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

In the Matter of the Accusation and Petition to Revoke Probation Against:

Case No. 2012-49

ARISTON TERMITE COMPANY; MAYRA LEON, OWNER

OAH No. 2012060948

6429 Alondra Blvd.
Paramount, California 90723

DEFAULT DECISION AND ORDER

Mailing Address:
P.O. Box 1489

[Gov. Code, §11520]

Paramount, California 90723

SAMUEL RODRIGUEZ, Qualifying Manager

Company Registration Certificate No. PR 6010, Branch 3,

Operator's License No. OPR 10765, Branch 3

Respondents.

FINDINGS OF FACT

1. On or about April 11, 2012, Complainant William H. Douglas, in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation and Petition to Revoke Probation No. 2012-49 against Ariston Termite Company with Mayra Leon, as Owner (Respondent Ariston Termite) and Samuel

1 Rodriguez (Respondents Rodriguez) before the Structural Pest Control Board. (Accusation and
2 Petition to Revoke Probation attached as **Exhibit A.**)

3 2. On or about March 4, 2010, the Board issued Company Registration Certificate
4 Number PR 6010 in Branch 3 to Ariston Termite Company with Mayra Leon as owner
5 ("Respondents Ariston Termite") and Samuel Rodriguez ("Respondents Rodriguez"), as
6 qualifying manager.

7 3. On or about July 30, 2003, the Board issued Operator's License Number OPR
8 10765 in Branch 3 to Respondents Rodriguez. The license is currently inactive and will expire on
9 June 30, 2015, unless renewed.

10 4. On or about May 21, 2012, Respondents was served by Certified and First Class Mail
11 copies of the Accusation and Petition to Revoke Probation No. 2012-49, Statement to
12 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
13 Code sections 11507.5, 11507.6, and 11507.7) at Respondents' address of record which, pursuant
14 to Business and Professions Code section 136, is required to be reported and maintained with the
15 Board. Respondent Ariston Termite's address of record was and is: Post Office Box 1489,
16 Paramount, CA 90723. Respondent Rodriguez's address of record was Post Office Box 1489,
17 Paramount, CA 90723 and is currently 2990 N. Orange Avenue, Rialto, CA 92377. Respondent
18 Rodriguez disassociated as qualifying manager of Ariston Termite Company in or about October
19 2012.

20 5. Service of the Accusation and Petition to Revoke Probation was effective as a matter
21 of law under the provisions of Government Code section 11505, subdivision (c) and/or Business
22 & Professions Code section 124.

23 6. On or about May 22, 2012, Respondents signed and returned a Notice of Defense,
24 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondents'
25 address of record and it informed them that an administrative hearing in this matter was scheduled
26 for November 28, 2012. Respondents failed to appear at that hearing.

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

28 (c) The Respondents shall be entitled to a hearing on the merits if the

1 Respondents files a notice of defense, and the notice shall be deemed a specific denial
2 of all parts of the accusation not expressly admitted. Failure to file a notice of
defense shall constitute a waiver of Respondents' right to a hearing, but the agency in
its discretion may nevertheless grant a hearing.

3 8. California Government Code section 11520 states, in pertinent part:

4 (a) If the Respondents either fails to file a notice of defense or to appear at the
5 hearing, the agency may take action based upon the Respondents' express admissions
6 or upon other evidence and affidavits may be used as evidence without any notice to
Respondents.

7 9. Pursuant to its authority under Government Code section 11520, the Board finds
8 Respondents are in default. The Board will take action without further hearing and, based on the
9 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
10 taking official notice of all the investigatory reports, exhibits and statements contained therein on
11 file at the Board's offices regarding the allegations contained in Accusation and Petition to
12 Revoke Probation No. 2012-49, finds that the charges and allegations in the Accusation and
13 Petition to Revoke Probation No. 2012-49, are separately and severally, found to be true and
14 correct by clear and convincing evidence.

15 10. Taking official notice of its own internal records, pursuant to Business and
16 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
17 and Enforcement is \$5,785.00 as of November 26, 2012.

18 DETERMINATION OF ISSUES

19 1. Based on the foregoing findings of fact, Respondent Ariston Termite has subjected
20 her Company Registration Certificate No. PR 6010 and Respondent Rodriguez has subjected his
21 Operator's License No. OPR 10765, Branch 3, to discipline.

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

23 3. The Structural Pest Control Board is authorized to revoke Respondent Ariston
24 Termite's Company Registration Certificate and Respondent Rodriguez's Operator's License
25 based upon the following violations alleged in the Accusation and Petition to Revoke Probation,
26 which are supported by the evidence contained in the Default Decision Evidence Packet in this
27 case:

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1 a. Bus. & Prof. Code, §§ 8641 and 8624 and Cal. Code Regs., tit. 16, § 1920 (Failure to
2 Comply with Citation and Order of Abatement); and

3 b. Bus. & Prof. Code, §§ 8641, 8516, 8518, and 8624 and Cal. Code Regs., tit. 16, §
4 1996.3 (Failure to File Work Activity Reports with the Board).

5 With regard to Respondent Ariston Termite's Petition to Revoke Probation, Respondent
6 Ariston Termite failed to comply with the following terms of its probation:

7 a. Obey All Laws (as described in the accusation portion of the pleading); and

8 b. Cost Recovery.

9 ORDER

10 IT IS SO ORDERED that Company Registration Certificate No. PR 6010, heretofore issued
11 to Respondent Ariston Termite and Operator's License Number OPR 10765 heretofore issued to
12 Respondent Rodriguez are revoked.

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

17 This Decision shall become effective on February 23, 2013.

18 It is so ORDERED January 24, 2013

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FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

51198156.DOC
DOJ Matter ID:LA2011505682

Attachment:
Exhibit A: Accusation and Petition to Revoke Probation