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

In the Matter of the Accusation Against: **DANIEL PATRICK BUDDIN** **1029 Mockingbird Lane** **San Marcos, CA 92078** **Applicator License No. RA 42550** **Field Representative License No. FR 45104** Respondent.	Case No. 2013-36 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 20, 2013, Complainant Susan Saylor, in her official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2013-36 against Daniel Patrick Buddin (Respondent) before the Structural Pest Control Board. (The Accusation is attached as Exhibit A.)

2. On or about September 17, 2004, the Structural Pest Control Board issued Applicator License Number RA 42550 to Daniel Patrick Buddin (Respondent). The Applicator License will expire on September 17, 2013, unless renewed. On or about January 7, 2010, the Board issued Field Representative License No. FR 45104 to Respondent. The Field Representative License expired on June 30, 2012, and has not been renewed.

///

3. On or about February 28, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-36, 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, is required to be reported and maintained with the Board. Respondent's address of record was and is:

1029 Mockingbird Lane
San Marcos, CA 92078

4. On or about February 28, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-36, 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 alternate address, which is: Wasco State Prison, P.O. Box 8800, Wasco, CA 93280.

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. On or about March 1, 2013, the Domestic Return Receipt for the aforementioned documents served to Respondent's address of record was signed by "Tamara Buddin" acknowledging receipt. On or about March 13, 2013, the U.S. Postal Service returned the Domestic Return Receipt for the aforementioned documents served to Respondent's alternate address, which was signed by "T. Calhoun" acknowledging receipt.

7. 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.

8. 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. 2013-36.

9. 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.

10. 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 Accusation No. 2013-36, finds that the charges and allegations in Accusation No. 2013-36, are separately and severally, found to be true and correct by clear and convincing evidence.

11. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is $882.50 as of April 5, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Daniel Patrick Buddin has subjected his Applicator License Number RA 42550, and Field Representative License No. FR 45104 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 licenses based upon the following violations alleged in the Accusation which are supported by the Default Decision Investigatory Evidence Packet in this case:

a. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that on or about March 28, 2012, in a criminal proceeding entitled *People of the State of California v. Daniel Patrick Buddin,* in San Diego County Superior Court, case number CN303727, Respondent was convicted on his plea of guilty of violating Penal Code section 484, petty theft, a misdemeanor, a crime that is substantially related to the qualifications, functions, and duties of a licensee.

b. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that on or about June 25, 2012, in a criminal proceeding entitled *People of the State of California v. Daniel Patrick Buddin,* in San Diego County Superior Court, case number SCN305130, Respondent was convicted on his plea of guilty of violating Penal Code section 459, burglary, a felony, and Penal Code section 484/490.5, petty theft, a misdemeanor, crimes that are substantially related to the qualifications, functions, and duties of a licensee.

c. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that on or about August 31, 2012, in a criminal proceeding entitled *People of the State of California v. Daniel Patrick Buddin,* in San Diego County Superior Court, case number SCN306109, Respondent was convicted on his plea of guilty of violating Health and Safety Code section 11350, subdivision (a), possession of a narcotic controlled substance, a felony; and Penal Code section 21310, possession of a concealed dirk or dagger, a misdemeanor, crimes that are substantially related to the qualifications, functions, and duties of a licensee.

d. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that on or about August 31, 2012, in a criminal proceeding entitled *People of the State of California v. Daniel Patrick Buddin,* in San Diego County Superior Court, case number SCN307968, Respondent was convicted on his plea of guilty of violating Penal Code section 4573, smuggle narcotics into jail, a felony, a crime that is substantially related to the qualifications, functions, and duties of a licensee.

e. Respondent has subjected his licenses to disciplinary action under sections 490 and 8649 of the Code in that on or about December 3, 2012, in a criminal proceeding entitled *People of the State of California v. Daniel Patrick Buddin,* in San Diego County Superior Court, case number CN312798, Respondent was convicted on his plea of guilty of violating Penal Code section 459, first degree burglary, a felony, a crime that is substantially related to the qualifications, functions, and duties of a licensee.

///

///

ORDER

IT IS SO ORDERED that Applicator License Number RA 42550, and Field Representative License No. FR 45104, heretofore issued to Respondent Daniel Patrick Buddin, 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 agency 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 May 25, 2013.

It is so ORDERED April 25, 2013

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

DOJ Matter ID: SD2012704617

Attachment:
Exhibit A: Accusation