

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

11 In the Matter of the Petition to Revoke  
12 Probation Against:

Case No. 2011-68

13 **RANDY J. SARMIENTO**  
14 **1430 E. Lexington Ave., Space #62**  
15 **El Cajon, CA 92019**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

15 **Applicator License No. RA 52189**

16 Respondent.

17  
18 **FINDINGS OF FACT**

19 1. On or about October 10, 2013, Complainant Susan Saylor, in her official capacity as  
20 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer  
21 Affairs, filed Petition to Revoke Probation No. 2011-68 against Randy J. Sarmiento (Respondent)  
22 before the Structural Pest Control Board. (A copy of the Petition to Revoke Probation is attached  
23 as Exhibit A.)

24 2. On or about June 15, 2011, the Structural Pest Control Board (Board) issued  
25 Applicator License No. RA 52189 to Respondent. The Applicator License was in full force and  
26 effect at all times relevant to the charges brought in Petition to Revoke Probation No. 2011-68  
27 and will expire on June 15, 2014, unless renewed.

28 ///

1           3.     On or about October 18, 2013, Respondent was served by Certified and First Class  
2 Mail copies of the Petition to Revoke Probation No. 2011-68, Statement to Respondent, Notice of  
3 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,  
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and  
5 Professions Code section 136 and California Code of Regulations, title 16, section 1911, is  
6 required to be reported and maintained with the Board. Respondent's address of record was and  
7 is:

8     1430 E. Lexington Ave., Space #62  
9     El Cajon, CA 92019

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

13           5.     Government Code section 11506 states, in pertinent part:

14                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
16 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.

17           6.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
18 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of  
19 Petition to Revoke Probation No. 2011-68.

20           7.     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  
respondent.

24           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
25 Respondent is in default. The Board will take action without further hearing and, based on the  
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
28 file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.

1 2011-68, finds that the charges and allegations in Petition to Revoke Probation No. 2011-68, are  
2 separately and severally, found to be true and correct by clear and convincing evidence.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Randy J. Sarmiento has  
5 subjected his Applicator License No. RA 52189 to discipline.

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

7 3. The Structural Pest Control Board is authorized to revoke Respondent's Applicator  
8 License based upon the following violations alleged in the Petition to Revoke Probation which  
9 are supported by the Default Decision Investigatory Evidence Packet in this case.

10 4. Respondent's probation is subject to revocation because he failed to comply with  
11 Probation Condition 3, which required he file quarterly reports with the Board during the period  
12 of probation. Respondent failed to file quarterly reports due September 15, 2011, December 15,  
13 2011, March 15, 2012, June 15, 2012, September 15, 2012, December 15, 2012, March 15, 2013,  
14 June 15, 2013, and September 15, 2013.

15 ///

16 ///

17 ///


**ORDER**

IT IS SO ORDERED that Applicator License No. RA 52189, heretofore issued to Respondent Randy J. Sarmiento, is revoked.

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

This Decision shall become effective on February 9, 2014.

It is so ORDERED January 10, 2014

  
\_\_\_\_\_  
FOR THE STRUCTURAL PEST CONTROL  
BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2013705733

Attachment:  
Exhibit A: Petition to Revoke Probation