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FILED

Date 4/18/12 By William H. Douglas

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

11 In the Matter of the First Amended Accusation
Against:

Case No. 2011-72(c)

12 JOSHUA M. WEBB
13 2212 Linda Vista Avenue
Porterville, CA 93257
14 Field Representative's License No. FR 45035, Br. 2
Applicator License No. RA 50212, Br. 3

FIRST AMENDED
ACCUSATION

15 Respondent.

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18 William H. Douglas ("Complainant") alleges:

19 PARTIES

20 1. Complainant brings this First Amended Accusation solely in his official capacity as
21 the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of
22 Pesticide Regulation ("Board").

23 **Field Representative License**

24 2. On or about December 14, 2009, the Board issued Field Representative's License
25 Number FR 45035, in Branch 2, to Joshua M. Webb ("Respondent"), as an employee of
26 Eagleshield Pest Control, L.P. The license was in full force and effect at all times relevant to the
27 charges brought herein and will expire on June 30, 2012, unless renewed.

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Applicator License

3. On or about August 13, 2009, the Board issued Applicator License Number RA 50212, in Branches 2 and 3, to Respondent as inactive. On or about December 14, 2009, the license was downgraded to include Branch 3 only due to the issuance of a field representative license in Branch 2. The license will expire on August 13, 2013, unless renewed.

STATUTORY PROVISIONS

4. Business and Professions Code ("Code") section 8620 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.

5. Code section 8654 states:

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registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate,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

6. Code section 8625 states:

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

7. Code section 8641 states:

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

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1999.5 states, in pertinent part:

It is the purpose of this regulation to protect the public from false, misleading, deceptive, or unfair representations or claims concerning structural pest control while enabling the public to receive truthful and legitimate information about those structural pest control products and services and the potential of these products and services to reduce impact to health or the environment.

(f) Examples of direct or indirect statements or representations which are unfair, deceptive, untrue or misleading include, but are not limited to, the following:

(11) Any statement or representation that a pesticide or device is certified, sponsored, recommended, endorsed, or approved by any agency of the Federal Government or the State of California, including but not limited to, "tested by the Department of the Interior," "EPA approved," "EPA registered," "approved by the Structural Pest Control Board," or "recommended by the Structural Pest Control Board," except that a statement or representation of this type is permissible if specifically authorized by the Federal or State agency to which it refers.

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(False and Misleading Advertisement)

10. Respondent's field representative license and applicator license are subject to discipline under Code section 8641, in that in or about 2010, he violated California Code of Regulations, title 16, section 1999.5(f)(11), in that he made direct or indirect statements or representations on Craigslist which are unfair, deceptive, untrue or misleading, by representing that he used only EPA certified products that were approved by the State of California.

OTHER MATTERS

11. Code section 8620 provides, in pertinent part, that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made

1 at the time of the hearing and must be noted in the proposed decision. The proposed decision
2 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

3 12. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
4 License No. FR 45035 and/or Registered Applicator's License No. RA 50212, issued to
5 Respondent, then Respondent shall be prohibited from serving as an officer, director, associate,
6 partner or responsible managing employee of a registered company, and any licensee which
7 employs, elects, or associates Respondent shall be subject to disciplinary action.

8 **PRAYER**

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

11 1. Revoking or suspending Field Representative's License Number FR 45035, issued to
12 Joshua M. Webb;

13 2. Revoking or suspending Registered Applicator's License Number RA 50212, issued
14 to Joshua M. Webb;

15 3. Revoking or suspending any other license for which Joshua M. Webb is furnishing
16 the qualifying experience or appearance;

17 4. Prohibiting Joshua M. Webb from serving as an officer, director, associate, partner,
18 qualifying manager or responsible managing employee of any registered company during the
19 period that discipline is imposed on Field Representative's License Number FR 45035, issued to
20 Joshua M. Webb;

21 5. Prohibiting Joshua M. Webb from serving as an officer, director, associate, partner,
22 qualifying manager or responsible managing employee of any registered company during the
23 period that discipline is imposed on Registered Applicator's License Number RA 50212, issued
24 to Joshua M. Webb;

25 6. Ordering Joshua M. Webb to pay the Structural Pest Control Board the reasonable
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions
27 Code section 125.3; and,

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1 7. Taking such other and further action as deemed necessary and proper.

2 DATED: 4/18/12

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

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