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

12 In the Matter of the Accusation Against:

Case No. 2017- 48

13 **PATRICK J. SILVA**
14 **P.O. Box 28503**
15 **Fresno, CA 93723**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **Applicator License No. RA 54686**

17 Respondent.

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FINDINGS OF FACT

1. On or about February 14, 2017, 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. 2017- 48 against Patrick J. Silva (Respondent) before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

2. On or about July 22, 2013, the Structural Pest Control Board (Board) issued Applicator License No. RA 54686 to Respondent. The Applicator License expired on June 30, 2017, and has not been renewed.

3. On or about February 22, 2017, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2017- 48, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Board. Respondent's address of record was and is: P.O. Box 28503, Fresno, CA 93723.

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

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1 5. On or about March 7, 2017, the aforementioned documents were returned by the U.S.
2 Postal Service marked "Unable to Forward" and "Unknown – Return to Sender." The address on
3 the documents was the same as the address on file with the Board. Respondent failed to maintain
4 an updated address with the Board and the Board has made attempts to serve the Respondent at
5 the address on file. Respondent has not made himself available for service and therefore, has not
6 availed himself of his right to file a notice of defense and appear at hearing.

7 6. Government Code section 11506(c) states, in pertinent part:

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

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
15 2017- 48.

16 8. California Government Code section 11520(a) states, in pertinent part:

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

21 9. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 2017- 48, finds
26 that the charges and allegations in Accusation No. 2017- 48, are separately and severally, found
27 to be true and correct by clear and convincing evidence.

28 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 \$1,050.00 as of March 17, 2017.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Patrick J. Silva has subjected his
3 Applicator License No. RA 54686 to discipline.

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

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

8 a. Code section 8649, in that Respondent was convicted on his plea of guilty of two
9 counts of violating Penal Code section 211 (second degree robbery), felonies, with the
10 enhancement of violating Penal Code section 12022(b)(1), in that Respondent used a deadly
11 weapon, a knife, in the commission of the offense. The crimes were committed on or about
12 January 13, and February 5, 2016, and Respondent was sentenced to 14 years in State Prison.

13 b. In aggravation, Respondent was convicted in 2006 by his plea of no contest of
14 violating Penal Code section 211 (second degree robbery), a felony, Penal Code section 459/460
15 (second degree burglary), a felony, and Vehicle Code section 10851(a), vehicle theft, a felony.

16 **ORDER**

17 IT IS SO ORDERED that Applicator License No. RA 54686, heretofore issued to
18 Respondent Patrick J. Silva, is revoked.

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

23 This Decision shall become effective on May 18, 2017.

24 It is so ORDERED April 18, 2017

25 
26 FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

27 12625295.DOC / DOJ Matter ID:SA2016104175

Attachment:

28 Exhibit A: Accusation