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

In the Matter of the Accusation Against:  
**HUMBERTO SAENZ, JR.**  
**11045 W. Lilac Rd.**  
**Valley Center, CA 92082**  
**Applicator License No. RA 46669**  
  
Respondent.

Case No. 2013-14  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On September 12, 2012, Complainant Susan Saylor, in her official capacity as the Assistant Executive Officer of the Structural Pest Control Board (Board), Department of Pesticide Regulation, filed Accusation No. 2013-14 against Humberto Saenz, Jr. (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)
2. On November 30, 2006, the Board issued Applicator License No. RA 46669 (License ) to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2013-14 and expired on November 30, 2012. This lapse in licensure, however, pursuant to Business and Professions Code (Code) sections 118(b) and 8625 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.
3. On September 14, 2012, Respondent was served by Certified and First Class Mail copies of Accusation No. 2013-14, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
2 at Respondent's address of record which, pursuant to Code section 136, is required to be reported  
3 and maintained with the Board. Respondent's address of record was and is 1277 Pacific Oaks  
4 Place suite 101, Escondido, CA 92029.

5 4. On September 27, 2012, the aforementioned documents sent via certified mail  
6 with domestic return receipt number 7196 9008 9111 7119 5665 were returned by the U.S.  
7 Postal Service marked "Not Deliverable As Addressed Unable To Forward." On October 1,  
8 2012, the aforementioned documents sent via first class mail were returned by the U.S. Postal  
9 Service also marked "Not Deliverable As Addressed Unable To Forward." The address on the  
10 documents was the same as the address on file with the Board. Respondent failed to maintain an  
11 updated address with the Board and the Board has made attempts to serve the Respondent at the  
12 address on file. Respondent has not made himself available for service and therefore, has not  
13 availed himself of his right to file a notice of defense.

14 5. On October 16, 2012, Respondent was served by Certified and First Class Mail  
15 copies of Accusation No. 2013-14, Statement to Respondent, Notice of Defense, Request for  
16 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
17 at Respondent's last known residence address. Respondent's last known residence address is  
18 11045 W. Lilac Rd., Valley Center, CA 92082.

19 6. Service of the Accusation was effective as a matter of law under the provisions of  
20 Government Code section 11505, subdivision (c) and Code section 124.

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

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

27 8. Respondent failed to file a Notice of Defense within 15 days after service upon  
28 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
No. 2013-14.

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

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

6 10. Pursuant to its authority under Government Code section 11520, the Board finds  
7 Respondent is in default. The Board will take action without further hearing and, based on the  
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
10 file at the Board's offices regarding the allegations contained in Accusation No. 2013-14, finds  
11 that the charges and allegations in Accusation No. 2013-14, are separately and severally, found  
12 to be true and correct by clear and convincing evidence.

13 11. Taking official notice of its own internal records, pursuant to Business and  
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for  
15 Investigation and Enforcement is \$760.00 as of November 28, 2012.

#### 16 **DETERMINATION OF ISSUES**

17 1. Based on the foregoing findings of fact, Respondent Humberto Saenz, Jr. has  
18 subjected his Applicator License No. RA 46669 to discipline.

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

20 3. The Structural Pest Control Board is authorized to revoke Respondent's  
21 Applicator License based upon the following violations alleged in the Accusation which are  
22 supported by the evidence contained in the Default Decision Evidence Packet in this case.

23 4. Respondent has subjected his license to disciplinary action under Code sections  
24 490 and 8649 in that on September 16, 2011, in a criminal proceeding entitled *The People of the*  
25 *State of California v. Humberto Saenz, Jr.*, in San Diego County Superior Court, North County  
26 Division, Case Number CN293745, Respondent was convicted of violating Penal Code (PC)  
27 sections 484 and 490.5, petty theft of retail merchandise, a misdemeanor substantially related to  
28 the qualifications, duties, and functions of a licensed applicator.

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**ORDER**

IT IS SO ORDERED that Applicator License No. RA 46669, heretofore issued to Respondent Humberto Saenz, Jr., 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 February 23, 2013.

It is so ORDERED January 24, 2013

  
FOR THE STRUCTURAL PEST CONTROL BOARD  
DEPARTMENT OF PESTICIDE REGULATION

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DOJ Matter ID:SD2012703957

Attachment:  
Exhibit A: Accusation