

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ELENA L. ALMANZO  
Deputy Attorney General  
4 State Bar No. 131058  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

**FILED**

Date 12/20/12 By *[Signature]*  
*[Signature]*

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

12 In the Matter of the Accusation Against:

Case No. 2013-27

13 **SURE DEFENSE PEST SOLUTIONS, INC.**  
14 **HENRY PATRICK VILLAIRE, QM**  
15 **RYAN J. FREDERICK, PRES.**  
16 **KEVIN MICHAEL BORGES, VP**  
17 **P. O. Box 831**  
**Tracy, CA 95378**  
**Company Registration Certificate No. PR 6103**

**A C C U S A T I O N**

18 **HENRY P. VILLAIRE**  
19 **3008 Queens Gate Court**  
20 **Modesto, CA 95355**  
21 **Operator License No. 9198**

22 **KEVIN MICHAEL BORGES**  
23 **P. O. Box 831**  
24 **Tracy, CA 95378**  
25 **Field Representative's License No. FR 36184**

26 **and**

27 **RYAN J. FREDERICK**  
28 **P. O. Box 831**  
**Tracy, CA 95378**  
**Registered Applicator License No. RA 51186**

Respondents.

1 Susan Saylor ("Complainant") alleges:

2 **PARTIES**

3 1. Complainant brings this Accusation solely in her official capacity as the Interim  
4 Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of  
5 Pesticide Regulation.

6 **Company Registration Certificate No. PR 6103**

7 2. On or about August 3, 2010, the Board issued Company Registration Certificate  
8 Number PR 6103 ("registration") to Sure Defense Pest Solutions, Inc. ("Respondent Sure  
9 Defense"), in Branch 2, with Ryan J. Frederick as President, Kevin M. Borges as Vice President,  
10 and Jonathan Taylor Olson as the Qualifying Manager. On or about May 10, 2011, Jonathan  
11 Taylor Olson disassociated as the Qualifying Manager. On or about June 3, 2011, the registration  
12 was suspended for not having a Qualifying Manager. On or about June 8, 2011, Henry  
13 Patrick Villaire ("Respondent Villaire") became the Qualifying Manager. On or about  
14 September 8, 2011, the registration was suspended pursuant to Business and Professions Code  
15 ("Code") section 8697 (failure to maintain surety bond). On or about September 9, 2011, the  
16 registration was reinstated. On or about December 30, 2011, the registration was suspended for  
17 failing to have a Qualifying Manager, resulting from Respondent Villaire's failure to maintain  
18 general liability insurance on Company Registration No. 6306 (Hampton Pest Management),  
19 another registration he holds. On or about January 3, 2012, Respondent Villaire disassociated as  
20 the Qualifying Manager. On or about January 9, 2012, Howard Francis Hatzfeld became the  
21 Qualifying Manager.

22 **Operator's License No. OPR 9198**

23 3. On or about November 5, 1993, the Board issued Operator's License Number  
24 OPR 9198 ("license") in Branch 2 to Respondent Villaire as owner and Qualifying Manager of  
25 Provision Pest Control. On or about December 10, 1996, Respondent Villaire disassociated as the  
26 Qualifying Manager of Provision Pest Control. On or about May 24, 2011, Respondent Villaire  
27 became the owner and Qualifying Manager of Hampton Pest Management. On or about  
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1 June 8, 2011, Respondent Villaire was dually employed and became the Qualifying Manager of  
2 Sure Defense Pest Solutions, Inc. On or about December 14, 2011, the license was suspended  
3 pursuant to Code section 8690 (failure to maintain general liability insurance). On or about  
4 January 1, 2012, Respondent Villaire became employed with The Pied Piper Exterminators, Inc.  
5 On or about January 3, 2012, Respondent Villaire disassociated as the Qualifying Manager of  
6 Sure Defense Pest Solutions, Inc. On or about January 4, 2012, the license was reinstated. On or  
7 about March 30, 2012, Respondent Villaire left the employ of The Pied Piper Exterminators, Inc.  
8 and the license was placed on inactive status. The license will expire on June 30, 2014, unless  
9 renewed.

10 **Field Representative License No. FR 36184**

11 4. On or about July 17, 2003, the Board issued Field Representative' License No.  
12 FR 36184, in Branch 2, to Kevin M. Borges ("Respondent Borges"). On or about May 11, 2007,  
13 the license was upgraded to include Branch 3. On or about August 3, 2010, Respondent Borges  
14 became employed by and Vice President of Sure Defense Pest Solutions, Inc. The license will  
15 expire on June 30, 2015, unless renewed.

16 **Applicator License No. RA 51186**

17 5. On or about July 26, 2010, the Board issued Applicator License No. RA 51186, in  
18 Branch 2 and 3, to Ryan J. Frederick ("Respondent Frederick"). On or about August 3, 2010,  
19 Respondent Frederick became employed by and President of Sure Defense Pest Solutions, Inc.  
20 The license will expire on July 26, 2013, unless renewed.

21 **JURISDICTION**

22 6. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that  
23 the Board may suspend or revoke a license when it finds that the holder, while a licensee or  
24 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu  
25 of a suspension may assess a civil penalty.

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1           7.     Code section 8624 states:

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

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

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

15           8.     Code section 8625 states:

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

22           9.     Code section 8622 states:

23                 When a complaint is accepted for investigation of a registered company,  
24                 the board, through an authorized representative, may inspect any or all properties on  
25                 which a report has been issued pursuant to Section 8516 or a notice of completion has  
26                 been issued pursuant to Section 8518 by the registered company to determine  
27                 compliance with the provisions of this chapter and the rules and regulations issued  
28                 thereunder. If the board determines the property or properties are not in compliance,  
29                 a notice shall be sent to the registered company so stating. The registered company  
30                 shall have 30 days from the receipt of the notice to bring such property into  
31                 compliance, and it shall submit a new original report or completion notice or both and  
32                 an inspection fee of not more than one hundred twenty-five dollars (\$125) for each  
33                 property inspected. If a subsequent reinspection is necessary, pursuant to the board's  
34                 review of the new original report or notice or both, a commensurate reinspection fee  
35                 shall also be charged. If the board's authorized representative makes no  
36                 determination or determines the property is in compliance, no inspection fee shall be  
37                 charged.

38                 The notice sent to the registered company shall inform the registered  
39                 company that if it desires a hearing to contest the finding of noncompliance, the  
40                 hearing shall be requested by written notice to the board within 20 days of receipt of  
41                 the notice of noncompliance from the board. Where a hearing is not requested  
42                 pursuant to this section, payment of any assessment shall not constitute an admission  
43                 of any noncompliance charged.

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## STATUTORY PROVISIONS

10. Code section 8610(c) states:

Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

11. Code section 8612 states:

The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains. When a registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

12. Code section 8613 states:

A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall notify the registrar in writing of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.

13. 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.

14. 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.

15. 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.

#### **COST RECOVERY**

16. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

#### **BACKGROUND INFORMATION**

17. On or about December 13, 2011, the Board received a Notice of Cancellation of Insurance from AFCO Insurance Premium Finance, indicating that an insurance policy for general liability insurance belonging to Respondent Villaire for Hampton Pest Management (PR 6306), had been cancelled. As a result of that cancellation, Respondent Villaire's Operator License No. OPR 9198 was suspended, causing Company Registration No. PR 6103, issued to Sure Defense Pest Solutions, Inc. to also be suspended, in that Respondent Villaire was the Qualifying Manager. The Board notified Respondent Villaire that both company registrations had been suspended and they were to cease business until Operator License No. OPR 9198 was reinstated. As a result of the Notice of Cancellation, an Office Compliance Inspection was initiated, as more particularly set forth below.

#### **OFFICE COMPLIANCE INSPECTION**

18. On or about January 3, 2012, a Board representative drove to Respondent Sure Defense's address of record to perform a Compliance Inspection. Upon arrival, the Board representative found that Respondent Sure Defense had moved their principal office. The Board representative was given Respondent Sure Defense's new location by the manager of the complex. When the Board representative arrived at Respondent Sure Defense's new location, he found that business was being conducted. The Board representative asked the secretary to contact the employees and have them return to the office. During the inspection, the Board representative

1 noticed a framed printout of an operator's license verification from the Board's website hanging  
2 on the wall made out in the name of Kevin Michael Borges, the Vice President of Sure Defense.  
3 When the Board representative asked Respondent Borges about the license, he stated that he had  
4 altered the document, framed it, and hung it on the wall to give the appearance that he had passed  
5 the exam and was a licensed operator. Respondent Borges told the Board representative that on  
6 or about June 8, 2011, Respondent Villaire agreed to let him use his operator's license  
7 (OPR 9198) until Respondent Borges was able to obtain his own operator's license. Respondent  
8 Borges told Respondent Villaire that he was in the process of obtaining his own operator's license  
9 and should have it within a couple of weeks. However, Respondent Borges never obtained his  
10 own operator's license so he altered a printout of an operator's license verification form from the  
11 Board's website to make it appear that he had obtained his own operator's license when, in fact, he  
12 had not. Respondent Villaire had no involvement in Sure Defense's operations.

### 13 **FIRST CAUSE FOR DISCIPLINE**

#### 14 **(Failure to Comply with Laws Adopted by the Board -** 15 **No Supervision by Qualifying Manager)**

16 19. Respondent Sure Defense's registration and Respondent Villaire's operator's license  
17 are subject to discipline pursuant to Code section 8641, in that between June 8, 2011, and  
18 December 30, 2011, Respondent Villaire, who was serving as the Qualifying Manager of Sure  
19 Defense, failed to comply with Code section 8610(c), by failing to supervise the daily operations  
20 of the registered company.

### 21 **SECOND CAUSE FOR DISCIPLINE**

#### 22 **(Failure to Comply with Laws Adopted by the Board -** 23 **Failure to Notify Board of Address Change)**

24 20. Respondent Sure Defense's registration and Respondent Villaire's operator's license  
25 are subject to discipline pursuant to Code section 8641, in that in July 2011, Respondents failed to  
26 comply with Code section 8613, by failing to notify the Board of the change of address of record  
27 within 30 days of such event.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Laws Adopted by the Board -**  
3 **Failure to Properly Post Wall License)**

4 21. Respondent Sure Defense's registration and Respondent Villaire's operator's  
5 license are subject to discipline pursuant to Code section 8641, in that on or about January 3,  
6 2012, Respondents failed to comply with Code section 8612, by failing to post the qualifying  
7 manager's license in a conspicuous place.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Fraudulent Acts)**

10 22. Respondent Sure Defense's registration and Respondent Villaire's operator's  
11 licenses are subject to discipline pursuant to Code section 8642, in that Respondents committed  
12 fraud by allowing Respondent Borges to display a fraudulent document in an attempt to deceive  
13 the public, as more particularly set forth above in paragraph 18.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Aiding and Abetting an Unlicensed Person)**

16 23. Respondent Sure Defense's registration and Respondent Villaire's operator's  
17 license are subject to discipline pursuant to Code section 8639, in that between June 8, 2011, and  
18 December 30, 2011, Respondent Villaire aided and abetted, knowingly combined or conspired  
19 with an unlicensed individual, Respondent Borges, by allowing Respondent Borges to use his  
20 operator's license (OPR 9198).

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Fraudulent Act)**

23 24. Respondent Borges's field representative license is subject to discipline pursuant to  
24 Code section 8642, in that he committed a fraudulent act by altering a license verification printout  
25 from the Board's website, then framing it, and hanging it on the wall to give the appearance that  
26 he had an operator's license when, in fact, he did not.

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**OTHER MATTERS**

25. Notice is hereby given that section 8620 of the Code provides, in pertinent part, that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the time of the hearing and must be noted in the proposed decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

26. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 6103, issued to Sure Defense Pest Solutions, Inc., likewise constitute cause for discipline against Operator's License Number OPR 9198, issued to Henry Patrick Villaire, who serves as the Qualifying Manager of Sure Defense Pest Solutions, Inc., regardless of whether he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Sure Defense Pest Solutions, Inc.

27. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 6103, issued to Sure Defense Pest Solutions, Inc., likewise constitute cause for discipline against Kevin Michael Borges, who serves as an Officer (Vice President) of Sure Defense Pest Solutions, Inc., regardless of whether he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Sure Defense Pest Solutions, Inc.

28. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 6103, issued to Sure Defense Pest Solutions, Inc., likewise constitute cause for discipline against Ryan J. Frederick, who serves as an Officer (President) of Sure Defense Pest Solutions, Inc., regardless of whether he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Sure Defense Pest Solutions, Inc.

29. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 6103, issued to Sure Defense Pest Solutions, Inc., then Henry Patrick Villaire, who serves as the Qualifying Manager of Sure Defense Pest Solutions, Inc., shall be

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

5 **PRAYER**

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

8 1. Revoking or suspending Company Registration Certificate Number PR 6103, issued  
9 to Sure Defense Pest Solutions, Inc.;

10 2. Revoking or suspending Operator's License Number OPR 9198, issued to Henry  
11 Patrick Villaire;

12 3. Revoking or suspending Field Representative License No. FR 36184, issued to Kevin  
13 Michael Borges;

14 4. Revoking or suspending Applicator License No. RA 51186, issued to Ryan J.  
15 Frederick;

16 5. Revoking or suspending any other license for which Henry Patrick Villaire is  
17 furnishing the qualifying experience or appearance;

18 6. Prohibiting Henry Patrick Villaire, Kevin Michael Borges, and Ryan J. Frederick  
19 from serving as an officer, director, associate, partner, qualifying manager or responsible  
20 managing employee of any registered company during the period that discipline is imposed on  
21 Company Registration Certificate Number PR 6103, issued to Sure Defense Pest Solutions, Inc.;

22 7. Ordering Henry Patrick Villaire, Kevin Michael Borges, and Ryan J. Frederick to pay  
23 the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this  
24 case, pursuant to Business and Professions Code section 125.3; and,

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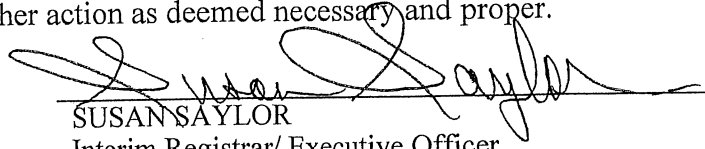
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8. Taking such other and further action as deemed necessary and proper.

DATED: 12/20/12



SUSAN SAYLOR  
Interim Registrar/ Executive Officer  
Structural Pest Control Board  
Department of Pesticide Regulation  
State of California  
*Complainant*

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