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

14 In the Matter of the Accusation Against:

Case No. 2009-50

15 **CAL EX TERMITE CONTROL**  
8709 Spring Canyon Drive  
16 Spring Valley, California 91977  
**LETICIA BELTRAN, Owner**  
17 **Company Registration Certificate No. PR 5440, Br. 3**

**ACCUSATION**

18 **THOMAS JAMES DONAR, Qualifying Manager**  
**Operator License No. OPR 11424, Br. 3**  
19 **(Disassociated 6/9/08)**

20 **ISRAEL ERNESTO GUERRERO**  
8709 Spring Canyon Drive  
21 Spring Valley, California 91977  
**Field Representative License No. FR 34068, Br. 3**

22 Respondents.

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24 Kelli Okuma ("Complainant") alleges:

25 **PARTIES**

26 1. Complainant brings this Accusation solely in her official capacity as the  
27 Registrar of the Structural Pest Control Board ("Board"), Department of Consumer Affairs.

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Company Registration Certificate No. PR 5440

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2	September 24, 2007	The Board issued Company Registration Certificate No. PR 5440 ("registration") to Cal Ex Termite Control ("Respondent Cal Ex") in
3		Branch 3, with Leticia Beltran as the owner and Michael D. Edwards as the Qualifying Manager.
4	November 29, 2007	Michael D. Edwards disassociated as the Qualifying Manager.
5	January 2, 2008	The registration was suspended for failing to have a Qualifying Manager.
6	January 23, 2008	David Eugene Poplin became the Qualifying Manager and the registration was reinstated.
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8	January 30, 2008	David Eugene Poplin disassociated as the Qualifying Manager.
9	January 30, 2008	The registration was suspended pursuant to Business and Professions Code ("Code") section 8690 for failing to maintain general liability insurance.
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11	February 6, 2008	The registration was reinstated after posting the general liability insurance.
12	February 29, 2008	The registration was suspended for failing to have a Qualifying Manager.
13	March 7, 2008	Thomas James Donar became the Qualifying Manager and the registration was reinstated.
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15	June 9, 2008	Thomas James Donar disassociated as the Qualifying Manager.
16	June 24, 2008	The registration was suspended for failing to have a Qualifying Manager.
17	July 18, 2008	John Morgan Quinn became the Qualifying Manager and the registration was reinstated.
18	August 8, 2008	John Morgan Quinn disassociated as the Qualifying Manager.
19	August 20, 2008	The registration was suspended pursuant to Code section 8690 for failing to maintain general liability insurance.
20	August 29, 2008	The registration was reinstated after posting general liability insurance.
21	September 10, 2008	The registration was suspended for failing to have a Qualifying Manager.
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23	September 26, 2008	Lily Tiffany Wong became the Qualifying Manager and the registration was reinstated.
24	November 6, 2008	The registration was suspended pursuant to Code section 8690 for failing to maintain general liability insurance.
25	November 12, 2008	Lily Tiffany Wong disassociated as the Qualifying Manager.
26	December 15, 2008	The registration was suspended for failing to have a Qualifying Manager.
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28	February 10, 2009	The registration was reinstated after posting general liability insurance.

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**Thomas James Donar - Operator's License No. OPR 11424**

2. On or about November 13, 2006, the Board issued Operator's License Number OPR 11424, in Branch 3, to Thomas James Donar ("Respondent Donar"). On or about March 7, 2008, Respondent Donar became the Qualifying Manager of Respondent Cal Ex. On or about June 9, 2008, Donar disassociated as the Qualifying Manager of Respondent Cal Ex. The license will expire on June 30, 2009, unless renewed.

**Israel Ernesto Guerrero - Field Representative's License No. FR 34068**

3. On or about December 7, 2001, the Board issued Field Representative's License Number FR 34068, in Branch 3, to Israel Guerrero ("Respondent Guerrero"). On or about October 16, 2003, Respondent Guerrero paid a \$25 fine levied by the Board for violating Code section 8516 (reporting violations), and California Code of Regulations, title 16, section 1991 (reporting requirements). On or about September 24, 2007, Respondent Guerrero became employed with Respondent Cal Ex. The license will expire on June 30, 2010, unless renewed.

**STATUTORY PROVISIONS**

4. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

5. Code section 8624 states:

If the board suspends or revokes an operator's license and one or more branch offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.

If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.

The performance by any partnership, corporation, firm, association, or registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered company whether or not he or she had knowledge of, or participated in, the prohibited act or omission.

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6. Code section 8625 states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

7. Code section 8654 states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

8. Code section 8516 states, in pertinent part:

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to subdivision (b) of Section 8516.1, or Section 8518, or subdivision (b) of this section shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8516.1, Section 8518, or this section are grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and on a form approved by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within 10 business days of the inspection, except that an inspection report prepared for use by an attorney for

1 litigation purposes is not required to be reported to the board. The report shall be  
2 delivered before work is commenced on any property. The registered  
3 company shall retain for three years all original inspection reports, filed notes, and  
4 activity forms.

5 Reports shall be made available for inspection and reproduction to the  
6 executive officer of the board or his or her duly authorized representative during  
7 business hours. Original inspection reports or copies thereof shall be submitted to  
8 the board upon request within two business days.

9 9. Code section 8518 states:

10 When a registered company completes work under a contract, it shall  
11 prepare, on a form prescribed by the board, a notice of work completed and not  
12 completed, and shall furnish that notice to the owner of the property or the owner's  
13 agent within 10 working days after completing the work. The notice shall include  
14 a statement of the cost of the completed work and estimated cost of work not  
15 completed.

16 The address of each property inspected or upon which work was  
17 completed shall be reported on a form prescribed by the board and shall be filed  
18 with the board no later than 10 working days after completed work.

19 Every property upon which work is completed shall be assessed a filing  
20 fee pursuant to Section 8674.

21 Failure of a registered company to report and file with the board the  
22 address of any property upon which work was completed pursuant to  
23 subdivision(b) of Section 8516, subdivision (b) of Section 8516 or Section 8518 is  
24 grounds for disciplinary action and shall subject the registered company to a fine  
25 of not more than two thousand five hundred dollars (\$2,500).

26 The registered company shall retain for three years all original notices of  
27 work completed, work not completed, and activity forms.

28 Notices of work completed and not completed shall be made available for  
inspection and reproduction to the executive officer of the board or his or her duly  
authorized representative during business hours. Original notices of work  
completed or not completed or copies thereof shall be submitted to the board upon  
request within two business days.

10. Code section 8538 states:

(a) A registered structural pest control company shall provide the owner,  
or owner's agent, and tenant of the premises for which the work is to be done with  
clear written notice which contains the following statements and information  
using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active  
ingredient or ingredients.

(3) "State law requires that you be given the following information:  
CAUTION — PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control  
Companies are registered and regulated by the Structural Pest Control Board, and  
apply pesticides which are registered and approved for use by the California

1 Department of Pesticide Regulation and the United States Environmental  
2 Protection Agency. Registration is granted when the state finds that, based on  
3 existing scientific evidence, there are no appreciable risks if proper use conditions  
4 are followed or that the risks are outweighed by the benefits. The degree of risk  
5 depends upon the degree of exposure, so exposure should be minimized."

6 "If within 24 hours following application you experience symptoms similar to  
7 common seasonal illness comparable to the flu, contact your physician or poison  
8 control center (telephone number) and your pest control company immediately."  
9 (This statement shall be modified to include any other symptoms of overexposure  
10 which are not typical of influenza.)

11 "For further information, contact any of the following: Your Pest Control  
12 Company (telephone number); for Health Questions — the County Health  
13 Department (telephone number); for Application Information — the County  
14 Agricultural Commissioner (telephone number) and for Regulatory Information —  
15 the Structural Pest Control Board (telephone number and address)."

16 (4) If a contract for periodic pest control has been executed, the frequency  
17 with which the treatment is to be done.

18 (b) In the case of Branch 1 applications, the notice prescribed by  
19 subdivision (a) shall be provided at least 48 hours prior to application unless  
20 fumigation follows inspection by less than 48 hours.

21 In the case of Branch 2 or Branch 3 registered company applications, the notice  
22 prescribed by subdivision (a) shall be provided no later than prior to application.  
23 In either case, the notice shall be given to the owner, or owner's agent, and tenant,  
24 if there is a tenant, in at least one of the following ways:

- 25 (1) First-class mail.
- 26 (2) Posting in a conspicuous place on the real property.
- 27 (3) Personal delivery.

28 If the building is commercial or industrial, a notice shall be posted in a  
conspicuous place, unless the owner or owner's agent objects, in addition to any  
other notification required by this section.

The notice shall only be required to be provided at the time of the initial  
treatment if a contract for periodic service has been executed. If the pesticide to  
be used is changed, another notice shall be required to be provided in the manner  
previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any  
provision of this section is guilty of a misdemeanor and is punishable as set forth  
in Section 8553.

11. Code section 8550(a) states:

It is unlawful for any individual to engage or offer to engage in the  
business or practice of structural pest control, as defined in Section 8505, unless  
he or she is licensed under this chapter.

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12. Code section 8571 states:

If the licensed operator who is designated as the qualifying manager for a registered company ceases for any reason whatsoever to be connected with the company, the company shall notify the registrar in writing within 10 days from such cessation. If the notice is given the registration shall remain in force for a reasonable length of time, to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has ceased to be connected with it, and who shall qualify as such within the time allowed by rules and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace with a qualifying manager within the period fixed by the regulations of the board, at the end of the period the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of an affidavit, executed by a representative of the company, and filed with the registrar, to the effect that the qualifying manager who ceased to be connected with the company has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his or her license suspended or revoked or that he or she has not been connected with a company which has had its registration suspended or revoked.

13. Code section 8638 states:

Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

14. Code section 8639 states:

Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade the provisions of this chapter is a ground for disciplinary action.

15. Code section 8641 states:

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

16. Code section 8642 states:

The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action.

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17. Code section 8646 states:

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

18. Code section 8652 states:

Failure of a registered company to make and keep all inspection reports, contracts, documents, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the registrar during business hours.

**COST RECOVERY**

19. Code section 125.3 states, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**WOMACK PROJECT**

20. In December 2007, homeowner Candance Womack ("Womack") received a telephone call from Respondent Cal Ex, offering a free termite inspection. Womack accepted the offer. Womack told the caller that she would like fumigation and asked if they performed fumigation. The caller said yes.

21. On or about December 19, 2007, a man arrived at Womack's residence located at 14661 El Monte Road, Lakeside, California ("Womack project"), and introduced himself as "Will." "Will" inspected the windowsill, wooden trim, and sliding glass door track in the living room, the wooden retaining posts, the carport framing on the exterior, and the interior basement/laundry area. "Will" confirmed termite infestations, and told Womack that there was a beetle infestation in the paneling on the ceiling in her kitchen. "Will" also told Womack that because the infestations were spotty, it would be a waste of money to fumigate. "Will" prepared an estimate for the local treatment of drywood termites and beetles for \$625. The offer included a three year guarantee. Womack accepted the offer. "Will" requested and received \$312.

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**SECOND CAUSE FOR DISCIPLINE**

**(Failure to File Work Activity Reports with the Board - Completion Notices)**

29. Respondent Cal Ex's registration license is subject to discipline under Code section 8641, in that in or about January 2008, Respondent failed to comply with Code section 8518, in that on the Womack project, Respondent failed to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

**THIRD CAUSE FOR DISCIPLINE**

**(Failure to Make and Keep Inspection Reports)**

30. Respondent Cal Ex's registration is subject to discipline under Code section 8652, in that on the Womack project, Respondent failed to make and keep all inspection reports, contracts, documents, and records for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms.

**FOURTH CAUSE FOR DISCIPLINE**

**(Fraudulent Act)**

31. Respondent Cal Ex's registration is subject to discipline under Code section 8642, in that on the Womack project, Respondent committed fraudulent acts by failing to treat the beetle infestation in the kitchen after receiving payment in full.

**FIFTH CAUSE FOR DISCIPLINE**

**(Failed to Complete Contract for Price Stated in Contract)**

32. Respondent Cal Ex's registration is subject to discipline under Code section 8638, in that, on the Womack project, Respondent failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

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1 exterior roof eaves, and confirmed the presence of drywood termites. Hughes recommended a  
2 local treatment using orange oil. Hughes also stated that there was fungus and termite damage at  
3 the roof eaves. Hughes prepared an estimate to locally treat and repair the damaged wood for  
4 \$850. Potter accepted the offer. Hughes requested and received \$425.

5 47. Respondent Cal Ex never performed any termite treatments or made any  
6 repairs on the Potter project.

7 48. On or about April 11, 2008, the Board received a complaint from Potter.

8 49. On or about June 25, 2008, a Board specialist met with Potter at his  
9 residence and inspected the property. The Board specialist confirmed the presence of drywood  
10 termites on the interior, and drywood termites/decay fungi/termite damage on the exterior roof  
11 eaves.

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

13 **(Failure to File Work Activity Reports with the Board - Inspection Reports)**

14 50. Respondent Cal Ex's registration is subject to discipline under Code section  
15 8641, in that in or about February 2008, Respondent failed to comply with Code section 8516(b),  
16 in that on the Potter project, Respondent failed to report and file with the Board, the address of  
17 the property inspected or upon which work was completed, within ten (10) business days after  
18 the commencement of an inspection or upon completed work.

19 **FOURTEENTH CAUSE FOR DISCIPLINE**

20 **(Failure to File Work Activity Reports with the Board - Completion Notices)**

21 51. Respondent Cal Ex's registration license is subject to discipline under Code  
22 section 8641, in that in or about February 2008, Respondent failed to comply with Code section  
23 8518, in that on the Potter project, Respondent failed to report and file with the Board, the  
24 address of the property upon which work was completed, within ten (10) working days after  
25 work was completed.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Make or Keep Inspection Reports)**

3 52. Respondent Cal Ex's registration is subject to discipline under Code section  
4 8652, in that on the Potter project, Respondent failed to make and keep all inspection reports,  
5 contracts, documents, and records for a period of not less than three years after completion of any  
6 work or operation for the control of structural pests or organisms.

7 **SIXTEENTH CAUSE FOR DISCIPLINE**

8 **(Fraudulent Act)**

9 53. Respondent Cal Ex's registration is subject to discipline under Code section  
10 8642, in that on the Potter project, Respondent committed the following fraudulent acts:

11 a. On or about February 27, 2008, on behalf of Respondent Cal Ex, Hughes  
12 performed a pest control evaluation, made pest identification, treatment recommendations,  
13 claims of pest control safety or pest control efficacy, and offered price quotes other than what  
14 was provided and printed on the company advertising or literature, or both, without being  
15 licensed to do so, as defined in Code section 8550.

16 b. Respondent failed to perform any work on the Potter project after receiving  
17 \$425.

18 **SEVENTEENTH CAUSE FOR DISCIPLINE**

19 **(Aiding and Abetting)**

20 54. Respondent Cal Ex's registration is subject to discipline under Code section  
21 8639, in that on or about February 27, 2008, on the Potter project, Respondent aided or abetted  
22 an unlicensed individual or knowingly combined or conspired with an unlicensed individual,  
23 William Hughes, to evade the provisions of the Structural Pest Control Act.

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VAN DORN PROJECT

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55. On or about April 5, 2008, homeowner Jack Van Dorn ("Van Dorn") received a telephone call from Leticia Beltran, owner of Respondent Cal Ex, who offered Van Dorn a free termite inspection. Van Dorn accepted the offer. Leticia Beltran scheduled the appointment on April 7, 2008. Leticia Beltran told Van Dorn that he would be meeting with a man by the name of "AJ."

56. On or about April 7, 2008, a man arrived at Van Dorn's residence located at 5251 Mount Ariane Court, San Diego, California ("Van Dorn project"). Van Dorn asked the man if he was "AJ." The man said no. The man did not identify himself, but handed Van Dorn a business card with the name Israel Guerrero on it. The man inspected two areas on the interior and a few areas on the exterior of the property, and confirmed the presence of drywood termite infestations, subterranean termite infestations, and termite damage. The man prepared an estimate for local treatment of the termites and subterranean termites, replacing the second story fascia board, and a three year guarantee on the entire structure for \$700. Van Dorn accepted the offer. The man requested and received \$350. The check was made payment to Israel Guerrero.

57. On or about April 29, 2008, three men arrived at Van Dorn's residence. Van Dorn recognized one of the men as the man who came to his residence on April 7, 2008. One of the other two men approached Van Dorn and identified himself as Israel Guerrero. All three men performed work on the residence. Upon completion of the work, Respondent Guerrero requested and received the remaining balance of \$350.

58. In or about June 2008, Van Dorn found evidence of termite infestations. Van Dorn called Respondent Cal Ex several times and left messages on the answering machine. Subsequently, Van Dorn received a telephone call from Respondent Guerrero. Respondent Guerrero scheduled an appointment with Van Dorn on June 6, 2008. Respondent Cal Ex never returned to the property.

59. On or about July 9, 2008, the Board received a complaint from Van Dorn.

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1                   60. On or about September 24, 2008, a Board specialist met with Mr. and Mrs.  
2 Van Dorn at their residence. The Board specialist confirmed evidence of subterranean termites  
3 on the interior, and live subterranean termites, live drywood termites, and termite damage on the  
4 exterior of the property.

5                   61. On or about September 29, 2008, the Board sent a Report of Findings to  
6 Respondent Cal Ex and Respondent Donar notifying them of the complaint filed by Van Dorn  
7 and violations of Code sections 8516 and 8518.

8                   62. On or about October 4, 2008, Respondent Donar, Qualifying Manager of  
9 Respondent Cal Ex, and Leticia Beltran, owner of Respondent Cal Ex, signed and received the  
10 notice of the Report of Findings.

11                   63. Respondent Cal Ex failed to respond.

12                   64. On or about November 4, 2008, Respondent Donar reimbursed Van Dorn in  
13 full for \$700.

14                   **EIGHTEENTH CAUSE FOR DISCIPLINE**

15                   **(Failure to File Work Activity Reports with the Board - Inspection Reports)**

16                   65. Respondent Cal Ex's registration, Respondent Donar's operator's license,  
17 and Respondent Guerrero's field representative license are subject to discipline under Code  
18 section 8641, in that in or about April 2008, Respondents failed to comply with Code section  
19 8516(b), in that on the Van Dorn project, Respondents failed to report and file with the Board,  
20 the address of the property inspected or upon which work was completed, within ten (10)  
21 business days after the commencement of an inspection or upon completed work.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to File Work Activity Reports with the Board - Completion Notices)**

3 66. Respondent Cal Ex's registration, Respondent Donar's operator's license,  
4 and Respondent Guerrero's field representative license are subject to discipline under Code  
5 section 8641, in that in or about April 2008, Respondents failed to comply with Code section  
6 8518, in that on the Van Dorn project, Respondents failed to report and file with the Board, the  
7 address of the property upon which work was completed, within ten (10) working days after  
8 work was completed.

9 **TWENTIETH CAUSE FOR DISCIPLINE**

10 **(Failure to Make Inspection Records Available)**

11 67. Respondent Cal Ex's registration is subject to discipline under Code section  
12 8652, in that on the Van Dorn project, Respondent failed to make and keep all inspection reports,  
13 contracts, documents, and records for a period of not less than three years after completion of any  
14 work or operation for the control of structural pests or organisms.

15 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

16 **(Fraudulent Act)**

17 68. Respondent Cal Ex's registration, Respondent Donar's operator's license,  
18 and Respondent Guerrero's field representative license are subject to discipline under Code  
19 section 8642, in that on the Van Dorn project, Respondents committed fraudulent acts by failing  
20 to treat the beetle infestation in the kitchen after receiving payment in full.

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1           73. Pursuant to Code section 8624, the causes for discipline established as to  
2 Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, likewise  
3 constitute cause for discipline against Operator's License Number OPR 11424, issued to Thomas  
4 James Donar, who served as the Qualifying Manager of Cal Ex Termite Control<sup>1</sup>, regardless of  
5 whether Thomas James Donar had knowledge of or participated in the acts or omissions which  
6 constitute cause for discipline against Cal Ex Termite Control.

7           74. Pursuant to Code section 8654, if discipline is imposed on Company  
8 Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, then Thomas James  
9 Donar, who served as the Qualifying Manager of Cal Ex Termite Control, shall be prohibited  
10 from serving as an officer, director, associate, partner, qualifying manager, or responsible  
11 managing employee for any registered company during the time the discipline is imposed, and  
12 any registered company which employs, elects, or associates him, shall be subject to disciplinary  
13 action.

14           75. Israel Ernesto Guerrero, a field representative employed by Cal Ex Termite  
15 Control had knowledge of and participated in the acts or omissions which constitute cause for  
16 discipline against Cal Ex Termite Control.

17           76. Pursuant to Code section 8654, if discipline is imposed on Company  
18 Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, then Israel Ernesto  
19 Guerrero, a field representative employed by Cal Ex Termite Control, shall be prohibited from  
20 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
21 employee of a registered company, and the employment, election or association of him by a  
22 registered company is a ground for disciplinary action.

23           77. Government Code section 11519(d) provides, in pertinent part, that the  
24 Board may require restitution of damages suffered as a condition of probation in the event  
25 probation is ordered.

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28           1. Thomas James Donar served the Qualifying Manager of Cal Ex Termite Control  
between March 7, 2008, and June 9, 2008.

PRAYER

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

1. Revoking or suspending Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control with Leticia Beltran as the owner;
2. Revoking or suspending Operator's License Number OPR 11424, issued to Thomas James Donar;
3. Revoking or suspending any other license for which Thomas James Donar is furnishing the qualifying experience or appearance;
4. Revoking or suspending Field Representative License No. FR 34068, issued to Israel Ernesto Guerrero;
5. Prohibiting Thomas James Donar from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control;
6. Prohibiting Israel Ernesto Guerrero from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control;
7. Ordering restitution of all damages according to proof suffered by any person as a result of an operation or construction repairs as a condition of probation in the event probation is ordered.


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8. Ordering Cal Ex Termite Control, Thomas James Donar, and Israel Ernesto Guerrero to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

9. Taking such other and further action as deemed necessary and proper.

DATED: March 10, 2009

  
KELLI OKUMA  
Registrar  
Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
Complainant

SD2009308353  
Accusation (kdg)3/11/09