

1 KAMAL D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 CARL W. SONNE
Deputy Attorney General
4 State Bar No. 116253
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3164
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED

Date 1/3/11 By *Kelli Okuma*

8
9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 **A.M.B.D., Inc., dba**
D & S TERMITE CONTROL
13 David Paul Dierolf, C.E.O.
Dawn Marie Charrette, President and
14 Qualifying
Manager in Br. 1 & 3
15 Peter John-Paul Charrette, Vice President
Michael Robert Saunders, Vice President
16 Travis Stradley, Qualifying Manager in Br. 2
3638 Bancroft Drive
17 Spring Valley, CA 91977
18 Company Registration No. 1164, Br. 1, 2, & 3
19 and
20 **DAWN MARIE CHARRETTE**
21 **aka DAWN MARIE DIEROLF**
22 **aka DAWN MARIE DIEROLF-**
CHARRETTE
3638 Bancroft Drive
23 Spring Valley, CA 91977
24 Operator's License No. OPR 9119, Br. 1 & 3
Field Representative License No. FR 12741,
25 Br. 1
Field Representative License No. FR 21851,
26 Br. 3
27 President and Qualifying Manager in Br. 1 & 3
for
28 D & S Termite Control

Case No. 2006-57

OAH No. L-2006070475

SECOND AMENDED ACCUSATION

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and
DAVID PAUL DIEROLF
3638 Bancroft Drive
Spring Valley, CA 91977
Operator's License No. OPR 8044, Br. 1 & 3
C.E.O. for D & S Termite Control
and
PETER JOHN-PAUL CHARRETTE
3638 Bancroft Drive
Spring Valley, CA 91977
Field Representative License No. FR 19144,
Br. 1
Vice President for D & S Termite Control
and
MICHAEL ROBERT SAUNDERS
3638 Bancroft Drive
Spring Valley, CA 91977
Operator's License No. OPR 5869, Br. 1 & 3
Vice President for D & S Termite Control
and
CHRISTOPHER HARRISON PARISH
3638 Bancroft Drive
Spring Valley, CA 91977
Field Representative License No. FR 23237,
Br. 1&3
Registered Applicator's License No. RA
34241, Br. 3
Respondents.

1 Complainant alleges:

2 **PARTIES**

3 1. Kelli Okuma (Complainant) brings this Second Amended Accusation solely in her
4 official capacity as the Registrar of the Structural Pest Control Board, Department of Pesticide
5 Regulation.

6 **LICENSE HISTORY**

7 2. A.M.B.D., Inc., doing business as ("dba") D & S Termite Control ("Respondent
8 D & S") Company Registration No. PR 1164

9 On or about July 24, 1981, the Structural Pest Control Board issued Operator's License No.
10 OA 6483 in Branch 3 to A.M.B.D., Inc., dba D & S Termite Control, with David P. Dierolf as
11 President and Responsible Natural Person, Bobby Joe Bount as Vice President, and Arthur N.
12 Miller as Secretary and Treasurer ("Respondent D & S.")

13 On or about May 6, 1986, Operator's License No. OA 6483 was upgraded to include
14 Branches 1 and 3.

15 On or about January 13, 1988, Operator's License No. OA 6483 was converted to Company
16 Registration No. PR 1164 in Branches 1 and 3 for A.M.B.D., Inc., dba D & S Termite Control,
17 with David Paul Dierolf as President and Qualifying Manager and Shirley Mae Dierolf as
18 Secretary and Treasurer.

19 On or about May 1, 1992, Company Registration No. PR 1164 was suspended due to the
20 cancellation of the company bond as required by Business and Professions Code section 8697.

21 On or about May 4, 1992, Company Registration No. PR 1164 was reinstated after posting the
22 required \$4,000.00 company bond.

23 On or about January 23, 1996, Respondent D & S paid a fine of \$150.00 levied by the San
24 Diego County Agricultural Commissioner's Office for a violation of California Code of
25 Regulations section 6780 (fumigation safe-use requirements.)

26 On or about April 1, 1997, Respondent D & S paid a fine of \$150.00 levied by the San
27 Diego County Agricultural Commissioner's Office for a violation of Food and Agriculture
28 section 12973 (pesticide use in conformance with labeling.)

1 On or about June 26, 1997, Company Registration No. PR 1164 was suspended due to the
2 cancellation of the company bond as required by Business and Professions Code section 8697.

3 On or about July 29, 1997, Company Registration No. PR 1164 was reinstated after posting the
4 required \$4,000.00 company bond.

5 On or about March 1, 2000, David Dierolf disassociated as Qualifying Manager and Dawn
6 M. Charrette became Qualifying Manager.

7 On or about September 22, 2000, Company Registration No. PR 1164 was suspended due
8 to the cancellation of the company bond as required by Business and Professions Code section
9 8697. On or about September 29, 2000, Company Registration No. PR 1164 was reinstated after
10 posting the required \$4,000.00 company bond.

11 On or about October 5, 2001, Respondent D & S paid a fine of \$452.00 levied by the San
12 Diego County Agricultural Commissioner's Office for a violation of California Code of
13 Regulations, Title 3 section 6780 (fumigation safe-use requirements) and Business and
14 Professions Code section 8505.7 (fumigation safety requirements.)

15 On or about April 30, 2003, Respondent D & S paid a fine of \$552.00 levied by the San
16 Diego County Agricultural Commissioner's Office for a violation of California Code of
17 Regulations, Title 3 section 6780 (fumigation safe-use requirements) and Food and Agriculture
18 section 15204 (notification requirements.)

19 On or about February 6, 2004, Company Registration No. PR 1164 was upgraded to include
20 Branches 1, 2, and 3. David Dierolf became C.E.O., Dawn M. Charrette became President and
21 Qualifying Manager in Branches 1 and 3. Peter Charrette became Vice President. Michael
22 Saunders became Vice President and Travis Stradley became Qualifying Manager in Branch 2.
23 On or about November 2, 2004, Respondent D & S paid a fine of \$150.00 levied by the San
24 Diego County Agricultural Commissioner's Office for a violation of Business and Professions
25 Code section 8638 (failure to complete project for the contract price.)

26 On or about April 27, 2005, Respondent D & S paid a fine of \$1,152.00 levied by the San
27 Diego County Agricultural Commissioner's Office for a violation of California Code of
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1 Regulations, Title 3 section 6780 (fumigation safe-use requirements) and Food and Agriculture
2 section 15204 (notification requirements.)

3 On or about July 6, 2007, Travis Stradley disassociated as the Branch 2 Qualifying
4 Manager.

5 On or about September 7, 2007, Company Registration Certificate No. PR 1164 was
6 suspended due to no Branch 2 Qualifying Manager.

7 On or about September 10, 2007, Company Registration Certificate No. PR 1164 was
8 downgraded to include Branches 1 and 3 only.

9 On September 13, 2007, Company Registration Certificate No. PR 1164 was upgraded to
10 include Branches 1, 2, and 3 and reflected Thomas Lindemood as the Branch 2 Qualifying
11 Manager.

12 On or about February 29, 2008, Respondent D & S paid a fine of \$400.00 levied by the San
13 Diego County Agricultural Commissioner's Office for a violation of Business and Professions
14 Code section 8505.7 (fumigation safety requirements for failure to use secondary lock.) *A*
15 *violation against Respondent D & S is pending and no fine has been paid to the San Diego*
16 *County Agricultural Commissioner's Office for a violation of California Code of Regulations,*
17 *Title 3 section 6780 (fumigation safe-use requirements).*

18 On May 6, 2008, Company Registration Certificate No. PR 1164 reflected a change of
19 Branch 2 Qualifying Manager from Thomas Lindemood to Justin Lee Hermann.

20 On or about August 19, 2008, Company Registration Certificate No. PR 1164 paid a fine of
21 \$1,400.00 levied by the San Diego County Agricultural Commissioner's Office for a violation of
22 California Code of Regulations, Title 3, sections 6600 (standards of care for performing pest
23 control) and 6780 (fumigation safe-use requirements).

24 On December 10, 2009, Company Registration Certificate No. PR 1164 reflected a change
25 of Branch 2 Qualifying Manager from Justin Lee Hermann to Kelly Gene Hermann.

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1 3. David Paul Dierolf ("Respondent David Dierolf")
2 Operator's License No. OPR 8044

3 On or about January 13, 1988, the Structural Pest Control Board issued Operator's License
4 No. OPR 8044 in Branches 1 and 3 to David Paul Dierolf ("Respondent David Dierolf"),
5 President and Qualifying Manager of A.M.B.D., Inc., dba D & S Termite Control

6 On or about March 1, 2000, Operator's License No. OPR 8044 disassociated as the Branch
7 1 and 3 Qualifying Manager.

8 David Dierolf became C.E.O. of Respondent D & S on February 6, 2004 and currently
9 occupies that position.

10 Operator's License No. OPR 8044 will expire on June 30, 2011, unless renewed.

11 4. Dawn Marie Dierolf aka Dawn Marie Charrette
12 aka Dawn Marie Dierolf-Charrette ("Respondent Dawn Charrette")
13 Operator's License No. OPR 9119, Field Representative's
14 License No. FR 12741, Field Representative's License No. FR 21851

15 On or about April 16, 1993, the Structural Pest Control Board issued Operator's License
16 No. OPR 9119 in Branch 1 to Dawn Marie Dierolf.

17 On or about May 18, 1998, Operator's License No. OPR 9119 was upgraded to include
18 Branches 1 and 3.

19 On or about May 28, 1998, Operator's License No. OPR 9119 reflected a name change to
20 Dawn Marie Charrette ("Respondent Dawn Charrette.")

21 On or about March 1, 2000, Dawn Charrette became Qualifying Manager for Respondent D
22 & S in Branches 1 and 3.

23 On or about February 6, 2004, Dawn Charrette became President and Qualifying Manager
24 for Respondent D & S in Branches 1 and 3.

25 Operator's License No. OPR 9119 will expire on June 30, 2013, unless renewed.

26 On or about January 18, 1985, the Structural Pest Control Board issued Field
27 Representative's License No. FR 12741 in Branch 1 to Dawn Marie Dierolf. On June 30, 1993,
28 Field Representative's License No. FR 12741 was canceled.

1 On or about May 1, 1993, the Structural Pest Control Board issued Field Representative's
2 License No. FR 21851 in Branch 3 to Dawn Marie Dierolf-Charrette. On May 18, 1998, Field
3 Representative's License No. FR 21851 was canceled.

4 **5. Christopher Harrison Parish ("Respondent Parish")**
5 **Field Representative's License No. FR 23237,**
6 **Registered Applicator's License No. RA 34241**

6 On or about April 14, 1994, the Structural Pest Control Board issued Field Representative's
7 License No. FR 23237 in Branch 3 to Christopher Harrison Parish ("Respondent Parish.")

8 On or about January 20, 1995, Field Representative's License No. FR 23237 was upgraded
9 to include Branches 1 and 3.

10 In March of 2000, Field Representative's License No. FR 23237 reflected employment with
11 A.M.B.D. Inc., dba D & S Termite Control.

12 Field Representative's License No. FR 23237 will expire on June 30, 2011, unless renewed.

13 On or about December 3, 1993, the Structural Pest Control Board issued Registered
14 Applicator's License No. RA 34241 in Branch 3 to Christopher Harrison Parish.

15 On or about December 3, 1996, Registered Applicator's License No. RA 34241 expired and
16 was canceled.

17 **6. Peter John-Paul Charrette ("Respondent Peter Charrette")**
18 **Field Representative's License No. FR 19144**

19 On or about January 3, 1991, the Structural Pest Control Board issued Field
20 Representative's License No. FR 19144 in Branch 1 to Peter John-Paul Charrette ("Respondent
21 Peter Charrette.")

22 On or about February 6, 2004, Peter Charrette became Vice President for Respondent D &
23 S.

24 Field Representative's License No. FR 19144 will expire on June 30, 2011, unless
25 renewed.

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1 11. Section 8505.4 of the Code states:

2 “Fumigation shall be performed in compliance with all applicable state, county, city, and
3 city and county laws and ordinances and all applicable laws and regulations of the United States.”

4 12. Section 8505.6 of the Code states:

5 “During the process of fumigation the room or apartment being fumigated, together with
6 all rooms and apartments, including rooms or apartments on the same floor and those above,
7 below, and adjacent thereto, shall be vacated by the occupants thereof. During the process of
8 such fumigation, all rooms, apartments and hallways adjacent to the rooms, apartments or spaces
9 undergoing fumigation, shall be kept well ventilated and warning signs as herein prescribed
10 stating such fact of fumigation shall be kept posted at all entries to such rooms or apartments
11 during the time of such fumigation and thereafter until all such premises are safely ventilated free
12 of all fumes. All rooming or apartment houses designed for the use of four families or less shall
13 be entirely vacated and closed against entry thereto and occupancy thereof while fumigation is
14 being performed therein and until the same is safely ventilated free of all fumes.”

15 14. Section 8505.7 of the Code states:

16 “The space to be fumigated shall be vacated by all occupants prior to the commencement of
17 fumigation, and all entrances thereto shall be locked, barricaded, or otherwise secured against
18 entry until the end of exposure period, then opened for ventilation and relocked, barricaded, or
19 otherwise secured against re-entry, until declared by the licensee exercising direct and personal
20 supervision over the fumigation to be safe for reoccupancy.”

21 15. Section 8505.13 of the Code states:

22 “A registered company shall maintain a log of each fumigation job performed by it in this
23 state. The log shall be in the form required by the regulations of the board and shall be preserved
24 for a period of at least three years, during which time it shall be available at all times during
25 business hours for inspection by the board and its authorized representatives.”

26 16. Section 8516 (b) of the Code sets forth requirements regarding inspections and
27 reports and states, in pertinent part:

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1 “(b) No registered company or licensee shall commence work on a contract, or sign, issue,
2 or deliver any documents expressing an opinion or statement relating to the absence or presence
3 of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3
4 field representative or operator.”

5 17. Section 8553 of the Code states:

6 “Any person who violates any provision of this chapter, or who conspires with another
7 person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a
8 fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or
9 by imprisonment in the county jail for not more than six months, or by both such fine and
10 imprisonment.”

11 18. Section 8624 of the Code states:

12 “If the board suspends or revokes an operator’s license and one or more branch offices are
13 registered under the name of the operator, the suspension or revocation may be applied to each
14 branch office. If the operator is the qualifying manager, a partner, responsible officer, or owner of
15 a registered structural pest control company, the suspension or revocation may be applied to the
16 company registration. The performance by any partnership, corporation, firm, association, or
17 registered company of any act or omission constituting a cause for disciplinary action, likewise
18 constitutes a cause for disciplinary action against any licensee who, at the time the act or omission
19 occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership,
20 corporation, firm, association, or registered company whether or not he or she had knowledge of,
21 or participated in, the prohibited act or omission.”

22 19. Section 8638 of the Code states, in pertinent part:

23 “[f]ailure on the part of a registered company to complete any operation or construction
24 repairs for the price stated in the contract for such operation or construction repairs or in any
25 modification of such contract is a ground for disciplinary action.”

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1 20. Section 8641 of the Code states:

2 “Failure to comply with the provisions of this chapter, or any rule or regulation adopted by
3 the board, or the furnishing of a report of inspection without the making of a bona fide inspection
4 of the premises for wood destroying pests or organisms, or furnishing a notice of work completed
5 prior to the completion of the work specified in the contract, is a ground for disciplinary action.”

6 21. Section 8642 of the Code states in pertinent part:

7 “. . . [t]he commission of any grossly negligent or fraudulent act by the licensee as a pest
8 control operator, field representative, or applicator or by a registered company is a ground for
9 disciplinary action.”

10 22. Section 8643 of the Code states:

11 “The negligent handling or use of any poisonous exterminating agent is a ground for
12 disciplinary action.”

13 23. Section 8646 of the Code states:

14 “Disregard and violation of pesticide use and application, structural pest control device,
15 fumigation, or extermination laws of the state or of any of its political subdivisions, or regulations
16 adopted pursuant to those laws, is a ground for disciplinary action.”

17 24. Section 8647 of the Code states:

18 “[f]ailure to comply in the sale or use of insecticides with the provisions of Chapter 2
19 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is a ground
20 for disciplinary action.”

21 25. Section 8654 of the Code states:

22 “Any individual who has been denied a license for any of the reasons specified in Section
23 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
24 failed to renew his or her license while it was under suspension, or who has been a member,
25 officer, director, associate, qualifying manager, or responsible managing employee of any
26 partnership, corporation, firm, or association whose application for a company registration has
27 been denied for any of the reasons specified in Section 8568, or whose company registration has
28 been revoked as a result of disciplinary action, or whose company registration is under

1 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
2 responsible managing employee had knowledge of or participated in any of the prohibited acts for
3 which the license or registration was denied, suspended or revoked, shall be prohibited from
4 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
5 employee of a registered company, and the employment, election or association of such person by
6 a registered company is a ground for disciplinary action.”

7 26. Section 8695 of the Code states:

8 “The violation of any provision of this article is a misdemeanor and shall be grounds for the
9 suspension or revocation by the board of the operator’s license of the owner or qualifying
10 manager or managers of the registered company and of the company registration.”

11 27. Section 8697 of the Code states:

12 “Each company registered under the provisions of this chapter shall maintain a bond
13 executed by an admitted surety insurer in the amount of four thousand dollars (\$4,000).”

14 28. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 29. Section 11791 of the Food and Agriculture Code states:

19 “It is unlawful for any person subject to this division to do any of the following: (a) Make
20 any false or fraudulent claim, or misrepresent the effects of material or method to be applied,
21 apply any worthless or improper material, or otherwise engage in any unfair practices. (b)
22 Operate in a faulty, careless, or negligent manner. (c) Refuse or neglect to comply with this
23 division, or any regulation issued pursuant to this division, or any lawful order of the
24 commissioner or the director. (d) Refuse or neglect to keep and maintain the records which are
25 required by this division, or to make reports when and as required.”

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1 30. Section 12973 of the Food and Agriculture Code states:

2 “The use of any pesticide shall not conflict with labeling registered pursuant to this chapter
3 which is delivered with the pesticide or with any additional limitations applicable to the
4 conditions of any permit issued by the director or commissioner.”

5 31. Section 15204 of the Food and Agriculture Code states:

6 “(a) Each licensed structural pest control operator shall notify the commissioner prior to
7 operating a structural pest control business in the county. The notification shall cover a calendar
8 year, unless a shorter time is specified by the structural pest control licensee. A fee may also be
9 required at the time of notification. The fee shall be set by the county board of supervisors, except
10 that in no case shall the fee exceed the actual cost of processing the notification or ten dollars
11 (\$10), whichever is less. Payment of the fee shall be due by the date designated by the
12 commissioner. (b) Each notification shall be in a form prescribed by the director after consulting
13 with the Structural Pest Control Board and commissioners and shall be limited to the structural
14 pest control licensee’s name and address (including each place of business in the county),
15 telephone numbers, responsible persons, and the type of pest control to be conducted. (c) Each
16 structural pest control licensee who intends to conduct fumigation operations may be required to
17 appear in person at the office of the commissioner to complete notification. (d) If ordered by the
18 commissioner, other structural pest control licensees shall appear in person at the office of the
19 commissioner to complete notification.”

20 32. Section 11519 (d) of the Government Code states, in pertinent part:

21 “Specified terms of probation may include an order of restitution. Where restitution is
22 ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited
23 to any subsequent judgment in a civil action.”

24 33. Title 16, California Code of Regulations, section 1970, sets forth the standards and
25 record requirements for fumigation and pesticide use, and provides in pertinent part, that for the
26 purpose of maintaining proper standards of safety and the establishment of responsibility in
27 handling the dangerous gases used in fumigation and the pesticides used in other pest control
28 operations, a registered company shall compile and retain for a period of at least three years, a log

1 for each fumigation job and for each pesticide control operation in which a pesticide is used by
2 the registered company or the registered company's employee. The log for each fumigation job
3 shall contain the address of the property, date and hour fumigant was introduced, cylinder number
4 of each fumigant used, weight of each fumigant cylinder before introduction of gas, pounds of
5 fumigant used from each cylinder, and total pounds of fumigant used.

6 34. Title 16, California Code of Regulations, section 1970.3, provides, in pertinent part,
7 the phrase "locked, barricaded, or otherwise secured against entry" shall mean that all structures,
8 prior to fumigation, shall have a secondary lock on all outside doors. A secondary lock means a
9 device or barricade that will secure and prevent a door from being opened by anyone other than
10 the licensee in charge of the fumigation.

11 35. Title 16, California Code of Regulations, section 1990, sets forth report requirements
12 and provides, in pertinent part, (a) All reports shall be completed as prescribed by the board.
13 Copies filed with the board shall be clear and legible. All reports must supply the information
14 required by Section 8516 of the Code and the information regarding the pesticide or pesticides
15 used as set forth in Section 8538 of the Code.

16 36. Title 3, California Code of Regulations, section 6600, states:

17 "Each person performing pest control shall:

18 (a) Use only pest control equipment which is in good repair and safe to operate.

19 (b) Perform all pest control in a careful and effective manner.

20 (c) Use only methods and equipment suitable to insure proper application of
21 pesticides.

22 (d) Perform all pest control under climatic conditions suitable to insure proper
23 application of pesticides.

24 (e) Exercise reasonable precautions to avoid contamination of the environment."

25 37. Title 3, California Code of Regulations, section 6780, states:

26 "(a) When fumigation concentrations cannot be controlled and an employee's
27 exposure exceeds the Permissible Exposure Limit (PEL) as specified in Title 8, California Code
28 of Regulations, Section 5155, Airborne Contaminants, or more stringent requirements by product

1 labeling, the employer shall provide and require the employee to wear approved respiratory
2 protective equipment.

3 (b) Whenever an employee may be exposed above an exposure standard to methyl
4 bromide, sulfuryl fluoride, or any other fumigant for which only air-supplied respirator equipment
5 is approved, the employer shall either:

6 (1) require the use of air-supplied respirator equipment,

7 (2) employ continuous monitoring to warn employees before the PEL is reached

8 or

9 (3) operate under the provisions of (c) below.

10 (c) Upon written application by an employer, the director will review and may accept
11 a Fumigation Safety Program that described methods, work practices, devices, or processes which
12 the director determines will ensure that employees will not be exposed to concentrations of
13 fumigants in excess of the PEL.

14 (d) The employer shall have an accident response plan at the worksite. The plan
15 shall provide instructions to protect employees during situations such as spills, fire, and leaks.
16 Employees shall be trained in accident management procedures based on the plan.”

17 **4205 OHIO STREET PROPERTY**

18 38. On or about March 7, 2005, Respondent D & S fumigated a 30 unit condominium
19 complex located at 4205 Ohio Street in San Diego (“Ohio Street Project.”) Respondent D & S
20 fumigated the property using Vikane gas.

21 39. Respondent Parish was the licensee in charge, working as Field Representative for
22 Respondent D & S, who introduced Vikane into the tarped structure on the Ohio Street Project. It
23 is the responsibility of the licensee in charge to make certain that the structure is properly
24 prepared prior to introducing a fumigant. It is the duty of the licensee in charge to examine, or
25 instruct other employees to examine, all units to determine that all persons have vacated from the
26 structure prior to introducing a fumigant. It is the duty of the licensee in charge to remove, or
27 instruct other employees to remove, all food, drug, and medicinal items from all units in the
28 structure prior to introducing a fumigant.

1 in that Respondents D & S, Dawn Charrette, David Dierolf, Peter Charrette, Saunders, and Parish
2 failed to comply with the provisions of Code section 8505.4 by failing to perform the fumigation
3 on the condominium complex located at 4205 Ohio Street in San Diego in compliance with
4 applicable laws and regulations. Respondents failed to comply with the provisions of Code
5 sections 8505.6 and 8505.7 by failing to ensure that the space to be fumigated was vacated by all
6 occupants prior to the commencement of fumigation and all entrances secured against entry while
7 performing the fumigation on the condominium complex located at 4205 Ohio Street in San
8 Diego.

9 46. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
10 Charrette's Operator License No. OPR 9119, Respondent Peter Charrette's Field Representative
11 License No. FR 19144, and Respondent Parish's Field Representative License No. FR 23237 are
12 subject to disciplinary action under Code section 8641 in that Respondents

13 D & S, Dawn Charrette, Peter Charrette, and Parish failed to comply with the provisions of
14 Code section 8505.13 by failing to properly maintain a log of each fumigation job performed with
15 respect to the Ohio Street Project.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Negligence)**

18 47. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
19 Charrette's Operator License No. OPR 9119, and Respondent Parish's Field Representative
20 License No. FR 23237 are subject to disciplinary action under Code section 8642 in that
21 Respondents D & S, Dawn Charrette, and Parish were grossly negligent in the manner in which
22 they performed the fumigation on the Ohio Street Project.

23 48. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
24 Charrette's Operator License No. OPR 9119, and Respondent Parish's Field Representative
25 License No. FR 23237 are subject to disciplinary action under Code section 8643 in that
26 Respondents D & S, Dawn Charrette, and Parish negligently handled or used poisonous
27 exterminating agents on the Ohio Street Project.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Violation of Law)

3 49. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
4 Charrette's Operator License No. OPR 9119, and Respondent Parish's Field Representative
5 License No. FR 23237 are subject to disciplinary action under Code section 8646 in that
6 Respondents D & S, Dawn Charrette, and Parish violated fumigation laws in the manner in which
7 they performed the fumigation on the Ohio Street Project by failing to remove all persons from
8 the structure prior to introducing a fumigant, failing to examine all units to determine that all
9 persons had vacated the structure prior to introducing a fumigant, failing to properly prepare the
10 structure prior to introducing a fumigant, and failing to remove or bag all opened food, drug, and
11 medicinal items from all units prior to fumigation.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 (Violation of Law)

14 50. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
15 Charrette's Operator License No. OPR 9119, and Respondent Parish's Field Representative
16 License No. FR 23237 are subject to disciplinary action under Code section 8647 in that
17 Respondents D & S, Dawn Charrette, and Parish failed to comply with the Food and Agricultural
18 Code in the use of insecticides on the Ohio Street Project. Respondents failed to perform the
19 work in a careful manner by failing to remove all persons from the structure prior to introducing a
20 fumigant, failing to examine all units to determine that all persons had vacated the structure prior
21 to introducing a fumigant, failing to properly prepare the structure prior to introducing a
22 fumigant, and failing to remove or bag all opened food, drug, and medicinal items from all units
23 prior to fumigation.

24 51. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
25 Charrette's Operator License No. OPR 9119, and Respondent Parish's Field Representative
26 License No. FR 23237 are subject to disciplinary action under Code section 8647 in that
27 Respondents D & S, Dawn Charrette, and Parish violated Food and Agricultural Code section
28 11791 (b) in the manner in which they performed the Ohio Street Project. Respondents failed to

1 perform the work in a careful manner when they failed to remove all persons from the structure
2 prior to introducing a fumigant, failed to remove or bag all opened food, drug, and medicinal
3 items from all units prior to fumigation, failed to remove all plants from the structure, and failed
4 to secure or lock all exterior doorways.

5 52. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
6 Charrette's Operator License No. OPR 9119, and Respondent Parish's Field Representative
7 License No. FR 23237 are subject to disciplinary action under Code section 8647 in that
8 Respondents D & S, Dawn Charrette, and Parish violated Food and Agricultural Code section
9 12973 in the manner in which they used pesticides on the Ohio Street Project. Respondents used
10 pesticides in conflict with the label when they failed to remove all persons from the structure
11 prior to introducing a fumigant, failed to remove or bag all opened food, drug, and medicinal
12 items from all units prior to fumigation, failed to remove all plants from the structure, and failed
13 to secure or lock all exterior doorways.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Violation of Regulations)**

16 53. Respondent D & S' Company Registration No. 1164 and Respondent Dawn
17 Charrette's Operator License No. OPR 9119, Respondent Peter Charrette's Field Representative
18 License No. FR 19144, and Respondent Parish's Field Representative License No. FR 23237 are
19 subject to disciplinary action under Code section 8641 in that Respondents

20 54. D & S, Dawn Charrette, Peter Charrette, and Parish violated the provisions of Title
21 16, California Code of Regulations, section 1970 (a) for failure to properly prepare and retain a
22 fumigation log regarding pesticide use regarding the Ohio Street Project.

23 Respondent D & S' Company Registration No. 1164 and Respondent Dawn Charrette's Operator
24 License No. OPR 9119, and Respondent Parish's Field Representative License No. FR 23237 are
25 subject to disciplinary action under Code section 8641 in that Respondents D & S, Dawn
26 Charrette, and Parish violated the provisions of Title 16, California Code of Regulations, section
27 1970.3 for failure to properly secure the Ohio Street property against entry prior to fumigation.

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1 had knowledge of or participated in the acts or omissions which constitute cause for discipline
2 against Respondent D & S.

3 60. Pursuant to section 8624 of the Code, if Operator License No. OPR 9119, issued to
4 Respondent Dawn Charrette, President and Qualifying Manger in Branches 1 & 3 for Respondent
5 D & S, is suspended or revoked, the Board may suspend or revoke Company Registration
6 Certificate No. 1164, issued to Respondent D & S Termite Control.

7 61. Pursuant to section 8624 of the Code, if Operator License No. OPR 8044, issued to
8 Respondent David Dierolf, C.E.O. of Respondent D & S, is suspended or revoked, the Board
9 may suspend or revoke Company Registration Certificate No. 1164, issued to Respondent D & S
10 Termite Control.

11 62. Pursuant to section 8624 of the Code, if Field Representative's License No. FR
12 19144, issued to Respondent Peter Charrette, Vice President of Respondent D & S, is suspended
13 or revoked, the Board may suspend or revoke Company Registration Certificate No. 1164, issued
14 to Respondent D & S Termite Control.

15 63. Pursuant to section 8624 of the Code, if Operator's License No. OPR 5869, issued to
16 Respondent Michael Saunders, Vice President of Respondent D & S, is suspended or revoked, the
17 Board may suspend or revoke Company Registration Certificate No. 1164, issued to Respondent
18 D & S Termite Control.

19 **OTHER MATTERS**

20 64. Pursuant to section 8654 of the Code, if discipline is imposed on Operator License
21 No. OPR 9119, Field Representative's License No. FR 12741, or Field Representative's License
22 No. FR 21851 issued to Respondent Dawn Charrette, she shall be prohibited from serving as an
23 officer, director, associate, partner, qualifying manager, or responsible managing employee for
24 any registered company during the time the discipline is imposed, and any registered company
25 which employs, elects, or associates Respondent Dawn Charrette shall be subject to disciplinary
26 action.

27 65. Pursuant to section 8654 of the Code, if discipline is imposed on Operator License
28 No. OPR 8044 issued to Respondent David Dierolf, he shall be prohibited from serving as an

1 officer, director, associate, partner, qualifying manager, or responsible managing employee for
2 any registered company during the time the discipline is imposed, and any registered company
3 which employs, elects, or associates Respondent David Dierolf shall be subject to disciplinary
4 action.

5 66. Pursuant to section 8654 of the Code, if discipline is imposed on Field
6 Representative's License No. FR 19144 issued to Respondent Peter Charrette, he shall be
7 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
8 responsible managing employee for any registered company during the time the discipline is
9 imposed, and any registered company which employs, elects, or associates Respondent Peter
10 Charrette shall be subject to disciplinary action.

11 67. Pursuant to section 8654 of the Code, if discipline is imposed on Operator License
12 No. OPR 5869 issued to Respondent Michael Saunders, he shall be prohibited from serving as an
13 officer, director, associate, partner, qualifying manager, or responsible managing employee for
14 any registered company during the time the discipline is imposed, and any registered company
15 which employs, elects, or associates Respondent Michael Saunders shall be subject to disciplinary
16 action.

17 68. Pursuant to section 8654 of the Code, if discipline is imposed on Field
18 Representative's License No. FR 23237 or Registered Applicator's License No. RA 34241 issued
19 to Respondent Christopher Parish, he shall be prohibited from serving as an officer, director,
20 associate, partner, qualifying manager, or responsible managing employee for any registered
21 company during the time the discipline is imposed, and any registered company which employs,
22 elects, or associates Respondent Christopher Parish shall be subject to disciplinary action.

23 69. Pursuant to section 8624 of the Code, if Operator's License No. OPR 9119, issued to
24 Respondent Dawn Charrette, is suspended or revoked, the Board may suspend or revoke the
25 registration of any branch office registered under the name of Respondent Dawn Charrette,
26 Qualifying Manager for D & S Termite Control.

27 70. Pursuant to section 8624 of the Code, if Operator's License No. OPR 8044, issued to
28 Respondent David Dierolf, is suspended or revoked, the Board may suspend or revoke the

1 registration of any branch office registered under the name of Respondent David Dierolf,
2 Qualifying Manager for D & S Termite Control.

3 71. Pursuant to section 8624 of the Code, if Field Representative's License No. FR
4 19144, issued to Respondent Peter Charrette, is suspended or revoked, the Board may
5 suspend or revoke the registration of any branch office registered under the name of Respondent
6 Peter Charrette, Vice President for D & S Termite Control.

7 72. Section 8620 of the Code provides, in pertinent part, that a Respondent may request
8 that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19
9 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be
10 made at the time of the hearing and must be noted in the proposed decision. The proposed
11 decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

12 73. Section 11519(d) of the Government Code provides, in pertinent part, that the Board
13 may require restitution of damages suffered as a condition of probation in the event probation is
14 ordered.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

- 18 1. Revoking or suspending Company Registration No. 1164, issued to D & S Termite
19 Control;
- 20 2. Revoking or suspending Operator's License No. OPR 9119, Field Representative's
21 License No. FR 12741, and Field Representative's License No. FR 21851 issued to Dawn Marie
22 Charrette aka Dawn Marie Dierolf aka Dawn Marie Dierolf-Charrette;
- 23 3. Revoking or suspending Operator's License No. OPR 8044 issued to David Paul
24 Dierolf;
- 25 4. Revoking or suspending Field Representative's License No. FR 19144 issued to Peter
26 John-Paul Charrette;
- 27 5. Revoking or suspending Operator's License No. OPR 5869 issued to Michael Robert
28 Saunders;

1 6. Revoking or suspending Field Representative's License No. FR 23237 and Registered
2 Applicator's License No. RA 34241 issued to Christopher Harrison Parish;

3 7. Ordering D & S Termite Control to pay the Structural Pest Control Board the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 125.3;

6 8. Taking such other and further action as deemed necessary and proper.

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DATED: 1/3/11

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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