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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. 2012-19

**WAGNER TERMITE CONTROL, INC.,
GREGORY HOWARD WAGNER
STEVEN TY WAGNER**
4867 Gage Avenue
Bell, CA 90201
**Company Registration Certificate No. PR 737
Operator's License No. OPR 10014**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondents.

FINDINGS OF FACT

1. On or about October 13, 2011, Complainant William H. Douglas, in his former official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2012-19 against Wagner Termite Control, Inc., Gregory Howard Wagner, and Respondent Steven Ty Wagner (Respondents) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about September 25, 1987, the Board issued Company Registration Certificate Number PR 737 in Branch 3 to Wagner Termite Control, Inc. ("Respondents") with Wilmot Eugene Wagner as President and Qualifying Manager, Gregory Howard Wagner as Vice President and Elaine Wright Wagner as Secretary. On or about December 31, 1993, Company Registration Certificate Number PR 737 reflected a change of corporate officers to Gregory Howard Wagner as President, and Elaine Wright Wagner as Secretary, and reflected a change of Qualifying Manager to Gregory Howard Wagner. On or about February 21, 2001, Company

1 Registration Certificate Number PR 737 reflected a change of Qualifying Manager to Steven Ty
2 Wagner.

3 3. On or about April 12, 1999, the Board issued Operator's License Number 10014 in
4 Branch 3 to Respondent Steven Ty Wagner. The operator's license is currently in effect and
5 renewed through June 30, 2013

6 4. On or about January 25, 2012, Respondents were served by Certified and First Class
7 Mail copies of the Accusation No. 2012-19, Statement to Respondent, Notice of Defense, Request
8 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
9 11507.7) at Respondents' address of record which, pursuant to Business and Professions Code
10 section 136, is required to be reported and maintained with the Board. Respondents' address of
11 record was and is: 4867 Gage Avenue, Bell, CA 90201.

12 5. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124.

15 6. On or about February 23, 2012, the aforementioned certified mail documents were
16 returned by the U.S. Postal Service marked "Unclaimed."

17 7. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts
20 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.

21 8. Respondents failed to file their Notice of Defense within 15 days after service upon
22 them of the Accusation, and therefore waived their right to a hearing on the merits of Accusation
23 No. 2012-19.

24 9. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 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
27 respondent.

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

5 This Decision shall become effective on November 29, 2012.

6 It is so ORDERED October 30, 2012

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FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment:
Exhibit A: Accusation