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FILED

Date 8/8/11 By William H. Douglas

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BUG STOP SERVICES, INC.
330 East 220th Street
Carson, CA 90745
CESAR RAYMUNDO LARA, QM
MICHAEL RODRIGUEZ, PR
SOLEDAD LARA, VP
JOHN B. GRIFFIN, Secretary
Company Registration Certificate No. PR 5687, Br. 2
Operator License No. OPR 11879, Br. 2

MICHAEL RODRIGUEZ
6143 Penswood Avenue
Lakewood, CA 90712
Field Representative License No. FR 44131
Applicator License No. RA 50058

CESAR RAYMUNDO LARA
330 E. 220th Street
Carson, CA 90745
Field Representative License No. FR 38391

JOHN B. GRIFFIN
1662 West 257th Street, Suite 2
Harbor City, CA 90710
Field Representative License No. FR 40948

Respondents.

Case No. 2012-6

ACCUSATION

MASTER FUME, INC.
1868 Del Amo Boulevard, Suite D
Torrance, CA 90501
MICHAEL RODRIGUEZ, PR
EDUARDO SANTILLAN, QM
Company Registration Certificate No. PR 5604

EDUARDO SANTILLAN
1868 Del Amo Boulevard, Suite D
Torrance, CA 90501
Operator's License No. OPR 10743

Affiliated Licenses.

William H. Douglas ("Complainant") alleges:

PARTIES

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

Bug Stop Services, Inc. - Company Registration Certificate No. PR 5687

2. On or about October 2, 2008, the Board issued Company Registration Certificate Number PR 5687 ("registration") in Branch 2 to Bug Stop Services, Inc. ("Respondent Bug Stop"), with Michael Rodriguez as the President and Sinclair Jones as the Qualifying Manager. Sinclair Jones passed away. On or about February 9, 2009, the registration was suspended for failing to have a Qualifying Manager. On or about July 8, 2009, Cesar Raymundo Lara ("Respondent Lara") became the Qualifying Manager. On or about August 30, 2010, Respondent Lara became the President, John Griffin became the Secretary, and Soledad Lara became the Vice President.

Cesar Raymundo Lara

Operator's License No. 11879

3. On or about July 2, 2009, the Board issued Operator's License Number OPR 11879 in Branch 2 to Respondent Lara as an employee of Rapid Pest Solutions, Inc. On or about July 6, 2009, Respondent Lara left the employ of Rapid Pest Solutions, Inc. On or about July 8, 2009, Respondent Lara became the Qualifying Manager of Bug Stop Services, Inc. On or

about September 16, 2009, Respondent Lara became the Qualifying Manager for Pro Central Termite Control in Branch 2. On or about August 30, 2010, Respondent Lara became the President of Bug Stop Services, Inc. The license will expire on June 30, 2012, unless renewed.

Field Representative's License No. FR 38391

4. On or about March 29, 2005, the Board issued Field Representative's License Number FR 38391 in Branch 2 to Respondent Lara as an employee of Dewey Pest Control. On or about June 10, 2008, the license was upgraded to include Branch 3. On or about February 18, 2009, the license was upgraded to include Branch 1, and Respondent Lara became employed with Master Fume, Inc. On or about March 5, 2009, Respondent Lara became employed with Rapid Pest Solutions, Inc. The license will expire on June 30, 2013, unless renewed.

Michael Rodriguez

Field Representative License No. 44131

5. On or about March 12, 2009, the Board issued Field Representative's License Number FR 44131 in Branch 1 to Michael Rodriguez ("Respondent Rodriguez") as an employee of Master Fume, Inc. On or about April 28, 2010, the license was upgraded to include Branch 2. On or about July 11, 2010, Respondent Rodriguez became employed with Bug Stop Services, Inc. The license expired on June 30, 2011, and has not been renewed.

Applicator License No. RA 50058

6. On or about June 29, 2009, the Board issued Applicator License Number RA 50058 to Respondent Rodriguez as an employee of Bug Stop Services, Inc. On or about April 28, 2010, the license was downgraded to Branch 3 due to the issuance of a Branch 2 Field Representative License. The license will expire on June 29, 2012, unless renewed.

John B. Griffin

Field Representative License No. FR 40948

7. On or about October 26, 2006, the Board issued Field Representative's License Number FR 40948 in Branch 2 to John B. Griffin ("Respondent Griffin") as an employee of Dewey Pest Services. On or about July 15, 2009, Respondent Griffin left the employ of Dewey

Pest Services. On or about July 29, 2009, Respondent Griffin became employed with Respondent Bug Stop. The license will expire on June 30, 2012, unless renewed.

Master Fume, Inc. - Company Registration Certificate No. PR 5604

8. On or about May 8, 2008, the Board issued Company Registration Certificate Number PR 5604 in Branch 1 to Master Fume, Inc. with Respondent Rodriguez as the President and Eduardo Santillan as the Qualifying Manager. On or about June 30, 2008, Respondent Rodriguez became a 50% shareholder and Eduardo Santillan became a 50% shareholder.

JURISDICTION

9. Business and Professions Code ("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.

10. 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.
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> 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.
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> 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.

11. 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.

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12. Code section 8622 states:

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

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

13. 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.

STATUTORY PROVISIONS

14. 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.

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 8648 states:

Authorizing, directing, conniving at or aiding in the publication, advertisement, distribution or circulation of any material by false statement or representation concerning a registered company's business is a ground for disciplinary action.

17. Code section 8650 states, in pertinent part:

Acting in the capacity of a licensee or registered company under any of the licenses or registrations issued hereunder except:

(b) At the address and location or place or places of business as licensed or registered or as later changed as provided in this chapter is a ground for disciplinary action.

18. Code section 8651 states:

The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of eliminating, exterminating, controlling, or preventing structural pests in branches of pest control other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

REGULATORY PROVISIONS

19. California Code of Regulations, title 16, section 1999.5 states, in pertinent part:

(c) As used in this section "the exercise of reasonable care" includes a duty to investigate the basis of any statement or representation to assure that the statement or representation is not unfair, deceptive, untrue or misleading. The making of a statement or representation without knowledge of its truthfulness breaches the duty to investigate.

COST RECOVERY

20. Code section 125.3 provides, in pertinent part, that the 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.

BACKGROUND INFORMATION

21. On or about August 10, 2010, a Board representative received information from Jim Mitchell ("Mitchell"), a Deputy Agricultural Commissioner/Sealer with the San Bernardino County Agricultural Department, regarding a fumigation site inspection that he conducted at 634 and 636 North Pico Avenue, San Bernardino, California ("incident address"). Mitchell explained that Master Fume, Inc., a Branch 1 registered company, performed a fumigation for drywood termites at the incident address. However, Respondent Bug Stop, a Branch 2 registered company, was identified on the fumigation log as the prime contractor. Upon further investigation by the Board representative, it was discovered that Respondent Bug Stop was performing Branch 3 work without a valid registration to do so, and commencing work on a contract without an inspection having been performed by a Branch 3 field representative or operator. Furthermore, it was discovered that Master Fume, Inc.[1] was aiding or abetting Respondent Bug Stop regarding the performance of Branch 3 work.

FIRST CAUSE FOR DISCIPLINE

(Deviation from Operations Authorized by License or Registration)

22. Respondent Bug Stop's company registration and Respondent Lara's operator license are subject to discipline under Code section 8651, in that between May 2010 and August 2010, Respondent Bug Stop performed or solicited structural pest control work, inspected for structural or household pests, or applied pesticide, chemical, or allied substances for the purpose of eliminating, exterminating, controlling, or preventing structural pests in a branch of pest control other than that for which it was licensed.

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[1] Respondent Rodriguez is the President of Master Fume, Inc. and a 50% shareholder.

SECOND CAUSE FOR DISCIPLINE

(False Statement or Representation Concerning Registered Company's Business)

23. Respondent Bug Stop's company registration and Respondent Lara's operator license are subject to discipline under Code section 8648, in that Respondent Bug Stop advertised in a branch of structural pest control for which it was not registered.

THIRD CAUSE FOR DISCIPLINE

(Deviation from Address Registered with the Board)

24. Respondent Bug Stop's company registration and Respondent Lara's operator license are subject to discipline under Code section 8650(b), in that Respondent Bug Stop acted in the capacity of a registered company at a location that is not registered with the Board.

FOURTH CAUSE FOR DISCIPLINE

(Inspection Violation)

25. Respondent Bug Stop's company registration and Respondent Lara's operator license are subject to discipline pursuant to Code section 8641, in that Respondent Bug Stop commenced work on a contract without an inspection having been performed by a Branch 3 field representative or operator, as defined in Code section 8516(b).

FIFTH CAUSE FOR DISCIPLINE

(False or Misleading Advertising)

26. Respondent Bug Stop's company registration and Respondent Lara's operator license are subject to discipline pursuant to Code section 8641, in that Respondent Bug Stop failed to comply with California Code of Regulations, title 16, section 1999.5(c), by making a direct or indirect statement or representation which is unfair, deceptive, untrue or misleading, by implying that its service, product, or pesticide offers a general environmental protection, in that its business card contains the words "environmentally friendly."

PRIOR DISCIPLINE

Cesar Raymundo Lara

27. On or about January 29, 2007, Accusation No. 2007-35 was filed alleging that Respondent violated Code section 8649 (conviction of a crime). Effective November 16, 2007,

pursuant to a Decision and Order, Respondent's Field Representative's License No. FR 38391 and Applicator's License No. RA 42871 were revoked. However, the revocations were stayed and Respondent was placed on probation for three years with terms and conditions. On or about March 30, 2009, Respondent Lara submitted a Petition for the Termination of Probation ("Petition"). On or about May 22, 2009, Respondent Lara's Petition was granted and his license was fully restored.

OTHER MATTERS

28. 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.

29. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 5687, issued to Bug Stop Service, Inc., likewise constitute cause for discipline against Operator's License Number OPR 11879, issued to Cesar Raymundo Lara, who serves as the Qualifying Manager of Bug Stop Service, Inc., regardless of whether he had knowledge of or participated in the acts or omissions which constitute cause for discipline against Bug Stop Service, Inc.

30. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5687, issued to Bug Stop Services, Inc., then Cesar Raymundo Lara, who serves as the Qualifying Manager of Bug Stop Services, Inc., shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, shall be subject to disciplinary action.

31. Pursuant to Code section 8624, if Operator's License Number OPR 11879, issued to Cesar Raymundo Lara, is suspended or revoked, the Board may suspend or revoke Field Representative's License No. FR 38391, issued to Cesar Raymundo Lara.

32. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5687, issued to Bug Stop Services, Inc., then Michael Rodriguez, who serves as the President of Bug Stop Services, Inc., shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, shall be subject to disciplinary action.

33. Pursuant to Code section 8624, if Company Registration Certificate Number PR 5687, issued to Bug Stop Services, Inc., with Michael Rodriguez as the President, is suspended or revoked, the Board may suspend or revoke Field Representative's License Number FR 44131 and Applicator License Number RA 50058, issued to Michael Rodriguez.

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 5687, issued to Bug Stop Services, Inc.;

2. Revoking or suspending Operator's License Number OPR 11879, issued to Cesar Raymundo Lara;

3. Revoking or suspending Field Representative License Number FR 38391, issued to Cesar Raymundo Lara;

4. Revoking or suspending any other license for which Cesar Raymundo Lara is furnishing the qualifying experience or appearance;

5. Prohibiting Cesar Raymundo Lara 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 5687, issued to Bug Stop Services, Inc.;

6. Revoking or suspending Field Representative License Number FR 44131, issued to Michael Rodriguez;

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7. Revoking or suspending Applicator's License Number RA 50058, issued to Michael Rodriguez;

8. Prohibiting Michael Rodriguez 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 5687, issued to Bug Stop Services, Inc.;

9. Ordering Bug Stop Services, Inc., Cesar Raymundo Lara, Michael Rodriguez, and John B. Griffin 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,

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

DATED: 8/8/11

William H. Douglas

WILLIAM H. DOUGLAS
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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