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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. 2011-74

ERICK ESCOBAR
45465 25th Street East, Suite 180
Lancaster, CA 93535
Field Representative's License No. FR 45122
Applicator License No. RA 50577

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about June 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. 2011-74 against Erick Escobar (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about January 14, 2010, the Structural Pest Control Board (Board) issued Field Representative's License No. FR 45122 to Respondent. The Field Representative's License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-74 and will expire on June 30, 2012, unless renewed.

3. On or about January 13, 2010, the Structural Pest Control Board issued Applicator License No. RA 50577 to Respondent. The Applicator License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-74 and will expire on January 13, 2013, unless renewed.

1 4. On or about June 29, 2011, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 2011-74, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
5 required to be reported and maintained with the Board, which was and is: 45465 25th Street East,
6 Suite 180, Lancaster, CA 93535.

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

10 6. On or about July 1, 2011, the aforementioned documents were delivered to
11 Respondent's address of record by the U.S. Postal Service. A signed Domestic Return Receipt
12 was sent back to the Attorney General's office acknowledging receipt of the aforementioned
13 documents by Respondent.

14 7. Government Code section 11506 states, in pertinent part:

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

18 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 2011-74.

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

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

25 10. 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

1 file at the Board's offices regarding the allegations contained in Accusation No. 2011-74, finds
2 that the charges and allegations in Accusation No. 2011-74, are separately and severally, found to
3 be true and correct by clear and convincing evidence.

4 11. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$2520.00 as of August 25, 2011.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Erick Escobar has subjected his
9 Field Representative's License No. FR 45122 and Applicator License No. RA 50577 to discipline.

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

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

14 Criminal Convictions

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

18 1. On or about May 13, 2009, in the criminal proceeding titled *People v. Erick*
19 *Escobar* (Super. Ct. Los Angeles County, 2009, Case No. 8AV12197), Respondent pled nolo
20 contendere to violating Penal Code section 273.5, subdivision (a) (corporal injury to spouse,
21 cohabitant, etc., a misdemeanor). The imposition of Respondent's sentence was suspended and
22 Respondent was placed on summary probation for 36 months under terms and conditions,
23 including that Respondent complete a 52 week domestic violence counseling program and obey
24 the protective order issued in the case. The circumstances of the crime are as follows: On or
25 about October 13, 2008, Respondent willfully and unlawfully inflicted corporal injury resulting in
26 a traumatic condition upon his spouse, P. R.

27 2. On or about October 14, 2010, in the criminal proceeding titled *People v. Erick*
28 *Escobar and Miguel Escobar* (Super. Ct. Los Angeles County, 2010, Case No. MA050525),

1 Respondent pled nolo contendere to violating Penal Code section 273.5, subdivision (a) (corporal
2 injury to spouse, cohabitant, etc., a felony). On or about November 3, 2010, Respondent was
3 sentenced to serve 2 years in state prison. The circumstances of the crime are as follows: On or
4 about September 25, 2010, officers with the Los Angeles County Sheriff's Department responded
5 to a residence located in Lancaster regarding a domestic violence in progress call. The officers
6 made contact with the victim, P. R., who related the following. P. R. and her husband,
7 Respondent, were lying in their bed when Respondent began shoving P. R. on her back. P. R. got
8 off of the bed. Respondent got out of the bed, walked behind P. R., and kicked her on the
9 buttocks. P. R. lost her balance and fell forward, then stood up and attempted to walk to the
10 restroom. Respondent stood in front of P. R. and began shoving her on the upper chest.
11 Respondent grabbed P. R. with his hands, began shaking her violently, and pushed her against the
12 dresser. Respondent yelled at P. R. that he was going to hit her. P. R. grabbed a knife from the
13 top of the dresser and stabbed Respondent on his left upper back. Respondent immediately
14 released P. R. and she ran out of the room. As P. R. was near the rear door of the house,
15 Respondent caught up to her and dragged her back into the room. P. R. attempted to dial 9-1-1-
16 using her cell phone, but Respondent forcibly took the phone from her hands and slammed it on
17 the ground. P. R. ran out of the room and out the front door of the house. Respondent followed
18 P. R. out of the house, grabbed her from behind and began choking her, then dragged her back
19 inside the house. Once they were inside, P. R. broke free from Respondent's hold and attempted
20 to run out the front door. As P. R. ran towards the front door, Respondent's father, Miguel
21 Escobar ("Miguel"), stood in front of her and blocked her from exiting the door by grabbing her
22 with both of his arms around her body. P. R. pled with Miguel to release her, but he refused. At
23 that point, the officers had arrived on scene. The above incident occurred while Respondent was
24 on probation for his conviction of May 13, 2009.

25 Misrepresentations on Respondent's Applications for Licensure

26 b. On or about July 20, 2009, Respondent submitted an application for an applicator
27 license to the Board. On or about July 10, 2009, Respondent certified under penalty of perjury to
28 the truth and accuracy of all statements and representations made in the application, including all

1 statements attached thereto, and acknowledged that falsifying information on the application may
2 result in denial of the application or revocation of the license.

3 c. On or about December 1, 2009, Respondent submitted an application for a field
4 representative's license to the Board. On or about November 9, 2009, Respondent certified under
5 penalty of perjury to the truth and accuracy of all statements and representations made in the
6 application, including all statements attached thereto, and acknowledged that falsifying
7 information on the application may result in denial of the application.

8 1. Respondent was asked on both applications (question 11 on the application for
9 applicator license and question 9 on the application for field representative's license) whether he
10 had ever been convicted of a felony or misdemeanor other than minor traffic infractions.

11 2. Respondent is subject to disciplinary action pursuant to Code section 8637 in
12 that he misrepresented a material fact in obtaining his field representative's license and applicator
13 license, as follows: Respondent certified under penalty of perjury on both applications that he
14 had never been convicted of a felony or misdemeanor. In fact, Respondent had been convicted of
15 corporal injury to a spouse on May 13, 2009, and other convictions as set forth above and in the
16 operative Accusation.

17 Securing a License through Fraud, Deceit, or Knowing Misrepresentation

18 d. Respondent is subject to disciplinary action pursuant to Code section 498 in that
19 Respondent secured or obtained his field representative's license and applicator's license by fraud,
20 deceit, or knowing misrepresentation of a material fact, as set forth above.

21 ORDER

22 IT IS SO ORDERED that Field Representative's License No. FR 45122, and Applicator
23 License No. RA 50577 heretofore issued to Respondent Erick Escobar, are both revoked.


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

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This Decision shall become effective on November 18, 2011.

It is so ORDERED October 19, 2011



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

60673136.DOC
DOJ Matter ID:LA2011600006

Attachment:

Exhibit A: Accusation

1 KAMALA D. HARRIS
2 Attorney General of California
3 ALFREDO TERRAZAS
4 Senior Assistant Attorney General
5 GREGORY J. SALUTE
6 Supervising Deputy Attorney General
7 State Bar No. 164015
8 300 So. Spring Street, Suite 1702
9 Los Angeles, CA 90013
10 Telephone: (213) 897-2520
11 Facsimile: (213) 897-2804
12 *Attorneys for Complainant*

FILED

Date *6/21/11* By *William H. Douglas*

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

In the Matter of the Accusation Against:
ERICK ESCOBAR
45465 25th Street East, Suite 180
Lancaster, CA 93535
Field Representative's License No. FR 45122
Applicator License No. RA 50577
Respondent.

Case No. 2011-74

ACCUSATION

Complainant alleges:

PARTIES

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 January 14, 2010, the Board issued Field Representative's License Number FR 45122 ("license") in Branch 3 (termite) to Erick Escobar ("Respondent"), employee of Jeff Hiatt, Inc. On November 3, 2010, Respondent disassociated as an employee of Jeff Hiatt, Inc. due to the cancellation of the firm's company registration certificate, and Respondent's license was placed on inactive status. Respondent's license will expire on June 30, 2012, unless renewed.

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1 9. Code section 8655 states:

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

14 10. Code section 490, subdivision (a), states:

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

19 11. Code section 498 states that “[a] board may revoke, suspend, or otherwise restrict a
20 license on the ground that the licensee secured the license by fraud, deceit, or knowing
21 misrepresentation of a material fact or by knowingly omitting to state a material fact.”

22 COST RECOVERY

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

27 FIRST CAUSE FOR DISCIPLINE

28 (Criminal Convictions)

13 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 field representative and applicator, as follows:

16 a. On or about May 13, 2009, in the criminal proceeding titled *People v. Erick Escobar*
17 (Super. Ct. Los Angeles County, 2009, Case No. 8AV12197), Respondent pled nolo contendere
18 to violating Penal Code section 273.5, subdivision (a) (corporal injury to spouse, cohabitant, etc.,

1 a misdemeanor). The imposition of Respondent's sentence was suspended and Respondent was
2 placed on summary probation for 36 months under terms and conditions, including that
3 Respondent complete a 52 week domestic violence counseling program and obey the protective
4 order issued in the case. The circumstances of the crime are as follows: On or about October 13,
5 2008, Respondent willfully and unlawfully inflicted corporal injury resulting in a traumatic
6 condition upon his spouse, P. R.

7 b. On or about October 14, 2010, in the criminal proceeding titled *People v. Erick*
8 *Escobar and Miguel Escobar* (Super. Ct. Los Angeles County, 2010, Case No. MA050525),
9 Respondent pled nolo contendere to violating Penal Code section 273.5, subdivision (a) (corporal
10 injury to spouse, cohabitant, etc., a felony). On or about November 3, 2010, Respondent was
11 sentenced to serve 2 years in state prison. The circumstances of the crime are as follows: On or
12 about September 25, 2010, officers with the Los Angeles County Sheriff's Department responded
13 to a residence located in Lancaster regarding a domestic violence in progress call. The officers
14 made contact with the victim, P. R., who related the following. P. R. and her husband,
15 Respondent, were lying in their bed when Respondent began shoving P. R. on her back. P. R. got
16 off of the bed. Respondent got out of the bed, walked behind P. R., and kicked her on the
17 buttocks. P. R. lost her balance and fell forward, then stood up and attempted to walk to the
18 restroom. Respondent stood in front of P. R. and began shoving her on the upper chest.
19 Respondent grabbed P. R. with his hands, began shaking her violently, and pushed her against the
20 dresser. Respondent yelled at P. R. that he was going to hit her. P. R. grabbed a knife from the
21 top of the dresser and stabbed Respondent on his left upper back. Respondent immediately
22 released P. R. and she ran out of the room. As P. R. was near the rear door of the house,
23 Respondent caught up to her and dragged her back into the room. P. R. attempted to dial 9-1-1-
24 using her cell phone, but Respondent forcibly took the phone from her hands and slammed it on
25 the ground. P. R. ran out of the room and out the front door of the house. Respondent followed
26 P. R. out of the house, grabbed her from behind and began choking her, then dragged her back
27 inside the house. Once they were inside, P. R. broke free from Respondent's hold and attempted
28 to run out the front door. As P. R. ran towards the front door, Respondent's father, Miguel

1 Escobar ("Miguel"), stood in front of her and blocked her from exiting the door by grabbing her
2 with both of his arms around her body. P. R. pled with Miguel to release her, but he refused. At
3 that point, the officers had arrived on scene. The above incident occurred while Respondent was
4 on probation for his conviction of May 13, 2009.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Misrepresentations on Respondent's Applications for Licensure)**

7 14. On or about July 20, 2009, Respondent submitted an application for an applicator
8 license to the Board. On or about July 10, 2009, Respondent certified under penalty of perjury to
9 the truth and accuracy of all statements and representations made in the application, including all
10 statements attached thereto, and acknowledged that falsifying information on the application may
11 result in denial of the application or revocation of the license.

12 15. On or about December 1, 2009, Respondent submitted an application for a field
13 representative's license to the Board. On or about November 9, 2009, Respondent certified under
14 penalty of perjury to the truth and accuracy of all statements and representations made in the
15 application, including all statements attached thereto, and acknowledged that falsifying
16 information on the application may result in denial of the application.

17 16. Respondent was asked on both applications (question 11 on the application for
18 applicator license and question 9 on the application for field representative's license) whether he
19 had ever been convicted of a felony or misdemeanor other than minor traffic infractions.

20 17. Respondent is subject to disciplinary action pursuant to Code section 8637 in that he
21 misrepresented a material fact in obtaining his field representative's license and applicator license,
22 as follows: Respondent certified under penalty of perjury on both applications that he had never
23 been convicted of a felony or misdemeanor. In fact, Respondent had been convicted of corporal
24 injury to a spouse on May 13, 2009, as set forth in subparagraph 13 (a) above and had suffered
25 the convictions alleged in paragraphs 20-26 as set forth below.

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THIRD CAUSE FOR DISCIPLINE

(Securing a License through Fraud, Deceit, or Knowing Misrepresentation)

18. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 14 through 16 above.

19. Respondent is subject to disciplinary action pursuant to Code section 498 in that Respondent secured or obtained his field representative's license and applicator's license by fraud, deceit, or knowing misrepresentation of a material fact, as set forth in paragraph 17 above.

MATTERS IN AGGRAVATION

20. By way of aggravation, Complainant alleges the following additional convictions which should be considered when imposing discipline in the above-entitled case:

21. On or about March 22, 2004, in the criminal proceeding titled *People v. Erick Escobar* (Super. Ct. Los Angeles County, 2004, Case No. 4AT18501), Respondent was convicted of violating Vehicle Code section 12500, subdivision (a) (driving without a valid driver's license, a misdemeanor). Respondent was placed on summary probation for a period of three years and placed on work program instead of being fined.

22. On or about August 26, 2004, in the criminal proceeding titled *People v. Erick Escobar* (Super. Ct. Kern County, Case No. MM048324A, Respondent pled guilty to violating Vehicle Code section 23152 subdivision (a) (driving under the influence of alcohol). Respondent was sentenced to 120 days in jail, placed on summary probation for a period of five years and fined the amount of \$1891.00.

23. On or about July 20, 2005, in the criminal proceeding titled *People v. Erick Escobar* (Super. Ct. Kern County, Case No. MM051367A, Respondent pled guilty to violating Penal Code 245 subdivision (A)(1) (assault with a deadly weapon other than firearm), a misdemeanor. Respondent was sentenced to 1 day in jail, placed on summary probation for a period of five years, and fined the amount of \$455.00.

24. On or about July 20, 2005, in the criminal proceeding titled *People v. Erick Escobar* (Super. Ct. Kern County, Case No. MM050690A, Respondent pled nolo contendere to violating

1 Vehicle Code 14601.2 subdivision (a) (driving while license suspended/revoked for DUI).
2 Respondent was fined the amount of \$155.00.

3 25. On or about October 13, 2005, in the criminal proceeding titled *People v. Erick*
4 *Escobar* (Super. Ct. Los Angeles County, 2005, Case No. 5AT02294), Respondent pled nolo
5 contendere to violating Vehicle Code section 14601.2, subdivision (a) (driving while license
6 suspended/revoked for DUI, a misdemeanor). Respondent was sentenced to ten days in jail,
7 placed on summary probation for a period of three years and fined \$300.00.

8 26. On or about July 17, 2006, in the criminal proceeding titled *People v. Erick Escobar*
9 (Super. Ct. Kern County, Case No. MM054701A, Respondent pled guilty to violating Vehicle
10 Code section 23152 subdivision (a) (driving under the influence of alcohol) and Vehicle Code
11 14601.2 subdivision (a) (driving while license suspended/revoked for DUI). Respondent was
12 sentenced to 30 days in jail, placed on summary probation for a period of five years and fined the
13 amount of \$1881.00.

14 OTHER MATTERS

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

20 28. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
21 License Number FR 45122 and/or Applicator License Number RA 50577 issued to Erick
22 Escobar, Erick Escobar shall be prohibited from serving as an officer, director, associate, partner,
23 qualifying manager, or responsible managing employee for any registered company during the
24 time the discipline is imposed, and any registered company which employs, elects, or associates
25 Erick Escobar shall be subject to disciplinary action.

26 PRAYER

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

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1. Revoking or suspending Field Representative's License Number FR 45122, issued to Erick Escobar;

2. Revoking or suspending Applicator License Number RA 50577, issued to Erick Escobar;

3. Prohibiting Erick Escobar 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 Field Representative's License Number FR 45122 and/or Applicator License Number RA 50577, issued to Erick Escobar;

4. Ordering Erick Escobar 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;

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

DATED: 6/21/11

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

LA2011600006