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**BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2014-62

FIRESTONE TERMITE, INC.;
FRANCISCO LOPEZ, PRESIDENT
570 E. Arrow Highway, Ste. G
San Dimas, CA 91773

**DEFAULT DECISION AND ORDER AS
TO RESPONDENT FIRESTONE
TERMITE, INC.; FRANCISCO LOPEZ,
PRESIDENT ONLY**

**Company Registration Certificate No. PR
6588, Br. 3**

FREDDY LOZA
13108 Avonlea Avenue,
Norwalk, CA 90650

[Gov. Code, §11520]

Operator's License No. OPR 11496, Br. 3

MANCE LARALE PEETE
P.O. Box 21281
Long Beach, CA 90801

**Operator's License No. OPR 11021, Br. 2
and 3**

Respondents.

FINDINGS OF FACT

1. On or about May 30, 2014, Complainant Susan Saylor, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer

1 Affairs, filed Accusation No. 2014-62 against Firestone Termite, Inc.; Francisco Lopez
2 ("Respondent") before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

3 2. On or about July 30, 2014, Complainant Susan Saylor, in her official capacity as the
4 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
5 Affairs, filed First Amended Accusation No. 2014-62 against Firestone Termite, Inc.; Francisco
6 Lopez before the Structural Pest Control Board. (First Amended Accusation attached as Exhibit
7 B.)

8 3. On or about August 13, 2012, the Structural Pest Control Board issued Company
9 Registration Certificate No. PR 6588 in Branch 3 to Respondent. The Company Registration
10 Certificate was suspended on February 28, 2014, due to lack of having a qualifying manager.

11 4. On or about June 6, 2014, Respondent was served by Certified and First Class Mail
12 copies of the Accusation No. 2014-62, Statement to Respondent, Notice of Defense, Request for
13 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
14 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
15 required to be reported and maintained with the Board. Respondent's address of record was and
16 is:

17 570 E. Arrow Highway, Ste. G
18 San Dimas, CA 91773

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

22 6. On or about June 11, 2014, the United States Postal Service left a notice at
23 Respondent's address of record because no authorized recipient was available. The address on
24 the documents was the same as the address on file with the Board.

25 7. On or about August 8, 2014, Respondent was served by Certified and First Class Mail
26 copies of First Amended Accusation No. 2014-62, Supplemental Statement to Respondent,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's address of record.

1 8. On or about August 16, 2014, the aforementioned documents were returned by the
2 U.S. Postal Service marked "Attempted -- Not Known, Unable to Forward." The address on the
3 documents was the same as the address on file with the Board. Respondent failed to maintain an
4 updated address with the Board and the Board has made attempts to serve the Respondent at the
5 address on file. Respondent has not made himself available for service and therefore, has not
6 availed himself of his right to file a notice of defense and appear at hearing.

7 9. On or about August 15, 2014, Respondent was served by Certified and First Class
8 Mail copies of First Amended Accusation No. 2014-62, Corrected Supplemental Statement to
9 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
10 Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record.

11 10. On or about September 1, 2014, the aforementioned documents were returned by the
12 U.S. Postal Service marked "Attempted -- Not Known, Unable to Forward." The address on the
13 documents was the same as the address on file with the Board. Respondent failed to maintain an
14 updated address with the Board and the Board has made attempts to serve the Respondent at the
15 address on file. Respondent has not made himself available for service and therefore, has not
16 availed himself of his right to file a notice of defense and appear at hearing.

17 11. 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
21 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
22 may nevertheless grant a hearing.

23 12. Respondent failed to file a Notice of Defense within 15 days after service upon him
24 of either the Accusation or the First Amended Accusation, and therefore waived his right to a
25 hearing on the merits of Accusation No. 2014-62 and First Amended Accusation No. 2014-62.

26 13. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 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.

1 14. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in First Amended Accusation No.
6 2014-62, finds that the charges and allegations in First Amended Accusation No. 2014-62, are
7 separately and severally, found to be true and correct by clear and convincing evidence.

8 15. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$4,042.50 as of September 12, 2014.

11 **DETERMINATION OF ISSUES**

12 1. Based on the foregoing findings of fact, Respondent Firestone Termite, Inc.;
13 Francisco Lopez has subjected his Company Registration Certificate No. PR 6588 to discipline.

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

15 3. The Structural Pest Control Board is authorized to revoke Respondent's Company
16 Registration Certificate based upon the following violations alleged in the First Amended
17 Accusation which are supported by the evidence contained in the Default Decision Evidence
18 Packet in this case:

19 a. Respondent is subject to disciplinary action under section 8650, subdivision (b), in
20 that Respondent acted in the capacity of a registered company at an address that is not, nor has
21 ever been, registered with the Board. The circumstances are described in additional detail in First
22 Amended Accusation No. 2014-62, which is hereby incorporated by reference as though set forth
23 fully.

24 b. Respondent is subject to disciplinary action under section 8618, section 8652 and
25 California Code of Regulations, title 16, section 1970, in that Respondent failed to keep and
26 maintain all records regarding structural pest control activities performed in the past three years.
27 The circumstances are described in additional detail in First Amended Accusation No. 2014-62,
28 which is hereby incorporated by reference as though set forth fully.

1 c. Respondent is subject to disciplinary action under section 8641 in that Respondent
2 failed to complete work prior to furnishing completion notices. The circumstances are described
3 in additional detail in First Amended Accusation No. 2014-62, which is hereby incorporated by
4 reference as though set forth fully.

5 d. Respondent is subject to disciplinary action under section 8516, subdivision (b),
6 section 8518 and California Code of Regulations, title 16, section 1996.3, in that Respondent
7 failed to file WDO activities reports with the Board, within 10 business days after commencement
8 of an inspection or upon completion of the work. The circumstances are described in additional
9 detail in First Amended Accusation No. 2014-62, which is hereby incorporated by reference as
10 though set forth fully.

11 e. Respondent is subject to disciplinary action under section 8638 in that Respondent
12 failed to complete reported operation or construction repairs, which were further certified as
13 having been completed on a completion notice. As a result, Respondent also failed to complete
14 the work for the price stated in the corresponding inspection report. The circumstances are
15 described in additional detail in First Amended Accusation No. 2014-62, which is hereby
16 incorporated by reference as though set forth fully.

17 f. Respondent is subject to disciplinary action under section 8642 and section 8644 in
18 that Respondent committed acts amounting to gross negligence and/or fraudulent conduct. The
19 circumstances are described in additional detail in First Amended Accusation No. 2014-62, which
20 is hereby incorporated by reference as though set forth fully.

21 g. Respondent is subject to disciplinary action under section 8610, subdivision (c), and
22 California Code of Regulations, title 16, section 1918, in that Respondent failed to designate a
23 qualifying manager to supervise the daily business of the company and be available to supervise
24 and assist all employees of the company. The circumstances are described in additional detail in
25 First Amended Accusation No. 2014-62, which is hereby incorporated by reference as though set
26 forth fully.

27 h. Respondent is subject to disciplinary action under section 8622 in that Respondent
28 failed to correct the items described in a Report of Findings within thirty calendar days of receipt

1 of the Notice. The circumstances are described in additional detail in First Amended Accusation
2 No. 2014-62, which is hereby incorporated by reference as though set forth fully.

3 i. Respondent is subject to disciplinary action under section 8516, subdivisions (b)(5),
4 (b)(6), (b)(7), and (b)(10), as well as California Code of Regulations, title 16, section 1990,
5 subdivisions (a)(3), (a)(4), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (e), in that Respondent failed
6 to identify and report evidence of termites, moisture conditions, earth to wood contact,
7 inaccessible portions of the substructure, faulty grade conditions, decay fungi damage, and
8 termite damage, on a "complete," "separated" inspection report. The circumstances are described
9 in additional detail in First Amended Accusation No. 2014-62, which is hereby incorporated by
10 reference as though set forth fully.

11 j. Respondent is subject to disciplinary action under section 8516, subdivisions (b)(6),
12 (b)(7), and (b)(10), as well as California Code of Regulations, title 16, section 1990, subdivisions
13 (a)(4), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (e), and (f), in that Respondent failed to issue a proper
14 report and make proper findings on a "complete," "separated" inspection report. The
15 circumstances are described in additional detail in First Amended Accusation No. 2014-62, which
16 is hereby incorporated by reference as though set forth fully.

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ORDER

IT IS SO ORDERED that Company Registration Certificate No. PR 6588 in Branch 3, heretofore issued to Respondent Firestone Termite, Inc.; Francisco Lopez, is 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 November 19, 2014.

It is so ORDERED October 20, 2014


FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

51597051.DOC
DOJ Matter ID:LA2014511571

Attachment:
Exhibit A: Accusation
Exhibit B: First Amended Accusation