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**BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2014-39

RALPH RODRIGUEZ
4920 E. Ashlan Ave.
Fresno, CA 93726

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Applicator License No. RA 45172

Respondent.

FINDINGS OF FACT

1. On or about February 11, 2014, Complainant Susan Saylor, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs (Board), filed Accusation No. 2014-39 against Ralph Rodriguez (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about February 15, 2006, the Board issued Applicator License No. RA 45172 to Respondent. The Applicator License was in full force and effect at all times relevant to the charges brought in Accusation No. 2014-39 and will expire on February 15, 2015, unless renewed.

1 3. On or about April 15, 2014, Respondent was served by Certified and First Class Mail
2 copies of Accusation No. 2014-39, 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. Respondent's address of record was and
6 is:

7 4920 E. Ashlan Ave.
8 Fresno, CA 93726.

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. The aforementioned Certified and First Class Mail documents were never returned.

13 6. 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
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
21 2014-39.

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

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 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. 2014-39, finds

1 that the charges and allegations in Accusation No. 2014-39, are separately and severally, found to
2 be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$825.00 as of May 8, 2014.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Ralph Rodriguez has subjected
8 his Applicator License No. RA 45172 to discipline.

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

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

13 a. Business and Professions Code section 8649, conviction of a crime substantially
14 related to the qualifications, functions, and duties of an applicator. The facts and circumstances
15 are as follows:

16 i. On or about May 13, 2013, in the case of *People v. Ralph Rodriguez*, (Superior
17 Court of California, Fresno County, Case No. F12908717), Respondent was convicted by the
18 Court on his plea of nolo contendere of violating Penal Code section 496(a) (receiving stolen
19 property), a misdemeanor. The circumstances of the crime were that on or about April 16, 2012,
20 Respondent attempted to sell metal drainage lids to Bruno's Iron and Metal. The lids had been
21 stolen from Fresno Metropolitan Flood Control District.

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ORDER

IT IS SO ORDERED that Applicator License No. RA 45172, heretofore issued to Respondent Ralph Rodriguez, 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 September 24, 2014.

It is so ORDERED August 25, 2014


FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF CONSUMER AFFAIRS

11344831.DOC
SA2013114177
Attachment:
Exhibit A: Accusation