

1
2
3
4
5
6
7
8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2014-20

13 **RODNEY J. OVERSTREET, JR.**
14 **22479 Birds Eye Drive**
15 **Diamond Bar, CA 91765**
16 **Applicator License No. RA 51309**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17 Respondent.

18
19 **FINDINGS OF FACT**

20 1. On or about September 26, 2013, Complainant Susan Saylor, in her official capacity
21 as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
22 Affairs, filed Accusation No. 2014-20 against Rodney J. Overstreet, Jr. (Respondent) before the
23 Structural Pest Control Board. (Accusation attached as Exhibit A.)

24 2. On or about September 3, 2010, the Structural Pest Control Board (Board) issued
25 Applicator License No. RA 51309 to Respondent. The Applicator License was in full force and
26 effect at all times relevant to the charges brought in Accusation No. 2014-20 and expired on
27 September 3, 2013 and has not been renewed.
28

1 3. On or about October 3, 2013, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2014-20, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 136, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 22479 Birds Eye Drive
8 Diamond Bar, CA 91765.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about October 11, 2013, the aforementioned documents were returned by the
13 U.S. Postal Service marked "No Forwarding Address." The address on the documents was the
14 same as the address on file with the Board. Respondent failed to maintain an updated address
15 with the Board and the Board has made attempts to serve the Respondent at the address on file.
16 Respondent has not made himself available for service and therefore, has not availed himself of
17 his right to file a notice of defense and appear at hearing.

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

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

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 2014-20.

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

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

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as 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. 2014-20 and finds that the charges and allegations in Accusation No. 2014-20, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$3195.00 as of November 10, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Rodney J. Overstreet, Jr. has subjected his Applicator License No. RA 51309 to discipline.

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

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

a. FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

1. Respondent is subject to disciplinary action under sections 8649 and 490, in conjunction with California Code of Regulations, title 16, section 1937.1, in that Respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed applicator. On or about June 11, 2013 in the criminal proceeding entitled *The People of the State of California v. Rodney Jerome Overstreet* (Super. Ct. Orange County, 2012, No. 12WM08835), Respondent was convicted on his plea of guilty to the following three counts: (1) one misdemeanor count of violating Penal Code section 496, subdivision (a) [receiving known stolen property]; (2) one misdemeanor count of violating Penal Code section 484, subdivision

1 (a) - 488 [petty theft]; and, (3) one misdemeanor count of violating Vehicle Code section 10852
2 [unlawful tampering with vehicle].

3 2. On or about December 27, 2012, Respondent failed to appear at the Orange County
4 Superior Court for a scheduled hearing in his criminal case and the court issued a bench warrant
5 that was exonerated following his appearing for sentencing on or about June 11, 2013.

6 3. The circumstances surrounding the conviction are that on or about August 4, 2012,
7 Respondent was observed pulling on multiple car door handles of vehicles that were parked on
8 Walnut Avenue, in Huntington Beach, CA. When Respondent was detained, by the Huntington
9 Beach Police Department, he admitted to having stolen property from one of the parked cars and
10 was in possession of the stolen property.

11 ORDER

12 IT IS SO ORDERED that Applicator License No. RA 51309, heretofore issued to
13 Respondent Rodney J. Overstreet, Jr., is revoked.

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

18 This Decision shall become effective on January 16, 2014.

19 It is so ORDERED December 17, 2013

20
21
22 
23 FOR THE STRUCTURAL PEST CONTROL
24 BOARD
25 DEPARTMENT OF CONSUMER AFFAIRS

26 51407176.DOC
DOJ Matter ID:LA2013508545

27 Attachment:
28 Exhibit A: Accusation