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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. 2012-15

ENRIQUE ABAYA JOSON
8355 Lullaby Lane
Panorama City, CA 91402
Operator's License No. OPR 10561

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about September 8, 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 (Board), filed Accusation No. 2012-15 against Enrique Abaya Joson (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about April 29, 2002, the Structural Pest Control Board issued Operator's License No. OPR 10561 to Respondent. The Operator's License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-15 and will expire on June 30, 2013, unless renewed

3. On or about September 16, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-15, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 136, is required to be reported and maintained with the Board, which was and is:

3 8355 Lullaby Lane
4 Panorama City, CA 91402.

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

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

9 ...

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 2012-15.

18 7. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
22 respondent.

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 2012-15, finds
28 that the charges and allegations in Accusation No. 2012-15, are separately and severally, found to
be true and correct by clear and convincing evidence.

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1 9. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$1,197.50 as of October 21, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Enrique Abaya Joson has
6 subjected his Operator's License No. OPR 10561 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Structural Pest Control Board is authorized to revoke Respondent's Operator's
9 License based upon the following violations alleged in the Accusation which are supported by the
10 evidence contained in the Default Decision Evidence Packet in this case:

11 Respondent is subject to disciplinary action pursuant to Code section 8641 in that
12 Respondent failed to comply with Regulation 1950 by failing to verify that he completed courses
13 of continuing education in pest control approved by the Board. Specifically, Respondent failed to
14 submit copies of any continuing education certificates for the renewal period of July 1, 2007,
15 through June 30, 2010, upon request by the Board's representative.

16 Respondent is subject to disciplinary action pursuant to Code section 8642 in that he
17 committed a fraudulent act, as follows: On or about June 4, 2010, Respondent falsely represented
18 on his license renewal application that he successfully completed 16 hours of continuing
19 education during his last renewal period, July 1, 2007, through June 30, 2010, with the intent to
20 substantially benefit himself or another, or substantially injure another.

21 ORDER

22 IT IS SO ORDERED that Operator's License No. OPR 10561, heretofore issued to
23 Respondent Enrique Abaya Joson, is revoked.

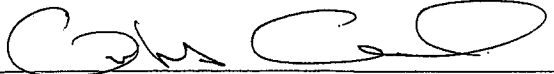
24 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
25 written motion requesting that the Decision be vacated and stating the grounds relied on within
26 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
27 vacate the Decision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

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This Decision shall become effective on December 21, 2011.

It is so ORDERED November 21, 2011



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

51004237.DOC
DOJ Matter ID:LA2011501255

Attachment:
Exhibit A: Accusation

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Attorney General of California
2 MARC GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS
Deputy Attorney General
4 State Bar No. 171168
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Attorneys for Complainant

FILED

Date 9/8/11

By *William H. Douglas*

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

11 In the Matter of the Accusation Against:

Case No. 2012-15

12 **ENRIQUE ABAYA JOSON**
8355 Lullaby Lane
13 **Panorama City, California 91402**
Operator's License No. OPR 10561

ACCUSATION

14 Respondents.

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16
17 Complainant alleges:

18 **PARTIES/LICENSE INFORMATION**

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

22 **Enrique Abaya Joson**

23 2. On or about April 29, 2002, the Board issued Operator's License Number OPR 10561
24 in Branch 3 (termite) to Enrique Abaya Joson ("Respondent"), employee of Cornerstone, Inc. dba
25 Acme Termite ("Cornerstone"). On or about March 15, 2002, Respondent left the employ of
26 Cornerstone. On or about September 17, 2002, Respondent became the owner and qualifying
27 manager of Brown Termite Company. Respondent's operator's license was in full force and effect

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1 at all times relevant to the charges brought herein and will expire on June 30, 2013, unless
2 renewed.

3 **STATUTORY AND REGULATORY PROVISIONS**

4 3. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a
5 license when it finds that the holder, while a licensee or applicant, has committed any acts or
6 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
7 penalty.

8 4. Code section 8624 states, in pertinent part:

9

10 If the operator is the qualifying manager, a partner, responsible officer, or
11 owner of a registered structural pest control company, the suspension or revocation
may be applied to the company registration . . .

12 5. Code section 8654 states:

13 Any individual who has been denied a license for any of the reasons
14 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
15 suspension, or who has been a member, officer, director, associate, qualifying
manager, or responsible managing employee of any partnership, corporation, firm, or
16 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
17 revoked as a result of disciplinary action, or whose company registration is under
suspension, and while acting as such member, officer, director, associate, qualifying
18 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
19 revoked, shall be prohibited from serving as an officer, director, associate, partner,
qualifying manager, or responsible managing employee of a registered company, and
20 the employment, election or association of such person by a registered company is a
ground for disciplinary action.

21 6. Code section 8641 states:

22 Failure to comply with the provisions of this chapter, or any rule or
23 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
24 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.

25 7. Code section 8642 states that "[t]he commission of any grossly negligent or
26 fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a
27 registered company is a ground for disciplinary action."

28 ///

1 8. Code section 8593 states:

2 The board shall require as a condition to the renewal of each operator's
3 and field representative's license that the holder submit proof satisfactory to the board
4 that he or she has informed himself or herself of developments in the field of pest
control either by completion of courses of continuing education in pest control
approved by the board or equivalent activity approved by the board.

5 In lieu of submitting that proof, the licenseholder, if he or she so desires,
6 may take and successfully complete an examination given by the board, designed to
7 test his or her knowledge of developments in the field of pest control since the
issuance of his or her license.

8 The board shall develop a correspondence course or courses with any
9 educational institution or institutions as it deems appropriate. This course may be
used to fulfill the requirements of this section. The institution may charge a
reasonable fee for each course.

10 The board may charge a fee for the taking of an examination in each
11 branch of pest control pursuant to this section in an amount sufficient to cover the
12 cost of administering each examination, provided, however, that in no event shall the
fee exceed fifty dollars (\$ 50) for each examination.

13 9. California Code of Regulations, title 16, section ("Regulation") 1950 states, in
14 pertinent part:

15 (a) Except as provided in section 1951, every licensee is required, as a
16 condition to renewal of a license, to certify that he or she has completed the
17 continuing education requirements set forth in this article. A licensee who cannot
18 verify completion of continuing education by producing certificates of activity
completion, whenever requested to do so by the Board, may be subject to disciplinary
action under section 8641 of the code.

19 (b) Each licensee is required to gain a certain number of continuing
20 education hours during the three year renewal period. The number of hours required
21 depends on the number of branches of pest control in which licenses are held. The
22 subject matter covered by each activity shall be designated as "technical" or "general"
by the Board when the activity is approved. Hour values shall be assigned by the
Board to each approved educational activity, in accordance with the provisions of
section 1950.5.

23 (c) Operators licensed in one branch of pest control shall complete 16
24 continuing education hours during each three year renewal period. Operators licensed
25 in two branches of pest control shall complete 20 continuing education hours during
26 each three year renewal period. Operators licensed in three branches of pest control
27 shall complete 24 continuing education hours during each three year renewal period.
28 In each case, a minimum of four continuing education hours in a technical subject
directly related to each branch of pest control held by the licensee must be completed
for each branch license, a minimum of two hours in Integrated Pest Management as
defined in section 1984 must be completed by Branch 2 and/or 3 licensees renewing
on or after June 30, 2010, and a minimum of eight hours must be completed from
Board approved courses on the Structural Pest Control Act, the Rules and
Regulations, or structural pest control related agencies' rules and regulations . . .

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COST RECOVERY

10. Code section 125.3 states, in pertinent part, that a 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

(Failure to Verify Completion of Continuing Education)

11. In or about June 2010, Respondent submitted a license renewal application to the Board. On or about June 4, 2010, Respondent certified under penalty of perjury on the application form that he successfully completed 16 hours of continuing education during his last renewal period.

12. On December 22, 2010, a representative of the Board sent Respondent a written request for copies of his continuing education certificates for the renewal period of July 1, 2007, through June 30, 2010. The representative informed Respondent that he would be subject to disciplinary action if he failed to verify his continuing education requirements or hours.

13. On or about January 31, 2011, the Board received a letter from Respondent, stating that he did not have any certificates for the renewal period of July 1, 2007, through June 30, 2010.

14. Respondent is subject to disciplinary action pursuant to Code section 8641 in that Respondent failed to comply with Regulation 1950 by failing to verify that he completed courses of continuing education in pest control approved by the Board. Specifically, Respondent failed to submit copies of any continuing education certificates for the renewal period of July 1, 2007, through June 30, 2010, upon request by the Board's representative.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 12 through 15 above.

16. Respondent is subject to disciplinary action pursuant to Code section 8642 in that he committed a fraudulent act, as follows: On or about June 4, 2010, Respondent falsely represented

1 on his license renewal application that he successfully completed 16 hours of continuing
2 education during his last renewal period, July 1, 2007, through June 30, 2010, with the intent to
3 substantially benefit himself or another, or substantially injure another.

4 **OTHER MATTERS**

5 17. Code section 8620 provides, in pertinent part, that a respondent may request that a
6 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,
7 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made
8 at the time of the hearing and must be noted in the proposed decision. The proposed decision
9 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

10 18. Pursuant to Code section 8624, if Operator's License Number OPR 10561, issued to
11 Respondent Enrique Abaya Joson, is suspended or revoked, the Board may suspend or revoke
12 Company Registration Certificate Number PR 4195, issued to Brown Termite Company with
13 Respondent as owner and qualifying manager.

14 19. Pursuant to Code section 8654, if discipline is imposed on Operator's License
15 Number OPR 10561, issued to Respondent Enrique Abaya Joson, Enrique Abaya Joson shall be
16 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
17 responsible managing employee for any registered company during the time the discipline is
18 imposed, and any registered company which employs, elects, or associates Enrique Abaya Joson
19 shall be subject to disciplinary action.

20 **PRAAYER**

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

23 1. Revoking or suspending Operator's License Number OPR 10561, issued to Enrique
24 Abaya Joson;

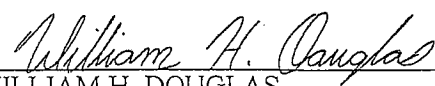
25 2. Prohibiting Enrique Abaya Joson from serving as an officer, director, associate,
26 partner, qualifying manager or responsible managing employee of any registered company during
27 the period that discipline is imposed on Operator's License Number OPR 10561, issued to
28 Enrique Abaya Joson;

1 3. Ordering Enrique Abaya Joson to pay the Structural Pest Control Board the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 4. Taking such other and further action as deemed necessary and proper.

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DATED: 9/8/11



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

LA2011501255