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

In the Matter of the Accusation Against:

ROBERT J. DE ROSA,
aka ROBERT JAMES DE ROSA
4989 Mountain Lakes Boulevard, Unit E
Redding, California 96003
Mailing Address:
P.O. Box 491978
Redding, CA 96049
Applicator License No. RA 49376

Respondent.

Case No. 2012-3

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 3, 2011, Complainant William H. Douglas, in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2012-3 against Robert James De Rosa (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about October 22, 2008, the Structural Pest Control Board (Board) issued Applicator License No. RA 49376 to Respondent. The Applicator License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-3 and will expire on October 22, 2011, unless renewed.

3. On or about August 10, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-3, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 136, is required to be reported and maintained with the Board, which was and is:

3 4989 Mountain Lakes Boulevard, Unit E
4 Redding, CA 96003

5 and

6 P.O. Box 491978
7 Redding, CA 96049

8 4. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code
10 section 124.

11 5. On or about September 9, 2011, the aforementioned documents were returned by the
12 U.S. Postal Service marked "Forwarding Address Expired." The address on the documents was
13 the same as the address on file with the Board. Respondent failed to maintain an updated address
14 with the Board and the Board has made attempts to serve the Respondent at the address on file.
15 Respondent has not made himself available for service and therefore, has not availed himself of
16 his right to file a notice of defense and appear at hearing.

17 6. 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
21 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
22 may nevertheless grant a hearing.

23 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
25 No. 2012-3.

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

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 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
respondent.

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1 9. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is 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. 2012-3, finds that
6 the charges and allegations in Accusation No. 2012-3, are separately and severally, found to be
7 true and correct by clear and convincing evidence.

8 10. 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 \$360.00 as of September 26, 2011.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Robert James De Rosa has
13 subjected his Applicator License No. RA 49376 to discipline.

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

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

18 CAUSE FOR DISCIPLINE

19 (Criminal Convictions)

20 a. Respondent is subject to disciplinary action pursuant to Code sections 8649 and 490,
21 subdivision (a), in that he was convicted of crimes which are substantially related to the
22 qualifications, functions, and duties of a pest control applicator, as follows:

23 b. On or about January 20, 2011, in the criminal proceeding titled *People v. Robert*
24 *James De Rosa* (Super. Ct. Shasta County, 2011, Case No. 10F6652), Respondent pled nolo
25 contendere to violating Penal Code section 12020, subdivision (a)(2) (unlawful possession of a
26 weapon, a felony). On February 22, 2011, the imposition of Respondent's sentence was
27 suspended and Respondent was placed on formal probation for 3 years on terms and conditions,
28

1 including that he participate in counseling as directed by the Probation Officer, specifically to
2 include drug and alcohol counseling and a mental health evaluation; that he pay restitution to
3 M. B., A. R., and P. K.; and that he have no contact in any manner with M. B., A. R., P. K., and
4 P. P. or their families. The circumstances of the crime are as follows: On or about June 5, 2010,
5 officers with the Redding Police Department ("PD") were dispatched to a private residence upon
6 receiving a report of shots fired in the area. After the officers arrived on scene, the reporting
7 party told the officers that she had heard two loud explosions earlier that day and that it sounded
8 like rifle shots coming from the interior of her neighbor's residence. Later, the officers made
9 contact with Respondent. Respondent admitted that he had been setting off dry ice bombs.

10 c. On or about January 20, 2011, in the criminal proceeding titled *People v. Robert*
11 *James De Rosa* (Super. Ct. Shasta County, 2011, Case No. 10F7730), Respondent pled nolo
12 contendere to violating Penal Code section 594, subdivision (b)(1) (vandalism, a misdemeanor).
13 The circumstances of the crime are as follows: On or about October 11, 2010, an officer with the
14 Redding PD responded to a private residence regarding a prior report of felony vandalism. Upon
15 arrival, the officer met with victim P. P., who stated that on October 3, 2010, she witnessed her
16 neighbor, Respondent, throw approximately five large rocks onto her abode tile roof. Later, P. P.
17 learned that at least five of her roof tiles were completely destroyed and that her roof would leak
18 once it began to rain. P. P. estimated the damage to her roof to be approximately \$800. P. P.
19 informed the officer that Respondent's residence actually belonged to his father, W. De Rosa, and
20 that W. De Rosa had asked P. P. to contact him directly if Respondent was causing problems in
21 the neighborhood due to his erratic behavior. Later, the officer spoke with W. De Rosa. W. De
22 Rosa stated that he believed Respondent was experiencing ill effects due to his prolonged use of
23 methamphetamine and that Respondent had been delusional as of late.

24 d. On or about January 20, 2011, in the criminal proceeding titled *People v. Robert*
25 *James De Rosa* (Super. Ct. Shasta County, 2011, Case No. 10M8982), Respondent pled nolo
26 contendere to violating Penal Code sections 647, subdivision (h) (loitering, prowling, or
27 wandering upon private property, a misdemeanor), and 647, subdivision (i) (peeking, a
28 misdemeanor). The circumstances of the crimes are as follows: On or about December 11, 2010,

1 an officer with the Redding PD was dispatched to a private residence regarding a call that
2 Respondent was screaming and looking into the windows of victim P. K. Upon arrival, the
3 officer found Respondent on the street in front of P. K.'s residence. Later, the officer made
4 contact with P. K., who reported that Respondent had been causing various disturbances in the
5 neighborhood and had accused her and other neighbors of kidnapping his girlfriend. P. K. stated
6 that Respondent came into her front yard and began looking into her living room window.
7 Respondent then went to the side of P. K.'s residence and started looking over her fence. P. K.
8 told the officer that she was frightened and believed Respondent was going to enter her home.


9 ORDER

10 IT IS SO ORDERED that Applicator License No. RA 49376, heretofore issued to
11 Respondent Robert James De Rosa, is revoked.

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

16 This Decision shall become effective on December 21, 2011.

17 It is so ORDERED November 21, 2011

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21 FOR THE STRUCTURAL PEST CONTROL
22 BOARD
23 DEPARTMENT OF PESTICIDE REGULATION

24 10756813.DOC
25 DOJ Matter ID:SA2011100889

26 Attachment:
27 Exhibit A: Accusation
28

Exhibit A

Accusation

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Telephone: (916) 324-5339
Facsimile: (916) 327-8643
Attorneys for Complainant

FILED

Date 8/3/11 By *William H. Douglas*

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

In the Matter of the Accusation Against:

ROBERT J. DE ROSA,
aka **ROBERT JAMES DE ROSA**
4989 Mountain Lakes Boulevard, Unit E
Redding, California 96003
Mailing Address:
P.O. Box 491978
Redding, CA 96049
Applicator License No. RA 49376

Respondent.

Case No. 2012-3

ACCUSATION

Complainant alleges:

PARTIES/LICENSE INFORMATION

1. William H. Douglas ("Complainant") brings this Accusation solely in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation.
2. On or about October 22, 2008, the Board issued Applicator License Number RA 49376 in Branches 2 (general pest) and 3 (termite) to Robert J. De Rosa, also known as Robert James De Rosa ("Respondent"), employee of Jeff's Pest Control Service. Respondent's applicator license will expire on October 22, 2011, unless renewed.

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STATUTORY PROVISIONS

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2 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that
3 the Board may suspend or revoke a license when it finds that the holder, while a licensee or
4 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
5 of a suspension may assess a civil penalty.

6 4. Code section 8654 states:

7 Any individual who has been denied a license for any of the reasons
8 specified in Section 8568, or who has had his or her license revoked, or whose license
9 is under suspension, or who has failed to renew his or her license while it was under
10 suspension, or who has been a member, officer, director, associate, qualifying
11 manager, or responsible managing employee of any partnership, corporation, firm, or
12 association whose application for a company registration has been denied for any of
13 the reasons specified in Section 8568, or whose company registration has been
14 revoked as a result of disciplinary action, or whose company registration is under
15 suspension, and while acting as such member, officer, director, associate, qualifying
16 manager, or responsible managing employee had knowledge of or participated in any
17 of the prohibited acts for which the license or registration was denied, suspended or
18 revoked, shall be prohibited from serving as an officer, director, associate, partner,
19 qualifying manager, or responsible managing employee of a registered company, and
20 the employment, election or association of such person by a registered company is a
21 ground for disciplinary action.

22 5. Code section 8649 states:

23 Conviction of a crime substantially related to the qualifications, functions,
24 and duties of a structural pest control operator, field representative, applicator, or
25 registered company is a ground for disciplinary action. The certified record of
26 conviction shall be conclusive evidence thereof.

27 6. Code section 8655 states:

28 A plea or verdict of guilty or a conviction following a plea of nolo
contendere made to a charge substantially related to the qualifications, functions, and
duties of a structural pest control operator, field representative, applicator, or
registered company is deemed to be a conviction within the meaning of this article or
Section 8568 of this chapter. The board may order the license or registration
suspended or revoked, or may decline to issue a license, when the time for appeal has
elapsed, or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
the individual or registered company to withdraw a plea of guilty and to enter a plea
of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

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1 7. Code section 490, subdivision (a), states:

2 In addition to any other action that a board is permitted to take against a
3 licensee, a board may suspend or revoke a license on the ground that the licensee has
4 been convicted of a crime, if the crime is substantially related to the qualifications,
5 functions, or duties of the business or profession for which the license was issued.

6 **COST RECOVERY**

7 8. Code section 125.3 states, in pertinent part, that a Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **CAUSE FOR DISCIPLINE**

12 **(Criminal Convictions)**

13 9. Respondent is subject to disciplinary action pursuant to Code sections 8649 and 490,
14 subdivision (a), in that he was convicted of crimes which are substantially related to the
15 qualifications, functions, and duties of a pest control applicator, as follows:

16 a. On or about January 20, 2011, in the criminal proceeding titled *People v. Robert*
17 *James De Rosa* (Super. Ct. Shasta County, 2011, Case No. 10F6652), Respondent pled nolo
18 contendere to violating Penal Code section 12020, subdivision (a)(2) (unlawful possession of a
19 weapon, a felony). On February 22, 2011, the imposition of Respondent's sentence was
20 suspended and Respondent was placed on formal probation for 3 years on terms and conditions,
21 including that he participate in counseling as directed by the Probation Officer, specifically to
22 include drug and alcohol counseling and a mental health evaluation; that he pay restitution to
23 M. B., A. R., and P. K.; and that he have no contact in any manner with M. B., A. R., P. K., and
24 P. P. or their families. The circumstances of the crime are as follows: On or about June 5, 2010,
25 officers with the Redding Police Department ("PD") were dispatched to a private residence upon
26 receiving a report of shots fired in the area. After the officers arrived on scene, the reporting
27 party told the officers that she had heard two loud explosions earlier that day and that it sounded
28 like rifle shots coming from the interior of her neighbor's residence. Later, the officers made
contact with Respondent. Respondent admitted that he had been setting off dry ice bombs.

1 b. On or about January 20, 2011, in the criminal proceeding titled *People v. Robert*
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3 contendere to violating Penal Code section 594, subdivision (b)(1) (vandalism, a misdemeanor).
4 The circumstances of the crime are as follows: On or about October 11, 2010, an officer with the
5 Redding PD responded to a private residence regarding a prior report of felony vandalism. Upon
6 arrival, the officer met with victim P. P., who stated that on October 3, 2010, she witnessed her
7 neighbor, Respondent, throw approximately five large rocks onto her abode tile roof. Later, P. P.
8 learned that at least five of her roof tiles were completely destroyed and that her roof would leak
9 once it began to rain. P. P. estimated the damage to her roof to be approximately \$800. P. P.
10 informed the officer that Respondent's residence actually belonged to his father, W. De Rosa, and
11 that W. De Rosa had asked P. P. to contact him directly if Respondent was causing problems in
12 the neighborhood due to his erratic behavior. Later, the officer spoke with W. De Rosa. W. De
13 Rosa stated that he believed Respondent was experiencing ill effects due to his prolonged use of
14 methamphetamine and that Respondent had been delusional as of late.

15 c. On or about January 20, 2011, in the criminal proceeding titled *People v. Robert*
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18 wandering upon private property, a misdemeanor), and 647, subdivision (i) (peeking, a
19 misdemeanor). The circumstances of the crimes are as follows: On or about December 11, 2010,
20 an officer with the Redding PD was dispatched to a private residence regarding a call that
21 Respondent was screaming and looking into the windows of victim P. K. Upon arrival, the
22 officer found Respondent on the street in front of P. K.'s residence. Later, the officer made
23 contact with P. K., who reported that Respondent had been causing various disturbances in the
24 neighborhood and had accused her and other neighbors of kidnapping his girlfriend. P. K. stated
25 that Respondent came into her front yard and began looking into her living room window.
26 Respondent then went to the side of P. K.'s residence and started looking over her fence. P. K.
27 told the officer that she was frightened and believed Respondent was going to enter her home.

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OTHER MATTERS

10. Code section 8620 provides, in pertinent part, that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the time of the hearing and must be noted in the proposed decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

11. Pursuant to Code section 8654, if discipline is imposed on Applicator License Number RA 49376, issued to Robert J. De Rosa, also known as Robert James De Rosa, Robert J. De Rosa, also known as Robert James De Rosa, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Robert J. De Rosa, also known as Robert James De Rosa, shall be subject to disciplinary action.

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PRAYER

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

1. Revoking or suspending Applicator License Number RA 49376, issued to Robert J. De Rosa, also known as Robert James De Rosa;

2. Prohibiting Robert J. De Rosa, also known as Robert James De Rosa, from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Applicator License Number RA 49376, issued to Robert J. De Rosa, also known as Robert James De Rosa;

3. Ordering Robert J. De Rosa, also known as Robert James De Rosa, 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; and

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

DATED: 8/3/11

William H. Douglas
WILLIAM H. DOUGLAS
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

SA2011100889