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RADER'S PEST RAIDERS, LLC, Respondent.

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**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF:)
)
RADER'S PEST RAIDERS, LLC,) **Docket No. 01.05-116181J**
)
Respondent.)

INITIAL ORDER OF DEFAULT

NOTICE OF DEFAULT ENTERED AGAINST RADER'S PEST RAIDERS

This matter came on to be heard on May 9, 2012 in Nashville, Tennessee, via teleconference hearing, before Joyce Grimes Safley, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Finance and Administration. Mr. Keith D. Hodges, Assistant General Counsel for the Tennessee Department of Agriculture, represented the State. Neither Respondent, nor anyone on Respondent's behalf, was present at the hearing.

The issue presented at this hearing was whether or not Respondent's commercial pest control operator charter should be revoked for failure to comply with the requirements of the Tennessee Application of Pesticides Act of 1978, T.C.A. §62-21-101, *et seq.*

The State provided a return receipt showing that it had served the Respondent's Registered Agent, Ms. Valarie Epstein, with Notice of the scheduled hearing in this matter.¹ Additionally, the State detailed attempts at notifying

¹ It is noted that Respondent, a Limited Liability Company, was administratively dissolved by the Tennessee Secretary of State's Division of Business Services on August 9, 2011. The Notice of Hearing/Notice of Charges was served upon Ms. Epstein, and signed by Ms. Epstein, on April 23, 2012. The Registered Agent

Respondent and obtaining additional service upon Respondent. Proper service was obtained upon the Respondent through its Registered Agent. It is determined that the State complied with notice requirements for the hearing.

Respondent did not appear for the hearing.

T.C.A. § 4-5-309 states:

Default.---(a) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative judge...may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings. (Emphasis added.)

The Department of Agriculture moved for an entry of Default , and further moved to proceed with its proof. Both motions were **GRANTED**.

Findings of Fact

for the LLC, Ms. Valerie Epstein, resigned as Registered Agent on May 9, 2012 (filed with the Secretary of State).

T.C.A. 48-249-605 states, in pertinent part:

- (c) Effect of an Administrative Dissolution. An LLC that has been administratively dissolved *continues its existence*, but may not carry on any business except that necessary to wind up and liquidate its business and affairs under §48-249-601 and notify claimants under §48-249-611.
- (d) Effect on Registered Agent and Registered Office. *The administrative dissolution of an LLC does not terminate the designation or authority of its registered agent or registered office.* (Emphasis added.)

§48-249-111. Resignation of registered agent

(a) Resignation of Registered Agent. A registered agent of a domestic or foreign LLC may resign the appointment, by filing a statement of resignation with the secretary of state, signed by the registered agent, that includes a certification that the agent has mailed a copy of the statement of resignation to the principal executive office of the affected domestic or foreign LLC by certified mail. The statement may indicate that the registered office is also discontinued.

(b) *Effective Date of Resignation. The agency appointment is terminated, and the registered office discontinued, if so provided, on the date on which the statement described in subsection (a) is filed with the secretary of state.*

Accordingly, proper service was obtained upon the Respondent through its Registered Agent.

1. Ms. Kathy Booker, Pesticides Administrator, Tennessee Department of Agriculture testified at the hearing of this matter.

2. Respondent Rader's Pest Raiders, LLC, holds Charter #4457 authorizing it to engage as a commercial pest control operator pursuant to T.C.A. §62-21-103(a).

3. Respondent's surety bond, required by T.C.A. §62-21-107(a), expired on February 19, 2011. Respondent failed to provide the Department of Agriculture with a current surety bond.

4. Respondent's occurrence liability insurance, required by T.C.A. §62-21-108, expired on February 22, 2011.

5. On March 17, 2011, the Department of Agriculture sent a letter to the Respondent notifying it that its required surety bond and liability insurance had expired. The letter notified Respondent that it must provide the Department with proof of a current surety bond and proof of current liability insurance within fourteen (14) days of receipt of the letter of notification, or the Department would take action to suspend or revoke Respondent's pest control charter.

6. The Respondent did not respond to the Department's letter of notification, and Respondent did not provide the Department with a current surety bond or a current proof of liability insurance.

7. The Department initiated this action against the Respondent by a "Complaint and Notice of Hearing" filed on April 17, 2012.

CONCLUSIONS OF LAW

1. The Department proved, by a preponderance of the evidence, that Respondent failed to comply with Charter requirements mandated by T.C.A. §62-21-107(a) and T.C.A. §62-21-108.
2. Respondent failed to respond to the Department's letter of notification.
3. Accordingly, Respondent's pest control charter #4457 is **REVOKED** for failure to comply with the above statutory requirements. Respondent shall not apply for reinstatement of its charter until it has satisfied all liability and surety bond requirements.
4. Pursuant to T.C.A. §62-21-130, the actual and reasonable costs of this case are assessed against Respondent. The Department is ordered to file a bill of costs with the Administrative Procedures Division and to serve the same upon Respondent. Such costs shall be paid by Respondent within thirty days of receipt of the bill of costs.

It is so ordered.

This Order entered and effective this 18 day of May, 2012



Thomas G. Stovall, Director
Administrative Procedures Division

