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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. 2011-16

**ROBERT SCOTT ROSS
555 North Guild Avenue
Lodi, California 95240**

DEFAULT DECISION AND ORDER

**Field Representative's License No. FR
42763, Branch 2**

[Gov. Code §11520]

**Registered Applicator's License No. RA
47205**

Respondent.

FINDINGS OF FACT

1. On or about November 23, 2010, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation, filed Accusation No. 2011-16 against Robert Scott Ross ("Respondent") before the Board. (Accusation attached as Exhibit A.)

2. On or about February 1, 2008, the Board issued Field Representative's License No. FR 42763, Branch 2 to Respondent. The Field Representative's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

1 3. On or about April 16, 2007, the Board issued Registered Applicator's License No. RA
2 47205 to Respondent. The Registered Applicator's License expired on April 16, 2010, and has
3 not been renewed.

4 4. On or about December 2, 2010, Respondent was served by Certified and First Class
5 Mail copies of Accusation No. 2011-16, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 136
8 and/or agency specific statutes or regulations, is required to be reported and maintained with the
9 Board, and which was and is:

10 555 North Guild Avenue
11 Lodi, California 95240.

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. Government Code section 11506 states, in pertinent part:

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

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
23 2011-16.

24 8. 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
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,

1 as well as taking official notice of all the investigatory reports, exhibits and statements contained
2 therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-
3 16, finds that the charges and allegations in Accusation No. 2011-16 are separately and severally
4 true and correct by clear and convincing evidence.

5 10. Upon taking official notice of the Board's own internal records, pursuant to Business
6 and Professions Code section 125.3, it is hereby determined that the reasonable costs for
7 investigation and enforcement of this matter is \$3,864.80 as of December 23, 2010.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Robert Scott Ross has subjected
10 his Field Representative's License No. FR 42763, Branch 2, and his Registered Applicator's
11 License No. RA 47205 to discipline.

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

13 3. The Structural Pest Control Board is authorized to revoke Respondent's Field
14 Representative's License and his Applicator's License based upon the following violations alleged
15 in the Accusation which are supported by the evidence contained in the Default Decision
16 Investigatory Evidence Packet in this case:

- 17 a. Violation of Business & Professions Code section 8649 (conviction for burglary).
18 b. Violation of Business & Professions Code section 490 (conviction for burglary).
19 c. Violation of California Code of Regulations, title 16, section 1937.1, subdivisions (a)
20 and (b)(3) (conviction for burglary).

21 ORDER

22 IT IS HEREBY ORDERED that Field Representative's License No. FR 42763, Branch 2,
23 and Registered Applicator's License No. RA 47205 heretofore issued to Respondent Robert Scott
24 Ross, are revoked.

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

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This Decision shall become effective on February 26, 2011.

It is so ORDERED January 27, 2011


FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment:
Exhibit A: Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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7 Attorneys for Complainant

FILED
Date 11/23/10 by Kelli Okuma

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF PESTICIDE REGULATION**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **ROBERT SCOTT ROSS**
13 **555 North Guild Avenue**
Lodi, California 95240
14 **Field Representative's License No. FR**
15 **42763, Branch 2**
16 **Registered Applicator's License No. RA**
17 **47205**
Respondent.

Case No. 2011-16

ACCUSATION

19 Complainant alleges:

PARTIES

- 21 1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as
22 the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of
23 Pesticide Regulation.
24 2. On or about February 1, 2008, the Board issued Field Representative's License
25 Number FR 42763, Branch 2 to Robert Scott Ross ("Respondent"). The Field Representative's
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on June 30, 2013, unless renewed.
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1 subdivision (b) (buying or receiving stolen property), a felony. On or about September 3, 2010,
2 the criminal complaint against Respondent was amended such that Respondent was charged with
3 eight felony counts of violating Penal Code section 459 and one felony count of violating Penal
4 Code section 496, subdivision (a).

5 16. On or about September 13, 2010, in a criminal proceeding entitled *The People of the*
6 *State of California v. Robert Scott Ross*, in Sonoma County Superior Court, Case Number SCR-
7 586561, Respondent pleaded guilty to three counts of violating Penal Code section 459.

8 17. On or about October 27, 2010, Respondent was sentenced to state prison for six years
9 and eight months, execution of sentence suspended, and granted three years probation.
10 Respondent was also ordered to pay a \$30 fine, \$620 in restitution fines, and \$7,437.59 in
11 restitution.

12 CAUSE FOR DISCIPLINE

13 (Criminal Conviction)

14 18. Respondent is subject to disciplinary action under sections 8649 and 490 of the Code,
15 and California Code of Regulations, title 16, section 1937.1, subdivisions (a) and (b)(3), in that on
16 or about September 13, 2010, in a criminal proceeding entitled *The People of the State of*
17 *California v. Robert Scott Ross*, in Sonoma County Superior Court, Case Number SCR-586561,
18 Respondent pleaded guilty to violating Penal Code section 459.

19 The circumstances of Respondent's conviction are set forth above in Paragraphs 11 through
20 17.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Structural Pest Control Board issue a decision:

24 1. Revoking or suspending Field Representative's License Number FR 42763, Branch 2,
25 issued to Robert Scott Ross;

26 2. Revoking or suspending Registered Applicator's License Number RA 47205, issued
27 to Robert Scott Ross;

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3. Ordering Robert Scott Ross to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 11/23/10

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

SF2010202809