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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. 2012-32

**5 STAR FUMIGATION, INC.; STEVE J.
LOZADA
5640 Shull Street, Unit B
Bell Gardens, CA 90201**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**P.O. Box 4992
Downey, CA 90241
Company Registration Certificate No. PR
6157**

Respondents.

FINDINGS OF FACT

1. On or about January 31, 2012, Complainant William Douglas, in his official capacity as the former Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2012-32 against 5 Star Fumigation, Inc.; Steve J. Lozada, President (Respondent) before the Structural Pest Control Board. (Accusation attached as **Exhibit A.**)

1 2. On or about October 20, 2010, the Structural Pest Control Board (Board) issued
2 Company Registration Certificate No. PR 6157 to Respondent. On or around December 20,
3 2010, Company Registration Certificate No. PR 6157 was suspended for "no Qualifying
4 Manager." On or around January 28, 2011, Company Registration Certificate No. PR 6157 was
5 suspended for "failure to maintain the general liability insurance as required by section 8690 of
6 the Bus. & Prof. Code. On or around May 4, 2011, Company Registration Certificate No. PR
7 6157 was suspended for "failure to maintain a surety bond ... as required by section 8697 of the
8 Bus. & Prof. Code." Company Registration Certificate No. PR 6157 is currently suspended.

9 3. On or about February 8, 2012, Respondent was served by Certified and First Class
10 Mail copies of the Accusation No. 2012-32, Statement to Respondent, Notice of Defense, Request
11 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
12 11507.7) at Respondent's business address of record which, pursuant to Business and Professions
13 Code section 136, is required to be reported and maintained with the Board. Respondent's
14 address of record was and is:

15 **5640 Shull Street, Unit B**
16 **Bell Gardens, CA 90201**

17 4. On or about February 8, 2012, Respondent was served by Certified and First Class
18 Mail copies of the Accusation No. 2012-32, Statement to Respondent, Notice of Defense, Request
19 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
20 11507.7) at Respondent's mailing address of record which, pursuant to Business and Professions
21 Code section 136, is required to be reported and maintained with the Board. Respondent's
22 address of record was and is:

23 **P.O. Box 4992**
24 **Downey, CA 90241**

25 5. Service of the Accusation was effective as a matter of law under the provisions of
26 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
27 124.
28

1 6. On or about March 8, 2012, the aforementioned documents were returned by the U.S.
2 Postal Service marked "Addressee Unknown, Name Not on Box, Unable to Forward and Not
3 Deliverable as Addressed."

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

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

10 8. Respondent failed to file a Notice of Defense within 15 days after service upon them
11 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
12 2012-32.

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

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

18 9. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on the
20 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
21 taking official notice of all the investigatory reports, exhibits and statements contained therein on
22 file at the Board's offices regarding the allegations contained in Accusation No. 2012-32, finds
23 that the charges and allegations in Accusation No. 2012-32 are separately and severally, found to
24 be true and correct by clear and convincing evidence.

25 10. Taking official notice of its own internal records, pursuant to Business and
26 Professions Code section 125.3, it is hereby determined that the Respondent's allocation of
27 reasonable costs for Investigation and Enforcement is \$7,631.27 as of January 8, 2013.
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DETERMINATION OF ISSUES

1 1. Based on the foregoing findings of fact, Respondent 5 Star Fumigation, Inc.; Steve J.
2 Lozada, President has subjected its Company Registration Certificate No. PR 6157 to discipline.

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

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

a. Bus. & Prof. Code §§ 8506.2, 8610(c) and 8620, in that Respondent engaged in the practice of structural pest control without a qualifying manager.

b. Bus. & Prof. Code §§ 8620, 8691 and 8695 in that Respondent engaged in the practice of structural pest control without liability insurance.

c. Bus. & Prof. Code §§ 8620 and 8641 in conjunction with Cal. Code of Regs. title 16 § 1911 in that Respondent failed to comply with the rules and regulations adopted by the Board including failing to timely notify the Board of address change.


ORDER

IT IS SO ORDERED that Company Registration Certificate No. PR 6157, heretofore issued to Respondent 5 Star Fumigation, Inc.; Steve J. Lozada, President, 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 March 27, 2013.

It is so ORDERED February 25, 2013.



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

51217193.DOC
DOJ Matter ID:LA2011505800
Attachment:
Exhibit A: Accusation