

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

Case No. 2013-9

In the Matter of the Accusation Against:

**CHARLES L. SHELBY III  
11642 Knott Street, Suite 9  
Garden Grove, CA 92841**

**9636 Swallow Lane  
Garden Grove, CA 92841**

**Applicator's License No. RA 49485, Branch  
2 and 3**

**Field Representative License No. FR 46160,  
Branch 3**

Respondent.

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 20, 2012, Complainant Susan Saylor, in her official capacity as the Assistant Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2013-9 against Charles L. Shelby III (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

///

1           2.     On or about November 21, 2008, the Structural Pest Control Board (Board) issued  
2     Applicator's License No. RA 49485, Branch 2 and 3 to Respondent. The Applicator's License  
3     expired on November 21, 2011, and has not been renewed. This lapse in licensure, however,  
4     pursuant to Business and Professions Code section 118(b) does not deprive the Board of its  
5     authority to institute or continue this disciplinary proceeding.

6           3.     On or about November 15, 2010, the Structural Pest Control Board issued Field  
7     Representative License No. FR 46160, Branch 3 to Respondent. The Field Representative  
8     License was in full force and effect at all times relevant to the charges brought in Accusation No.  
9     2013-9 and will expire on June 30, 2013, unless renewed.

10          4.     On or about August 24, 2012, Respondent was served by Certified and First Class  
11     Mail copies of the Accusation No. 2013-9, Statement to Respondent, Notice of Defense, Request  
12     for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
13     11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
14     section 136, is required to be reported and maintained with the Board. Respondent's address of  
15     record for Applicator License No. RA 49485 was and is: 11642 Knott Street, Suite 9, Garden  
16     Grove, CA 92841.

17          5.     On or about August 24, 2012, Respondent was served by Certified and First Class  
18     Mail copies of the Accusation No. 2013-9, Statement to Respondent, Notice of Defense, Request  
19     for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
20     11507.7) at Respondent's addresses of record which, pursuant to Business and Professions Code  
21     section 136, is required to be reported and maintained with the Board. Respondent's mailing  
22     address of record for Field Representative License No. FR 46160 was and is 9636 Swallow Lane,  
23     Garden Grove, CA 92841, and business address of record was and is 11642 Knott Street, Suite 9,  
24     Garden Grove, CA 92841.

25          6.     Service of the Accusation was effective as a matter of law under the provisions of  
26     Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
27     124.

28     ///

1           7.    The aforementioned documents sent to 11642 Knott Street, Suite 9, Garden Grove,  
2 CA 92841 by Certified and First Class mail were returned marked by the U.S. Postal Service  
3 marked "forwarding time expired" on September 20, 2012. The aforementioned documents sent  
4 to 9636 Swallow Lane, Garden Grove, CA 92841 were not returned by the U.S. Postal Service as  
5 of September 20, 2012.

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

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

12           9.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
13 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
14 2013-9.

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

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

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

27           12.   Taking official notice of its own internal records, pursuant to Business and  
28 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
and Enforcement is \$1,477.50 as of September 13, 2012.

///

///

DETERMINATION OF ISSUES

1  
2           1.    Based on the foregoing findings of fact, Respondent Charles L. Shelby III has  
3 subjected his Applicator's License No. RA 49485, Branch 2 and 3 and Field Representative's  
4 License No. FR 46160, Branch 3, to discipline.

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

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

10           a.   Respondent is subject to disciplinary action under Business and Professions  
11 Code sections 490 and 8649 in conjunction with California Code of Regulations, title 16, section  
12 1937.1 in that on or about October 5, 2011 in the criminal proceeding entitled *The People of the*  
13 *State of California v. Charles Shelby*, Los Angeles Superior Court case number VA118899,  
14 Respondent was convicted of violating Penal Code section 664-487(a), attempted grand theft, a  
15 felony, a crime that is substantially related to the qualifications, functions and duties of an  
16 applicator and field representative.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


ORDER

1  
2 IT IS SO ORDERED that Applicator's License No. RA 49485, Branch 2 and 3, and Field  
3 Representative's License No. FR 46160, Branch 3, heretofore issued to Respondent Charles L.  
4 Shelby III, are revoked.

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

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

10 It is so ORDERED October 30, 2012

11  
12   
13 FOR THE STRUCTURAL PEST CONTROL  
14 BOARD  
15 DEPARTMENT OF PESTICIDE REGULATION

16 70619949.DOC  
DOJ Matter ID:LA2012506777

17 Attachment:  
18 Exhibit A: Accusation