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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. 2012-19

**WAGNER TERMITE CONTROL, INC.,
GREGORY HOWARD WAGNER
STEVEN TY WAGNER**
4867 Gage Avenue
Bell, CA 90201
**Company Registration Certificate No. PR 737
Operator's License No. OPR 10014**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondents.

FINDINGS OF FACT

1. On or about October 13, 2011, Complainant William H. Douglas, in his former official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2012-19 against Wagner Termite Control, Inc., Gregory Howard Wagner, and Respondent Steven Ty Wagner (Respondents) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about September 25, 1987, the Board issued Company Registration Certificate Number PR 737 in Branch 3 to Wagner Termite Control, Inc. ("Respondents") with Wilmot Eugene Wagner as President and Qualifying Manager, Gregory Howard Wagner as Vice President and Elaine Wright Wagner as Secretary. On or about December 31, 1993, Company Registration Certificate Number PR 737 reflected a change of corporate officers to Gregory Howard Wagner as President, and Elaine Wright Wagner as Secretary, and reflected a change of Qualifying Manager to Gregory Howard Wagner. On or about February 21, 2001, Company

1 Registration Certificate Number PR 737 reflected a change of Qualifying Manager to Steven Ty
2 Wagner.

3 3. On or about April 12, 1999, the Board issued Operator's License Number 10014 in
4 Branch 3 to Respondent Steven Ty Wagner. The operator's license is currently in effect and
5 renewed through June 30, 2013

6 4. On or about January 25, 2012, Respondents were served by Certified and First Class
7 Mail copies of the Accusation No. 2012-19, Statement to Respondent, Notice of Defense, Request
8 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
9 11507.7) at Respondents' address of record which, pursuant to Business and Professions Code
10 section 136, is required to be reported and maintained with the Board. Respondents' address of
11 record was and is: 4867 Gage Avenue, Bell, CA 90201.

12 5. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124.

15 6. On or about February 23, 2012, the aforementioned certified mail documents were
16 returned by the U.S. Postal Service marked "Unclaimed."

17 7. 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
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

21 8. Respondents failed to file their Notice of Defense within 15 days after service upon
22 them of the Accusation, and therefore waived their right to a hearing on the merits of Accusation
23 No. 2012-19.

24 9. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 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
27 respondent.

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1 10. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondents are 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 Accusation No. 2012-19, finds
6 that the charges and allegations in Accusation No. 2012-19, are separately and severally, found to
7 be true and correct by clear and convincing evidence.

8 11. 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 \$1,437.50.

11 **DETERMINATION OF ISSUES**

12 12. Based on the foregoing findings of fact, Respondent Wagner Termite Control, Inc.,
13 Gregory Howard Wagner, has subjected its Company Registration Certificate No. PR 737, and
14 Respondent Steven Ty Wagner's has subjected his Operator's License No. OPR 10014 to
15 discipline.

16 13. The agency has jurisdiction to adjudicate this case by default.

17 14. The Structural Pest Control Board is authorized to revoke Respondents' Company
18 Registration Certificate No. PR 737 and Operator's License No. 10014 based upon the following
19 violations alleged in the Accusation which are supported by the evidence contained in the Default
20 Decision Evidence Packet in this case:

21 a. Business and Professions Code section 125.9, subdivision 5, 8652, and California
22 Code of Regulations, title 16, regulation 1920, subsection (d) - [Failure to Comply with Citation
23 and Order of Abatement]

24 **ORDER**

25 *IT IS SO ORDERED* that Company Registration Certificate No. PR 737, heretofore issued
26 to Respondent Wagner Termite Control, Inc.; Gregory Howard Wagner, and Operator's License
27 No. OPR 10014 issued to Steven Ty Wagner, are revoked.


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

5 This Decision shall become effective on November 29, 2012.

6 It is so ORDERED October 30, 2012

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FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment:
Exhibit A: Accusation