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FILED

Date 8/31/11

By William H. Douglas

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

12 In the Matter of the Petition to Revoke
13 Probation Against:

14 **PAUL J. SMITH**
15 **7100 Cerritos Avenue, Suite 65**
Stanton, CA 90680

16 **Field Representative License No. FR 43612**

17 Respondent.

Case No. 2008-40

OAH No. 2008030546

PETITION TO REVOKE PROBATION

18
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1 29, 2008, in which Respondent's Field Representative License was revoked.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**

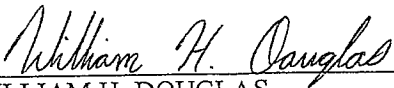
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Structural Pest Control Board issue a decision:

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


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

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