

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
7 Attorneys for Complainant

FILED

Date 4/11/12 By

William H. Douglas

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

11 In the Matter of the First Amended Accusation  
12 Against:

13 **ANDREW W. HOWARD**  
14 **P.O. Box 1633**  
**Rohnert Park, CA 94952**  
15 **Applicator License No. RA 51152, Br. 2 and 3**

15 Respondent.

Case No. 2011-72(a)

**FIRST AMENDED**  
**ACCUSATION**

17 William H. Douglas ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this First Amended Accusation solely in his official capacity as  
20 the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of  
21 Pesticide Regulation ("Board").

22 2. On or about July 14, 2010, the Board issued Applicator License Number RA 51152,  
23 in Branches 2 and 3, to Andrew W. Howard ("Respondent"), as an employee of Eagleshield Pest  
24 Control, L.P. The license will expire on July 14, 2013, unless renewed.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that  
27 the Board may suspend or revoke a license when it finds that the holder, while a licensee or  
28

1 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu  
2 of a suspension may assess a civil penalty.

3 4. Code section 8654 states:

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

12 5. Code section 8625 states:

13 The lapsing or suspension of a license or company registration by operation of  
14 law or by order or decision of the board or a court of law, or the voluntary surrender  
15 of a license or company registration shall not deprive the board of jurisdiction to  
16 proceed with any investigation of or action or disciplinary proceeding against such  
17 licensee or company, or to render a decision suspending or revoking such license or  
18 registration.

17 6. Code section 8651 states:

18 The performing or soliciting of structural pest control work, the inspecting for  
19 structural or household pests, or the applying of any pesticide, chemical, or allied  
20 substance for the purpose of eliminating, exterminating, controlling, or preventing  
21 structural pests in branches of pest control other than those for which the operator,  
22 field representative, or applicator is licensed or the company is registered is a ground  
23 for disciplinary action.

### 21 COST RECOVERY

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

26 ///

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unlicensed Activity)**

3 8. Respondent's applicator's license is subject to discipline under Code section 8651, in  
4 that in 2010, he performed work of a field representative without holding a valid license.

5 **OTHER MATTERS**

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

11 10. Pursuant to Code section 8654, if discipline is imposed on Applicator's License  
12 Number RA 51152, issued to Respondent, then Respondent shall be prohibited from serving as an  
13 officer, director, associate, partner or responsible managing employee of a registered company,  
14 and any licensee which employs, elects, or associates Respondent shall be subject to disciplinary  
15 action.

16 **PRAYER**

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

19 1. Revoking or suspending Applicator's License Number RA 51152, issued to Andrew  
20 W. Howard;

21 2. Revoking or suspending any other license for which Andrew W. Howard is  
22 furnishing the qualifying experience or appearance;

23 3. Prohibiting Andrew W. Howard from serving as an officer, director, associate,  
24 partner, qualifying manager or responsible managing employee of any registered company during  
25 the period that discipline is imposed on Applicator's License Number RA 51152, issued to  
26 Andrew W. Howard;

27 ///

28 ///

1           4.     Ordering Andrew W. Howard to pay the Structural Pest Control Board the reasonable  
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
3 Code section 125.3; and,

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

5 DATED:           4/11/12          

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

9  
10 SA2011101883  
10834886.doc

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28