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

In the Matter of the Accusation Against:

**DOUGLAS C. BRAY**  
1413 Mira Vista Court  
Antioch, CA 94509

**Applicator License No. RA 49500**

Respondent.

Case No. 2011-29

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 21, 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. 2011-29 against Douglas C. Bray (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about December 2, 2008, the Structural Pest Control Board (Board) issued Applicator License No. RA 49500 to Respondent. The Applicator License will expire on December 2, 2011, unless renewed.

3. On or about January 26, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-29, 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 1413 Mira Vista Court  
4 Antioch, CA 94509

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
7 124.

8 5. On or about February 14, 2011, the U.S. Postal Service returned the Domestic Return  
9 Receipt indicating that the aforementioned documents were received at Respondent's address of  
10 record.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
19 2011-29.

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

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

25 9. Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on the  
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 2011-29, finds  
that the charges and allegations in Accusation No. 2011-29, are separately and severally, found to  
be true and correct by clear and convincing evidence.

1 10. Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
3 and Enforcement is \$595.00 as of August 5, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Douglas C. Bray has subjected  
6 his Applicator License No. RA 49500 to discipline.

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

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

11 a. Business and Professions Code section 8649 and/or 490 (criminal conviction).

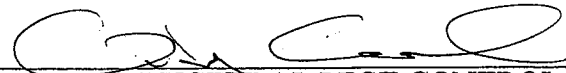
12  
13 ORDER

14 IT IS SO ORDERED that Applicator License No. RA 49500, heretofore issued to  
15 Respondent Douglas C. Bray, is revoked.

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

20 This Decision shall become effective on October 22, 2011.

21 It is so ORDERED September 22, 2011

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23   
24 FOR THE STRUCTURAL PEST CONTROL  
25 BOARD  
26 DEPARTMENT OF PESTICIDE REGULATION

26 20499709.DOC  
27 DOJ Matter ID:SF2011200092

28 Attachment:  
Exhibit A: Accusation

**FILED**

Date 1/21/11 By Kelli Okuma

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

10  
11 In the Matter of the Accusation Against:  
12 **DOUGLAS C. BRAY**  
13 **1413 Mira Vista Court**  
**Antioch, CA 94509**  
14 **Applicator License No. RA 49500**  
15 **Respondent.**

Case No. 2011-29  
**ACCUSATION**

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Kelli Okuma (Complainant) brings this Accusation solely in her official capacity as  
20 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide  
21 Regulation.

22 2. On or about December 2, 2008, the Structural Pest Control Board issued Applicator  
23 License Number RA 49500 to Douglas C. Bray (Respondent). The Applicator License will  
24 expire on December 2, 2011, unless renewed. Said license is currently inactive.

25 **JURISDICTION**

26 3. This Accusation is brought before the Structural Pest Control Board (Board),  
27 Department of Pesticide Regulation, under the authority of the following laws. All section  
28 references are to the Business and Professions Code unless otherwise indicated.

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

5           5.     Section 8625 of the Code states:

6           "The lapsing or suspension of a license or company registration by operation of law or by  
7 order or decision of the board or a court of law, or the voluntary surrender of a license or  
8 company registration shall not deprive the board of jurisdiction to proceed with any investigation  
9 of or action or disciplinary proceeding against such licensee or company, or to render a decision  
10 suspending or revoking such license or registration."

11          6.     Section 8649 of the Code states:

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

15          7.     Section 8620 of the Code states:

16          "The board may upon its own motion, and shall upon verified complaint in writing of any  
17 person, investigate the actions of any individual acting as a licensee, or making application for a  
18 license.

19          "After a hearing, the board may temporarily suspend or permanently revoke a license issued  
20 under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or  
21 more of the acts or omissions constituting grounds for disciplinary action. In addition to its  
22 authority to suspend or revoke a license, the board may assess a civil penalty as follows:

23          "(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with  
24 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed  
25 decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts  
26 or omissions constituting grounds for disciplinary action, the proposed decision shall provide for  
27 the imposition of a suspension or for the revocation of the license. In this case, the board may  
28 impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil

1 penalty. The licensee may express a preference for a form of discipline, but the board shall not  
2 be bound by any expression of preference.

3 "If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing,  
4 the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

5 "If a proposed stipulation is rejected by the board, it is null and void and does not constitute  
6 an admission of any violation charged.

7 "(b) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual  
8 suspension of one to 19 days.

9 "(c) The civil penalty shall not be more than ten thousand dollars (\$10,000) for an actual  
10 suspension of 20 to 45 days.

11 "(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty  
12 shall be paid before the effective date of the decision.

13 "(e) If the civil penalty is not paid before the effective date of the suspension, the license  
14 shall be suspended until the penalty is paid or until the actual suspension is served.

15 "No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With  
16 the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section  
17 8617, the proceedings under this article shall be conducted in accordance with Chapter 5  
18 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and  
19 the board shall have all the powers granted therein.

20 "In any order of suspension or revocation, the board may authorize the completion of any  
21 contract or work contracted for under terms and conditions set forth in the order."

22 8. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License  
23 No. RA 49500 issued to respondent, Douglas C. Bray shall be prohibited from serving as an  
24 officer, director, associate, partner, qualifying manager, or responsible managing employee for  
25 any registered company during the time the discipline is imposed, and any registered company  
26 which employs, elects, or associates Douglas C. Bray shall be subject to disciplinary action.

27 9. Section 490 of the Code states, in pertinent part, that the Board may suspend or  
28 revoke a license when it finds that the licensee has been convicted of a crime.

