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

In the Matter of the Accusation Against:

VICKY L. DAVIS
P.O. Box 20903
Bakersfield, CA 93390

Applicator License No. RA 52419, Br. 2 and 3

Respondent.

Case No. 2015-12

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 1, 2014, Complainant Susan Saylor, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs, filed Accusation No. 2015-12 against Vicky L. Davis ("Respondent") before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about August 16, 2011, the Structural Pest Control Board ("Board") issued Applicator License No. RA 52419 to Respondent. The Applicator License was in full force and effect at all times relevant to the charges brought in Accusation No. 2015-12 expired on August 16, 2014, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) and Business and Professions Code section 8625 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1 3. On or about October 7, 2014, Respondent was served by Certified and First Class
2 Mail copies of Accusation No. 2015-12, 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 P.O. Box 20903
8 Bakersfield, CA 93390.

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 23, 2014, the aforementioned documents served by certified
13 mail were returned by the U.S. Postal Service marked "Not deliverable as addressed – unable to
14 forward." The address on the documents was the same as the address on file with the Board.

15 6. On or about October 27, 2014, the aforementioned documents served by first class
16 mail were returned by the U.S. Postal Service marked "Return to sender, unable to forward." The
17 address on the documents was the same as the address on file with the Board.

18 7. Respondent failed to maintain an updated address with the Board and the Board has
19 made attempts to serve Respondent at the address on file. Respondent has not made herself
20 available for service and therefore, has not availed herself of her right to file a notice of defense
21 and appear at hearing.

22 8. Government Code section 11506 states, in pertinent part:

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

28 9. Respondent failed to file a Notice of Defense within 15 days after service upon her of
the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2015-
12.

1 10. California Government Code section 11520 states, in pertinent part:

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

6 11. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation No. 2015-12, finds
11 that the charges and allegations in Accusation No. 2015-12, are separately and severally, found to
12 be true and correct by clear and convincing evidence.

13 12. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$1,360.00 as of October 28, 2014.

15 DETERMINATION OF ISSUES

16 1. Based on the foregoing findings of fact, Respondent Vicky L. Davis has subjected her
17 Applicator License No. RA 52419 to discipline.

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

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

22 a. Respondent is subject to disciplinary action under Business and Professions Code
23 sections 480 and 8649, in conjunction with California Code of Regulations, title 16, section
24 1937.1, in that Respondent has been convicted of a crime substantially related to the
25 qualifications, functions or duties of a licensed applicator, as follows:

26 b. On or about March 11, 2014, after pleading nolo contendere, Respondent was
27 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty
28 theft], in the criminal proceeding entitled *The People of the State of California v. Vicky Louise*

1 Davis (Super, Ct. San Bernardino County, 2014, No. MVI1304079). The Court sentenced
2 Respondent to serve six days in San Bernardino County Jail and placed Respondent on probation
3 for thirty-six (36) months.

4 c. The circumstances surrounding the conviction are that on or about December 3, 2013,
5 Respondent entered a Kohl's Department Store in Victorville, CA. She took merchandise from
6 the sales floor and removed the sales tags from the selected items before placing the merchandise
7 in a plastic Kohl's bag. Respondent then walked out of the store without paying for the items.
8 The store's loss prevention officer attempted to stop Respondent as she was leaving; however,
9 Respondent refused to stop, got in her vehicle and attempted to flee the scene before being
10 detained by officers from the San Bernardino County Sheriff's Department.

11 **ORDER**

12 IT IS SO ORDERED that Applicator License No. RA 52419, heretofore issued to
13 Respondent Vicky L. Davis, 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 February 13, 2015.

19 It is so ORDERED January 14, 2015

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23 FOR THE STRUCTURAL PEST CONTROL BOARD
24 DEPARTMENT OF CONSUMER AFFAIRS

25 51628111.DOC
26 DOJ Matter ID:LA2014512288

27 Attachment:
28 Exhibit A: Accusation