J. Smith (Respondent). The Field
26 Representative License expired on June 30, 2011, and has not been renewed.
- 27 3. In a disciplinary action entitled "*In the Matter of Statement of Issues Against Paul J.*
28 *Smith*," Case No. 2008-40, the Structural Pest Control Board, issued a decision, effective August

1 29, 2008, in which Respondent's Field Representative License was revoked. However, the
2 revocation was stayed and Respondent's Field Representative License was placed on probation
3 for a period of three (3) years with certain terms and conditions. A copy of that decision is
4 attached as Exhibit A and is incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Structural Pest Control Board
7 (Board), Department of Pesticide Regulation, under the authority of the following laws. All
8 section references are to the Business and Professions Code (Code) unless otherwise indicated.

9 5. Section 8625 of the Code states:

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

14 STATUTORY PROVISIONS

15 6. Section 8641 of the Code states:

16 Failure to comply with the provisions of this chapter, or any rule or regulation
17 adopted by the board, or the furnishing of a report of inspection without the making
18 of a bona fide inspection of the premises for wood-destroying pests or organisms, or
19 furnishing a notice of work completed prior to the completion of the work specified in
20 the contract, is a ground for disciplinary action.

21 7. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License
22 Number FR 43612 issued to Respondent, he shall be prohibited from serving as an officer,
23 director, associate, partner, qualifying manager, or responsible managing employee for any
24 registered company during the time the discipline is imposed, and any registered company which
25 employs, elects, or associates Respondent shall be subject to disciplinary action.

24 REGULATORY PROVISIONS

25 8. California Code of Regulations, title 16, section 1937.12 states, in pertinent part:

26 (a) Whenever a proposed decision places a licensee or registered company on
27 probation as a condition of staying a revocation or staying all or any portion of a
28 suspension, the order granting such probation shall include at least the following
conditions:

1 (1) That the licensee or registered company shall file quarterly reports with the
2 board during the period of probation;

3
4 CAUSE TO REVOKE PROBATION

5 (Quarterly Reports)

6 9. At all times after the effective date of Respondent's probation, Condition 2 stated:

7 "Respondent shall file quarterly reports with the Board during the period of probation."

8 10. Respondent's probation is subject to revocation because he failed to comply with
9 Probation Condition 2, referenced above, in that Respondent did not provide quarterly reports to
10 the Board that were due on February 28, 2010, May 29, 2010, August 29, 2010, November 29,
11 2010, February 28, 2011, May 29, 2011, and August 29, 2011.

12 **PRAYER**

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

15 1. Revoking the probation that was granted by the Structural Pest Control Board in Case
16 No. 2008-40 and imposing the disciplinary order that was stayed thereby revoking Field
17 Representative License No. FR 43612 issued to Paul J. Smith;

18 2. Revoking or suspending Field Representative License No. FR 43612, issued to Paul J.
19 Smith;

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

21
22 DATED: _____

8/31/11

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

SD2011800950
pet revoke prob.rtf

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

In the Matter of the Statement of Issues Against:

PAUL J. SMITH
7100 Cerritos Avenue, #65
Stanton, CA 90680

Case No. 2008-40

Respondent.

DECISION AND ORDER

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

The Decision shall become effective on August 29, 2008.

IT IS SO ORDERED July 30, 2008.



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Supervising Deputy Attorney General
3 AMANDA DODDS
Legal Analyst
4 110 West "A" Street, Suite 1100
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6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against:

12 PAUL J. SMITH
7100 Cerritos Avenue # 65
13 Stanton, CA 90680

14
15 Respondent.

OAH No. 2008030546

Agency Case No. 2008-40

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the
20 Structural Pest Control Board. She brought this action solely in her official capacity and is
21 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
22 by Amanda Dodds, Legal Analyst.

23 2. Respondent Paul J. Smith is representing himself in this proceeding and
24 has chosen not to exercise his right to be represented by counsel.

25 3. On or about January 29, 2007, Respondent filed an application dated
26 January 25, 2007, with the Structural Pest Control Board to obtain a Field Representative's
27 License. The application was denied on or about March 27, 2007. On or about May 7, 2007,
28 Respondent filed a request for a hearing on the denial of the application.

JURISDICTION

4. Statement of Issues No. 2008-40 was filed before the Structural Pest Control Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on January 23, 2008. A copy of Statement of Issues No. 2008-40 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2008-40. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary 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 Statement of Issues; 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

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2008-40.

9. Respondent agrees that his Field Representative's license application is subject to denial and he agrees to be bound by the Structural Pest Control Board (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

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1 CONTINGENCY

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

12 11. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

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

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that upon satisfaction of all licensing requirements, a
20 Field Representative's license will be issued to Respondent Paul J. Smith. The license will be
21 automatically revoked, the revocation will be stayed, and the Respondent placed on three (3)
22 years probation on the following terms and conditions.

23 1. **Obey All Laws.** Respondent shall obey all laws and rules relating to the
24 practice of structural pest control.

25 2. **Quarterly Reports.** Respondent shall file quarterly reports with the
26 Board during the period of probation.

27 3. **Tolling of Probation.** Should Respondent leave California to reside
28 outside this state, Respondent must notify the Board in writing of the dates of departure and

1 return. Periods of residency or practice outside the state shall not apply to reduction of the
2 probationary period.

3 4. **Notice to Employers.** Respondent shall notify all present and prospective
4 employers of the decision in Statement of Issues No. 2008-40 and the terms, conditions and
5 restrictions imposed on Respondent by said decision. Within 30 days of the effective date of this
6 decision, and within 15 days of Respondent undertaking any new employment, Respondent shall
7 cause his employer to report to the Board in writing acknowledging the employer has read the
8 decision in Statement of Issues Case No. 2008-40.

9 5. **Completion of Probation.** Upon successful completion of probation,
10 Respondent's license/certificate will be fully restored.

11 6. **Violation of Probation.** Should Respondent violate probation in any
12 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
13 probation and carry out the disciplinary order which was stayed. If a petition to revoke probation
14 is filed against Respondent during probation, the Board shall have continuing jurisdiction until
15 the matter is final, and the period of probation shall be extended until the matter is final.

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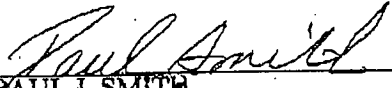
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Field Representative's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

DATED: 6/25/08


PAUL J. SMITH
Respondent


ENDORSEMENT

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

DATED: 6/26/08

EDMUND G. BROWN JR., Attorney General
of the State of California

LINDA K. SCHNEIDER
Supervising Deputy Attorney General


AMANDA DODDS
Legal Analyst

Attorneys for Complainant

Exhibit A

Statement of Issues No. 2008-40

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Supervising Deputy Attorney General
3 AMANDA DODDS
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7 Facsimile: (619) 645-2061

FILED

Date 1/17/08 By *Kelli Okuma*

8 Attorneys for Complainant

9

10

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

11

12

13 In the Matter of the Statement of Issues Against:

Case No. 2008-40

14 PAUL JOHN SMITH
7100 Cerritos Avenue #65
15 Stanton, CA 90680

STATEMENT OF ISSUES

16

Respondent.

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18

Complainant alleges:

19

PARTIES

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1. Kelli Okuma (Complainant) brings this Statement of Issues solely in her

21

official capacity as the Registrar/Executive Officer of the Structural Pest Control Board,

22

Department of Consumer Affairs.

23

2. On or about March 21, 2007, the Structural Pest Control Board ("Board"),

24

received an application for a Field Representative License from Paul J. Smith (Respondent). On

25

or about March 16, 2007, Paul J. Smith certified under penalty of perjury to the truthfulness of

26

all statements, answers, and representations in the application. The Board denied the application

27

on March 27, 2007.

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1 JURISDICTION

2 3. This Statement of Issues is brought before the Board under the authority
3 of the following laws. All section references are to the Business and Professions Code unless
4 otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 475 of the Code states:

7 (a) Notwithstanding any other provisions of this code, the provisions of
8 this division shall govern the denial of licenses on the grounds of:

9 (1) Knowingly making a false statement of material fact, or
10 knowingly omitting to state a material fact, in an application for a license.

11 (2) Conviction of a crime.

12 (3) Commission of any act involving dishonesty, fraud or deceit
13 with the intent to substantially benefit himself or another, or substantially injure
14 another.

15 (4) Commission of any act which, if done by a licentiate of the
16 business or profession in question, would be grounds for suspension or revocation
17 of license.

18 (b) Notwithstanding any other provisions of this code, the provisions of
19 this division shall govern the suspension and revocation of licenses on grounds
20 specified in paragraphs (1) and (2) of subdivision (a) .

21 (c) A license shall not be denied, suspended, or revoked on the grounds of
22 a lack of good moral character or any similar ground relating to an applicant's
23 character, reputation, personality, or habits.

24 5. Section 480 states, in pertinent part:

25 (a) A board may deny a license regulated by this code on the grounds that
26 the applicant has one of the following:

27 (1) Been convicted of a crime. A conviction within the meaning of
28 this section means a plea or verdict of guilty or a conviction following a plea of
nolo contendere. Any action which a board is permitted to take following the
establishment of a conviction may be taken when the time for appeal has elapsed,
or the judgment of conviction has been affirmed on appeal, or when an order
granting probation is made suspending the imposition of sentence, irrespective of
a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the
intent to substantially benefit himself or another, or substantially injure another;
or

(3) Done any act which if done by a licentiate of the business or
profession in question. would be grounds for suspension or revocation of license.

1 The board may deny a license pursuant to this subdivision only if
2 the crime or act is substantially related to the qualifications, functions or duties of
the business or profession for which application is made.

3
4 (c) A board may deny a license regulated by this code on the
5 ground that the applicant knowingly made a false statement of fact required to be
revealed in the application for such license.

6 6. Section 493 of the Code states:

7 Notwithstanding any other provision of law, in a proceeding conducted by
8 a board within the department pursuant to law to deny an application for a license
or to suspend or revoke a license or otherwise take disciplinary action against a
9 person who holds a license, upon the ground that the applicant or the licensee has
been convicted of a crime substantially related to the qualifications, functions,
10 and duties of the licensee in question, the record of conviction of the crime shall
be conclusive evidence of the fact that the conviction occurred, but only of that
11 fact, and the board may inquire into the circumstances surrounding the
commission of the crime in order to fix the degree of discipline or to determine if
12 the conviction is substantially related to the qualifications, functions, and duties
of the licensee in question.

13 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’
14 ‘authority,’ and ‘registration.’”

15 7. Section 8568 of the Code states:

16 After a hearing the board may deny a license or a company registration
17 unless the applicant makes a showing satisfactory to the board that the applicant,
if an individual, has not, or if the applicant is a company applying for a company
18 registration, that its manager and each of its officers, directors, employees,
members and partners have not:

19 (a) Committed any act or crime constituting grounds for denial of
20 licensure under Section 480.

21
22 8. Section 8649 of the Code states:

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

26 9. Section 8654 of the Code states:

27 Any individual who has been denied a license for any of the reasons
28 specified in Section 8568, or who has had his or her license revoked, or whose
license is under suspension, or who has failed to renew his or her license while it

1 was under suspension, or who has been a member, officer, director, associate,
2 qualifying manager, or responsible managing employee of any partnership,
3 corporation, firm, or association whose application for a company registration has
4 been denied for any of the reasons specified in Section 8568, or whose company
5 registration has been revoked as a result of disciplinary action, or whose company
6 registration is under suspension, and while acting as such member, officer,
7 director, associate, qualifying manager, or responsible managing employee had
8 knowledge of or participated in any of the prohibited acts for which the license or
9 registration was denied, suspended or revoked, shall be prohibited from serving as
10 an officer, director, associate, partner, qualifying manager, or responsible
11 managing employee of a registered company, and the employment, election or
12 association of such person by a registered company is a ground for disciplinary
13 action.

14 10. Title 16, California Code of Regulations section 1937.1, states:

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

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

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

27 (1) Fiscal dishonesty

28 (2) Fraud

(3) Theft

(4) Violations relating to the misuse of pesticides.

11. Title 16, California Code of Regulations section 1020, states:

(a) When considering the denial of a license under Section 480 of the
Code, the board in evaluating the rehabilitation of the applicant and his present
eligibility for a license, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as
grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or
crime(s) under consideration as grounds for denial which also could be
considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or
crime(s) referred to in subdivision (1) or (2).

1 (4) The extent to which the applicant has complied with any terms
2 of parole, probation, restitution, or any other sanctions lawfully imposed against
the applicant.

3 (5) Evidence, if any, of rehabilitation submitted by the
4 applicant.

5

6 **FIRST CAUSE FOR DENIAL OF APPLICATION**

7 **(August 9, 1989 Criminal Conviction for Use/Under the Influence
8 of a Controlled Substance on January 25, 1989)**

9 12. Respondent's application is subject to denial pursuant to sections 480,
10 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
11 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
circumstances are as follows:

12 a. On or about August 9, 1989, in the Municipal Court of California,
13 County of Los Angeles (Long Beach), in the matter entitled *People of the State of California v.*
14 *Paul John Smith* (Case No. 89M00876), Respondent was convicted on his plea of guilty of
15 violating Health and Safety Code section 11550, use/under the influence of a controlled
16 substance, a misdemeanor.

17 b. As a result of his conviction, on or about August 9, 1989,
18 Respondent was sentenced to 90 days in the county jail, and three years probation.

19 c. The facts that led to the conviction were that on or about January
20 25, 1989, while investigating drug activity, Long Beach Police Department officers observed
21 Respondent walking down an alleyway, swaying as he walked. Upon stopping Respondent, the
22 officer observed that Respondent's eyes were bloodshot and watery, he had difficulty
23 maintaining balance, and his pupils were constricted when subjected to a light test. Respondent
24 had fresh needle track marks on his arm and admitted to using heroin two hours earlier. A
25 syringe was found in his pocket.

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1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (December 4, 1990 Criminal Conviction for Possession of a
3 Controlled Substance on June 22, 1990)

4 13. Respondent's application is subject to denial pursuant to sections 480,
5 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
6 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
7 circumstances are as follows:

8 a. On or about December 4, 1990, in the Superior Court of
9 California, County of Los Angeles (Norwalk), in the matter entitled *People of the State of*
10 *California v. Paul John Smith* (Case No. VA004722), Respondent was convicted on his plea of
11 guilty of violating Health and Safety Code section 11350, subdivision (a), possession of a
12 controlled substance, a felony.

13 b. As a result of his conviction, on or about December 4, 1990,
14 Respondent was sentenced to 120 days in the county jail, and three years probation.

15 THIRD CAUSE FOR DENIAL OF APPLICATION

16 (February 8, 1991 Criminal Conviction for Drunk Driving
17 and Possession of a Controlled Substance on July 12, 1990)

18 14. Respondent's application is subject to denial pursuant to sections 480,
19 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
20 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
21 circumstances are as follows:

22 a. On or about February 8, 1991, in the Superior Court of California,
23 County of Los Angeles (Long Beach), in the matter entitled *People of the State of California v.*
24 *Paul John Smith* (Case No. NA005490). Respondent was convicted on his plea of guilty of
25 violating Health and Safety Code section 11350, subdivision (a), possession of a controlled
26 substance; and Vehicle Code section 23152, subdivision (c), drunk driving, felonies.

27 b. As a result of his conviction, on or about December 4, 1990,
28 Respondent was sentenced to 120 days in the county jail, and three years probation.

1 FOURTH CAUSE FOR DENIAL OF APPLICATION

2 (February 8, 1991 Criminal Conviction for Possession of a Controlled Substance
3 and Possession of a Dangerous Weapon on November 11, 1990)

4 15. Respondent's application is subject to denial pursuant to sections 480,
5 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
6 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
7 circumstances are as follows:

8 a. On or about February 8, 1991, in the Superior Court of California,
9 County of Los Angeles (Long Beach), in the matter entitled *People of the State of California v.*
10 *Paul John Smith* (Case No. NA005347), as a result of violating probation, Respondent was
11 convicted on his plea of guilty of violating Health and Safety Code section 11350, subdivision
12 (a), possession of a controlled substance; and Penal Code section 12020, subdivision (a),
13 possession of a dangerous weapon, felonies.

14 b. As a result of this conviction, on or about February 8, 1991,
15 Respondent was sentenced to two years in state prison, with credit for 150 days served.

16 c. The facts that led to the conviction were that on or about
17 November 11, 1990, while on patrol in a vehicle, Long Beach Police Department officers
18 observed Respondent riding a bicycle and appeared ready to fall off. The officers stopped
19 Respondent who appeared to be disoriented and tired. During a pat down, an officer found a
20 double-edged dagger in a leather holder. Respondent also had a brown, plastic prescription
21 bottle with four white tablets inside. Respondent said they were codeine pills he got from a
22 friend. Respondent appeared to be under the influence of heroin because he kept closing his
23 eyes and appeared to be nodding off to sleep while he was standing. Respondent was taken into
24 custody.

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1 FIFTH CAUSE FOR DENIAL OF APPLICATION

2 (February 22, 1991 Criminal Conviction for Possession of Cocaine on September 25, 1986)

3 16. Respondent's application is subject to denial pursuant to sections 480,
4 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
5 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
6 circumstances are as follows:

7 a. On or about February 22, 1991, in the Superior Court of
8 California, County of Los Angeles (Compton), in the matter entitled *People of the State of*
9 *California v. Paul John Smith* (Case No. A638476), Respondent was convicted on his plea of
10 guilty of violating Health and Safety Code section 11350, subdivision (a), possession of a
11 controlled substance, to wit, cocaine, a felony.

12 b. As a result of the conviction, on or about February 22, 1991,
13 Respondent's probation was revoked and he was sentenced to 16 months in prison.

14
15 SIXTH CAUSE FOR DENIAL OF APPLICATION

16 (December 7, 1993 Criminal Conviction for Reckless Evading of a Police Officer, and
17 Transportation/Sale of a Controlled Substance and Marijuana on November 14, 1993)

18 17. Respondent's application is subject to denial pursuant to sections 480,
19 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
20 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
21 circumstances are as follows:

22 a. On or about December 7, 1993, in the Superior Court of
23 California, County of Los Angeles (Long Beach), in the matter entitled *People of the State of*
24 *California v. Paul John Smith* (Case No. NA018013), Respondent was convicted on his plea of
25 guilty of violating Health and Safety Code sections 11379, subdivision (a), transportation/sale of
26 a controlled substance with a prison prior, a felony; 11360, subdivision (a), transportation/sale of
27 over one ounce of marijuana, a felony; and Vehicle Code section 2800.2, fleeing from a police
28 officer with wanton disregard for public safety, a felony.

1 b. As a result of the conviction. on or about December 7, 1993,
2 Respondent was sentenced to state prison for four years, three years, and two years, respectively,
3 to be served concurrently.

4 c. The facts that led to the conviction were that on or about
5 November 14, 1993, a Long Beach Police Department patrol officer observed Respondent, who
6 was driving a Ford pick-up truck, run a red light at a high rate of speed. The officer activated his
7 red emergency lights to signal Respondent to pull over. Respondent refused to stop and
8 continued traveling on surface streets at approximately 70 miles per hours, ignoring stop signs
9 and swerving through traffic. The officer was given permission to pursue Respondent, and the
10 officer activated his siren in addition to his emergency lights. Respondent continued to flee
11 through red lights and stop signs at a high rate of speed. Respondent turned onto a side street,
12 slowed his vehicle, and jumped from his vehicle while it was still in motion. The officer pursued
13 Respondent on foot through a residential area where he apprehended Respondent while he was
14 attempting to scale a fence. Respondent was cuffed and led back to the officer's patrol car.
15 During a search of Respondent, the officer found a loaded .25 caliber Beretta handgun, a couple
16 of pocket knives, and a large wad of U.S. currency in Respondent's pants pockets. A second
17 officer located a loaded 9 mm Sigsauer handgun on the ground in the vicinity where Respondent
18 had been apprehended. Two additional officers conducted an inventory search of Respondent's
19 vehicle, which had by that time, crashed into two parked vehicles. In the bed of the truck, an
20 officer found a backpack containing a fully loaded 9 mm Luger pistol with one round in the
21 chamber, and a black toiletry bag containing baggies of what appeared to be methamphetamine
22 and hashish. Another baggie of hashish was found in Respondent's pants pocket. At a physical
23 search during Respondent's booking, an officer located a plastic baggie of what appeared to be
24 marijuana and an additional wad of U.S. currency totaling \$260.

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1 SEVENTH CAUSE FOR DENIAL OF APPLICATION

2 (August 5, 1996 Criminal Conviction for Possession of a
3 Controlled Substance for Sale on July 25, 1996)

4 18. Respondent's application is subject to denial pursuant to sections 480,
5 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
6 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
7 circumstances are as follows:

8 a. On or about August 5, 1996, in the Superior Court of California,
9 County of Los Angeles (Long Beach), in the matter entitled *People of the State of California v.*
10 *Paul John Smith* (Case No. NA02921001), Respondent was convicted on his plea of guilty of
11 violating Health and Safety Code section 11378, possession of a controlled substance for sale, a
12 felony.

13 b. As a result of the conviction, on or about August 5, 1996,
14 Respondent was sentenced to state prison for two years.

15 c. The facts that led to the conviction were that on or about the late
16 evening of July 25, 1996, officers from the Long Beach Police Department responded to a call of
17 a male subject attempting to hot wire a vehicle. Upon arrival, the officers observed Respondent
18 inside a white BMW. Respondent was ordered to walk back to their police car where he was
19 interviewed by the officers. Respondent admitted he was on parole, but denied having any
20 weapons or drugs on his person. During a pat down search, an officer located two baggies
21 containing a powdery substance believed to be methamphetamine, and a large wad of U.S.
22 currency (\$451).

23 EIGHTH CAUSE FOR DENIAL OF APPLICATION

24 (November 19, 1997 Criminal Conviction for Possession of a
25 Controlled Substance for Sale on October 20, 1997)

26
27 19. Respondent's application is subject to denial pursuant to sections 480,
28 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a

1 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
2 circumstances are as follows:

3 a. On or about November 19, 1997, in the Superior Court of
4 California, County of Los Angeles (Long Beach), in the matter entitled *People of the State of*
5 *California v. Paul John Smith* (Case No. 034248), Respondent was convicted on his plea of
6 guilty of violating Health and Safety Code section 11378, possession of a controlled substance
7 for sale, a felony.

8 b. As a result of the conviction, on or about November 19, 1997,
9 Respondent was sentenced to state prison for 52 months.

10 c. The facts that led to the conviction were that on or about October
11 20, 1997, officers from the Long Beach Police Department responded to an incomplete 9-1-1 call
12 at an apartment complex. Upon arrival, a white male (Respondent) standing inside the front door
13 to the apartment, told the officers that everything was O.K. and there was no trouble. When the
14 officers asked permission to check the residence, Respondent shut/locked the front door and ran
15 into the bedroom. Believing there was a possible suspect or victim of a crime on the premises,
16 the officers asked Respondent to open the door. They could hear sounds of what they believed
17 to be glass objects being thrown around. Respondent unlocked the front door and officers
18 entered the apartment and checked the back bedroom. In the bedroom, officers initially located a
19 glass methamphetamine pipe, a baggie containing marijuana, a hypodermic syringe and a spoon
20 with a cotton swab in the middle of the spoon, and a small black scale. Respondent claimed he
21 did not live in the apartment; the apartment belonged to his friend "Bill" and Respondent
22 attempted to conceal the drugs and paraphernalia so Bill would not get into trouble. A more
23 thorough parole search of the premises uncovered numerous used and unused syringes and glass
24 pipes, baggies of methamphetamine, knives, weight scales, and "pay/owe" slips indicating sales
25 transactions. Officers intercepted approximately 12 incoming phone calls. One caller identified
26 Respondent as his only source for methamphetamine and that he paid Respondent \$400 a day for
27 drugs.

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1 NINTH CAUSE FOR DENIAL OF APPLICATION

2 (May 6, 2003 Criminal Conviction for Sale or Transport of Methamphetamine; Possession
3 of Heroin; and Prohibited Ownership of Ammunition on September 12, 2002)

4 20. Respondent's application is subject to denial pursuant to sections 480,
5 subdivision (a)(1), 8568, subdivision (a), and 8649 of the Code, in that Respondent committed a
6 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
7 circumstances are as follows:

8 a. On or about May 6, 2003, in the Superior Court of California,
9 Orange County (Newport Beach), in the matter entitled *People of the State of California v. Paul*
10 *John Smith* (Case No. 02HF1234), Respondent was convicted on his plea of guilty of violating
11 Health and Safety Code sections 11379, subdivision (a), sale or transport of a controlled
12 substance, to wit, methamphetamine; 11350, subdivision (a), unlawful possession of a controlled
13 substance, to wit, heroin; and Penal Code section 12316, subdivision (b)(1), prohibited person
14 owning ammunition, felonies.

15 b. As a result of the conviction, on or about May 6, 2003, Respondent
16 was sentenced to a total of seven years, four months in state prison, which included three years,
17 four months on the principal convictions, and an additional and consecutive four year
18 enhancement for prior convictions or prison terms. Respondent was given a total of 235 days
19 credit for time served and ordered to pay a \$200 restitution fee.

20 c. The facts that led to the conviction were that on or about
21 September 12, 2002, while searching for a parolee-at-large, Orange County Sheriff Department
22 deputies located the parolee, a female, and Respondent exiting a Lake Forest residence and
23 getting into the female's BMW. Respondent, who was also a parolee-at-large at the time, was
24 driving the BMW. The deputies conducted a stop of the vehicle. Respondent rolled up the
25 driver's window and all three occupants refused to comply with the deputies' demand they put
26 their hands outside the window. Respondent was observed placing his hand between his legs as
27 though trying to conceal something. After removing the three persons from the vehicle,
28 Respondent was searched. Deputies found a small baggie containing approximately 1 gram of

1 methamphetamine, a baggie containing approximately ½ gram of tar heroin, a 3-5" knife, three
2 .22 caliber bullets, and one marijuana cigarette. On the driver's side floorboard was
3 approximately 20 grams of methamphetamine scattered throughout the area. The female's
4 handbag was searched and deputies found drugs, \$550 in U.S. currency, a "pay/owe" sheet, and
5 a cell phone that rang constantly. One caller asked for the female or Respondent and wanted her
6 "regular" purchase of an "8-ball" (3.5 grams of methamphetamine).

7
8 TENTH CAUSE FOR DENIAL OF APPLICATION

9 (May 9, 2003 Criminal Conviction for Possession of Methamphetamine April 21, 2003)

10 21. Respondent's application is subject to denial pursuant to sections 480,
11 subdivision (a)(1), 8568; subdivision (a), and 8649 of the Code, in that Respondent committed a
12 crime that is substantially related to the functions, duties, and qualifications of a licensee. The
13 circumstances are as follows:

14 a. On or about May 9, 2003, in the Superior Court of California,
15 Orange County (West Justice Center), in the matter entitled *People of the State of California v.*
16 *Paul John Smith* (Case No. 03WF0981), Respondent was convicted on his plea of guilty of
17 violating Health and Safety Code section 11377, subdivision (a), possession of a controlled
18 substance (methamphetamine), a felony.

19 b. As a result of the conviction, on or about May 9, 2003, Respondent
20 was sentenced to two years in state prison, to be served concurrent to the sentence imposed in
21 case number 02HF1234, as detailed in paragraph 20, above.


22 c. The facts that led to the conviction were that on or about April 21,
23 2003, a patrol officer with the Cypress Police Department conducted a traffic stop on a vehicle
24 with two occupants (Respondent and a male companion), who were not wearing seatbelts. The
25 officer learned that both the driver and Respondent were on probation for methamphetamine
26 possession. Respondent was searched and a zip-loc baggie containing ½ gram of
27 methamphetamine was found in Respondent's pants pocket. At the time of the arrest,
28 Respondent was free on bail awaiting trial in case number 02HF1234 (above).

PRAYER

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

- 4 1. Denying the application of Paul John Smith for a Field Representative
5 License;
6 2. Taking such other and further action as deemed necessary and proper.
7

8 DATED: 1/17/08
9

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11 KELLI OKUMA
12 Registrar/Executive Officer
13 Structural Pest Control Board
14 State of California
15 Complainant

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