

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

In the Matter of the First Amended Accusation
Against:

Case No. 2011-72(d)

DAVID H. BERTRAM
9119 Dulene Drive
Lakeside, CA 92040

Field Representative's License No. FR
45266, Br. 2
Applicator License No. RA 49653


Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 1, 2013.

It is so ORDERED November 1, 2013.



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 PHILLIP L. ARTHUR
Deputy Attorney General
4 State Bar No. 238339
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-0032
Facsimile: (916) 327-8643
7 E-mail: Phillip.Arthur@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

13 **DAVID H. BERTRAM**
14 **9119 Dulene Drive**
Lakeside, CA 92040

15 **Field Representative's License No. FR**
16 **45266, Br. 2**
17 **Applicator License No. RA 49653**

18 Respondent.

Case No. 2011-72(d)

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

(DAVID H. BERTRAM ONLY)

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 PARTIES

23 1. William H. Douglas (Complainant) was the former Interim Registrar/Executive
24 Officer of the Structural Pest Control Board. He brought these actions solely in his official
25 capacity. Susan Saylor is the current Interim Registrar/Executive Officer of the Structural Pest
26 Control Board. She maintains these actions solely in her official capacity and is represented in
27 this matter by Kamala D. Harris, Attorney General of the State of California, by Phillip L. Arthur,
28 Deputy Attorney General.

1 the right to reconsideration and court review of an adverse decision; and all other rights accorded
2 by the California Administrative Procedure Act and other applicable laws.

3 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 10. Respondent admits the truth of each and every charge and allegation in First
7 Amended Accusation No. 2011-72(d).

8 11. Respondent agrees that his Field Representative's License is subject to discipline and
9 he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
10 below.

11 CONTINGENCY

12 12. This stipulation shall be subject to approval by the Structural Pest Control Board.
13 Respondent understands and agrees that counsel for Complainant and the staff of the Structural
14 Pest Control Board may communicate directly with the Board regarding this stipulation and
15 settlement, without notice to or participation by Respondent. By signing the stipulation,
16 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
17 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
18 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
19 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
20 the parties, and the Board shall not be disqualified from further action by having considered this
21 matter.

22 13. The parties understand and agree that electronic, Portable Document Format (PDF),
23 and facsimile copies of this Stipulated Settlement and Disciplinary Order, including electronic,
24 Portable Document Format (PDF), and facsimile signatures thereto, shall have the same force and
25 effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Field Representative's License No. FR 45266, Br. 2,
9 issued to Respondent David H. Bertram, is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for three (3) years on the following terms and conditions:

11 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and all laws
12 and rules relating to the practice of structural pest control.

13 2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during
14 the period of probation.

15 3. **Tolling of Probation.** Should Respondent leave California to reside outside this
16 state, Respondent must notify the Board in writing of the dates of departure and return. Periods
17 of residency or practice outside the state shall not apply to reduction of the probationary period.

18 4. **Notice to Employers.** Respondent shall notify all present and prospective employers
19 of the decision in case no. 2011-72(d) and the terms, conditions and restrictions imposed on
20 Respondent by said decision.

21 Within 30 days of the effective date of this decision, and within 15 days of Respondent
22 undertaking new employment, Respondent shall cause his employer to report to the Board in
23 writing acknowledging the employer has read the decision in case no. 2011-72(d).

24 5. **Notice to Employees.** Respondent shall, upon or before the effective date of this
25 decision, post or circulate a notice to all employees involved in structural pest control operations
26 which accurately recite the terms and conditions of probation. Respondent shall be responsible
27 for said notice being immediately available to said employees. "Employees" as used in this
28

1 provision includes all full-time, part-time, temporary and relief employees and independent
2 contractors employed or hired at any time during probation.

3 **6. Completion of Probation.** Upon successful completion of probation, Respondent's
4 license will be fully restored.

5 **7. Violation of Probation.** Should Respondent violate probation in any respect, the
6 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
7 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
8 Respondent during probation, the Board shall have continuing jurisdiction until the matter is final,
9 and the period of probation shall be extended until the matter is final.

10 **8. Random Inspections.** Respondent shall reimburse the Board for one (1) random
11 inspection per quarter by Board specialists during the period of probation not to exceed \$125 per
12 inspection.

13 **9. Future Applications.** Should Respondent apply for a license during the period of
14 probation, and should the Board issue said license, the issuance of said license shall be under the
15 same terms and conditions and probationary term as set forth herein.

16 **10. Cost Recovery.** Respondent shall reimburse the Board for its costs of investigation
17 and enforcement in these matters in the pro rata amount of \$2,495.00. Said amount may be paid
18 in monthly installments as agreed by the Board, and shall be paid in full no later than six (6)
19 months before the end of probation. Probation shall not be terminated until the costs are paid in
20 full.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///


28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Field Representative's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

DATED: AUG. 19th, 2013




DAVID H. BERTRAM, FR 45266, BR. 2
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Consumer Affairs.

Dated: 8/19/13

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General


PHILLIP L. ARTHUR
Deputy Attorney General
Attorneys for Complainant

SA2011101886
11152495.doc