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**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

**EAGLESHIELD PEST CONTROL, L.P.,  
ET AL.**

**DEFAULT DECISION AND ORDER  
(BENIGNO V. CRUZ APPLICATOR  
LICENSE ONLY)**

- and -

[Gov. Code, §11520]

**BENIGNO V. CRUZ, Partner  
503 1/2 Josephine Avenue  
Corcoran, CA 93212  
(Dissociated 4/1/09)  
Applicator License No. RA 47563**

Respondent.

FINDINGS OF FACT

1. On or about April 23, 2012, Complainant William H. Douglas, in his official capacity as the Interim Executive Officer of the Structural Pest Control Board, filed First Amended Accusation No. 2011-72 against Eagleshield Pest Control, L.P., etc. and Benigno V. Cruz

1 (Respondent) before the Structural Pest Control Board Department of Pesticide Regulation. (First  
2 Amended Accusation attached as Exhibit A<sup>1</sup>.)

3 2. On or about June 20, 2007, the Structural Pest Control Board (Board) issued  
4 Applicator License Number RA 47563 to Respondent as an employee of Eagleshield Pest  
5 Control, L.P. The license was in full force and effect at all times relevant to the charges brought  
6 in First Amended Accusation No. 2011-72. The license was canceled on June 20, 2010, and has  
7 not been renewed. While the license has now expired, this lapse in licensure, pursuant to  
8 Business and Professions Code section 118(b), does not deprive the Board of its authority to  
9 institute or continue this disciplinary proceeding.

10 3. On or about October 23, 2008, Respondent became a partner in Eagleshield Pest  
11 Control, L.P.

12 4. On or about April 1, 2009, Respondent dissociated his partnership with Eagleshield  
13 Pest Control, L.P.

14 5. On or about May 10, 2012, Respondent was served by Certified and First Class Mail  
15 copies of First Amended Accusation No. 2011-72, Statement to Respondent, Notice of Defense,  
16 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
17 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
18 Code section 136, is required to be reported and maintained with the Board. Respondent's  
19 address of record was and is:  
20 503 1/2 Josephine Avenue  
Corcoran, CA 93212.

21 6. Service of the First Amended Accusation was effective as a matter of law under the  
22 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions  
23 Code section 124.

24 7. The aforementioned Certified and First Class mail documents were never returned.

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27 <sup>1</sup> The specific pages of the First Amended Accusation that are relevant to Respondent  
28 Benigno V. Cruz are page nos. 3-4, 8, and 12-14.

1 8. Government Code section 11506 states, in pertinent part:

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

7 9. Respondent failed to file a Notice of Defense within 15 days after service upon him  
8 of the First Amended Accusation, and therefore waived his right to a hearing on the merits of  
9 First Amended Accusation No. 2011-72.

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

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

15 11. Pursuant to its authority under Government Code section 11520, the Board finds  
16 Respondent is in default. The Board will take action without further hearing and, based on the  
17 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
18 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
19 file at the Board's offices regarding the allegations contained in First Amended Accusation No.  
20 2011-72, finds that the charges and allegations in First Amended Accusation No. 2011-72, are  
21 separately and severally, found to be true and correct by clear and convincing evidence.

22 12. Taking official notice of its own internal records, pursuant to Business and  
23 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
24 and Enforcement are \$500.00 as of November 22, 2013.

#### 25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent Benigno V. Cruz has subjected  
27 his Applicator License No. RA 47563 to discipline.

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

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

- 1 a. Business and Professions Code section 8610(c), failure to supervise the daily
- 2 operations of the company and failing to be available to supervise and assist employees;
- 3 b. Business and Professions Code section 8639, aiding or abetting unlicensed activities
- 4 by allowing applicators, who were either employees or partners, to perform activities that they
- 5 were not licensed to perform;
- 6 c. Business and Professions Code section 8613, failure to properly re-register
- 7 Eagleshield Pest Control, L.P. with the Board to include all its partners, branch supervisors,
- 8 and/or principles within 30 days of such change;
- 9 d. Business and Professions Code section 8550(e), engaging in or offering to engage in
- 10 Branch 3 pest control work without a valid license;
- 11 e. Business and Professions Code section 8612, failing to register branch offices with
- 12 the Board within 30 days of operation or performing work from said addresses, as defined in
- 13 California Code of Regulations, title 16, section 1912; and
- 14 f. Business and Profession Code section 8641, and California Code of Regulations, title
- 15 16, section 1995.5(f)(6) and (10)-(11) by presenting false, misleading, unfair representations, or
- 16 deceptive advertisements.

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ORDER

IT IS SO ORDERED that Applicator License No. RA 47563, heretofore issued to Respondent Benigno V. Cruz, 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 8, 2014.

It is so ORDERED January 9, 2014

  
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FOR THE STRUCTURAL PEST CONTROL  
BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

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Attachment:  
Exhibit A: First Amended Accusation