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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 2010-14

12
13 **RADAR TERMITE**
335 East Albertoni Street #200-561
14 Carson, California 90746
DANNY WILLIAMS; Owner
15 **Company Registration Certificate No. PR-5344,**
Br. 3

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16
17 **FRANCES NAZAR NAZARIAN, QM, Br. 3**
Operator's License No. OPR 10700, Br. 3
18 **Field Representative's License No. FR 41068**

19
20 Respondents.

21
22 **FINDINGS OF FACT**

23 1. On or about September 15, 2009, Complainant Kelli Okuma, in her official capacity
24 as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
25 Regulation, filed Accusation No. 2010-14 against Radar Termite; Danny Williams, owner; and
26 Frances Nazar Nazarian (Respondents) before the Structural Pest Control Board.

1 2. On or about May 18, 2007, the Structural Pest Control Board (Board) issued
2 Company Registration Certificate No. PR 5344 in Branch 3 to Radar Termite with Danny
3 Williams as the owner.

4 3. On or about March 25, 2003, the Structural Pest Control Board issued Operator's
5 License No. OPR 10700 in Branch 3 to Respondent Frances Nazar Nazarian. On November 25,
6 2009, Respondent Nazarian's Operator's License No. OPR 10700 in Branch 3 was revoked in
7 Accusation Case No. 2009-11.

8 4. On or about November 28, 2006, the Board issued Field Representative's License No.
9 FR 41068 in Branch 2 to Respondent Nazarian. On or about November 25, 2009, Respondent
10 Nazarian's Field Representative License No. FR 41068 was revoked in Accusation Case No.
11 2009-11.

12 5. On or about January 21, 2010, Carolina Castillo, an employee of the Department of
13 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-14, Statement
14 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
15 11507.5, 11507.6, and 11507.7 to Respondent Danny Williams' address of record with the Board,
16 which was and is:

17 Danny Williams
18 Radar Termite
19 19769 Wadley Avenue
20 Carson, CA 90746

21 And

22 Danny Williams
23 Radar Termite
24 335 East Albertoni Street, #200-561
25 Carson, CA 90746

26 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

27 6. Service of the Accusation was effective as a matter of law under the provisions of
28 Government Code section 11505, subdivision (c).

 7. Government Code section 11506 states, in pertinent part:

 (c) The respondent shall be entitled to a hearing on the merits if the respondent
files a notice of defense, and the notice shall be deemed a specific denial of all parts

1 of the accusation not expressly admitted. Failure to file a notice of defense shall
2 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
3 may nevertheless grant a hearing.

4 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
5 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
6 2010-14.

7 9. California Government Code section 11520 states, in pertinent part:

8 (a) If the respondent either fails to file a notice of defense or to appear at the
9 hearing, the agency may take action based upon the respondent's express admissions
10 or upon other evidence and affidavits may be used as evidence without any notice to
11 respondent.

12 10. Pursuant to its authority under Government Code section 11520, the Board finds
13 Respondent is in default. The Board will take action without further hearing and, based on the
14 evidence on file herein, finds that the allegations in Accusation No. 2010-14 are true.

15 11. The total cost for investigation and enforcement in connection with the Accusation
16 are \$5,195.00 (Five Thousand One Hundred Ninety –Five Dollars) as of March 1, 2010.

17 DETERMINATION OF ISSUES

18 1. Based on the foregoing findings of fact, Respondents Radar Termite; Danny
19 Williams, as owner has subjected his Company Registration Certificate No. PR 5344, Branch 3
20 to discipline.

21 2. A copy of the Accusation is attached.

22 3. The agency has jurisdiction to adjudicate this case by default.

23 4. The Structural Pest Control Board is authorized to revoke Respondent's Company
24 Registration Certificate No. PR 5344, Br. 3 based upon the following violations alleged in the
25 Accusation:

26 a. First Cause for Discipline – Fraud.

27 b. Second Cause for Discipline – Aiding and Abetting an Unlicensed Person

28 c. Third Cause for Discipline – Unlicensed Activity

d. Fourth Cause for Discipline – Failure to Notify the Board of Disassociation of
Qualifying Manager

e. Fifth Cause for Discipline – Failure to Make Inspection Records Available

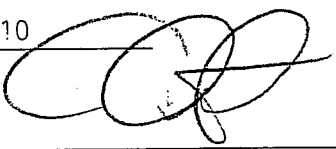
1 f. Sixth Cause for Discipline – Failure to Comply with Laws Adopted by the Board –
2 Failure to Notify Board of Address Change

3 **ORDER**

4 IT IS SO ORDERED that Company Registration Certificate No. PR 5344 Br. 3, heretofore
5 issued to Respondent Radar Termite; Danny Williams, as owner, is revoked.

6 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
7 written motion requesting that the Decision be vacated and stating the grounds relied on within
8 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
9 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

10 This Decision shall become effective on April 25, 2010.

11 It is so ORDERED March 26, 2010 

12
13 FOR THE STRUCTURAL PEST CONTROL BOARD
14 DEPARTMENT OF PESTICIDE REGULATION

15
16 Attachment:
17 Exhibit A: Accusation No. 2010-14
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Exhibit A
Accusation No. 2010-14

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of the State of California
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FILED

Date 9/15/09 By *[Signature]*

6 Attorneys for Complainant
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8

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

12 In the Matter of the Accusation Against:
13 **RADAR TERMITE**
335 East Albertoni Street #200-561
14 Carson, California 90746
15 **DANNY WILLIAMS, Owner**
Company Registration Certificate No. PR 5344, Br. 3
16 **FRANCES NAZAR NAZARIAN, QM, Br. 3**
Operator's License No. OPR 10700, Br. 3
17 Field Representative's License No. FR 41068
18 Respondents.

Case No. 2010-14

ACCUSATION

19
20 Kelli Okuma ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Statement of Issues solely in her official capacity as the
23 Registrar of the Structural Pest Control Board ("Board"), Department of Consumer Affairs.

24 **LICENSE HISTORY**

25 **Company Registration Certificate No. PR 5344**

26 2. On or about May 18, 2007, the Board issued Company Registration Certificate
27 Number PR 5344 ("registration") in Branch 3 to Radar Termite with Danny Williams as the
28 owner and Gilbert Maldonado as the Qualifying Manager. On May 31, 2007, Gilbert

1 Maldonado disassociated as the Qualifying Manager. On or about October 11, 2007, Frances
2 Nazar Nazarian ("Respondent Nazarian") became the Qualifying Manager. On September 12,
3 2008, Respondent Radar Termite paid a fine of \$200 levied by the Board for violating Code
4 section 8697 (surety bond). On October 24, 2008, Respondent Radar Termite paid a fine of
5 \$1,500 levied by Board for violating Code section 8691 (insurance). On or about January 7,
6 2009, Respondent Nazarian disassociated as the Qualifying Manager. On or about January 21,
7 2009, the registration was suspended for failing to have a Qualifying Manager.

8 **Frances Nazar Nazarian**

9 **Operator's License No. OPR 10700**

10 3. On or about March 25, 2003, the Board issued Operator's License No.
11 OPR 10700 in Branch 3 to Respondent Nazarian. On or about August 2, 2007, Nazarian became
12 the Qualifying Manager of Termites R Us Termite Control. On or about October 11, 2007,
13 Nazarian became the Qualifying Manager of Radar Termite. On or about July 2, 2008, the
14 license was suspended for failing to maintain general liability insurance as required by Code
15 section 8690. On or about July 14, 2008, Respondent Nazarian disassociated as the Qualifying
16 Manager of Termites R Us Termite Control, and the license was reinstated. On or about
17 August 27, 2008, Accusation No. 2009-11 was filed against Respondent Nazarian and the matter
18 is pending. On or about January 7, 2009, Respondent Nazarian disassociated as the Qualifying
19 Manager of Radar Termite. The license will expire on June 30, 2011, unless renewed.

20 **Field Representative's License No. FR 41068**

21 4. On or about November 28, 2006, the Board issued Field Representative's License
22 No. FR 41068 in Branch 2 to Respondent Nazarian. On or about August 27, 2008, Accusation
23 No. 2009-11 was filed against Respondent Nazarian and is pending. The license expired on
24 June 30, 2009, and has not been renewed.

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JURISDICTION

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

6 6. Code section 8622 states:

7 When a complaint is accepted for investigation of a registered company,
8 the board, through an authorized representative, may inspect any or all properties
9 on which a report has been issued pursuant to Section 8516 or a notice of
10 completion has been issued pursuant to Section 8518 by the registered company
11 to determine compliance with the provisions of this chapter and the rules and
12 regulations issued thereunder. If the board determines the property or properties
13 are not in compliance, a notice shall be sent to the registered company so stating.
14 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.

15 The notice sent to the registered company shall inform the registered
16 company that if it desires a hearing to contest the finding of noncompliance, the
17 hearing shall be requested by written notice to the board within 20 days of receipt
18 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.

19 7. Code section 8624 states:

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

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

24 The performance by any partnership, corporation, firm, association, or
25 registered company of any act or omission constituting a cause for disciplinary
26 action, likewise constitutes a cause for disciplinary action against any licensee
27 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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8. 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.

STATUTORY PROVISIONS

9. 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.

10. 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.

11. 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.

12. 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

1 company registration to be used by an unlicensed individual or unregistered
2 company, or acting as agent or partner or associate, or otherwise, of an unlicensed
3 individual or unregistered company to evade the provisions of this chapter is a
4 ground for disciplinary action.

5 13. Code section 8641 states:

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

12 14. Code section 8642 states:

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

16 15. Code section 8652 states:

17 Failure of a registered company to make and keep all inspection reports,
18 field notes, contracts, documents, notices of work completed, and records, other
19 than financial records, for a period of not less than three years after completion of
20 any work or operation for the control of structural pests or organisms, is a ground
21 for disciplinary action. These records shall be made available to the executive
22 officer of the board or his or her duly authorized representative during business
23 hours.

24 COST RECOVERY

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

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RECORDS INSPECTION

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17. On or about September 23, 2008, the Board performed a Wood Destroying Organisms Activity Search that revealed 96 Wood Destroying Organism activities had been filed with the Board between April 11, 2008, and August 18, 2008, under Hector Lopez Jr.'s ("Lopez") Field Representative's License No. FR 33850, who had left the employ of Radar Termite on April 10, 2008.¹ Furthermore, the inspections were conducted by unlicensed individuals.

18. On that same day, the Board performed another Wood Destroying Organism Activity Search that revealed 14 Wood Destroying Organisms activities had been filed with the Board between April 5, 2007, and April 10, 2007, (prior to Lopez's employment with Radar Termite) using Lopez's Field Representative's License No. FR 33850.

FIRST CAUSE FOR DISCIPLINE

(Fraud)

19. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8642, in that between April 11, 2008, and August 18, 2008, Respondents committed acts constituting fraud by permitting 96 inspections to be performed by unlicensed individuals and then filing the inspection reports with the Board using Lopez's Field Representative's License No. FR 33850, thereby representing that the inspections had been performed by a licensed field representative, when in fact, they were not.

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1. Hector Lopez Jr. was employed with Radar Termite between January 10, 2008, and April 10, 2008.

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SECOND CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

20. Respondent Radar Termite's registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8639, in that between April 11, 2008, and August 18, 2008, Respondents aided and abetted unlicensed individuals by permitting 96 pest inspections to be conducted by those individuals without a valid license.

THIRD CAUSE FOR DISCIPLINE

(Unlicensed Activity)

21. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8641, in that between April 11, 2008, and August 18, 2008, Respondents engaged in the business or practice of structural pest control without employing or securing the services of a licensed field representative to perform inspections, in violation of Code section 8550.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Notify the Board of Disassociation of Qualifying Manager)

22. Respondent Radar Termite's company registration is subject to discipline under Code section 8641, in that on or about January 7, 2009, Respondent failed to notify the Board within ten (10) days of the disassociation of the Qualifying Manager Frances Nazar Nazarian, as required by Code section 8571.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Make Inspection Records Available)

23. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8652, in that Respondents failed to make reports, contracts, documents, and records available to

1 the Registrar during business hours.

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5 **SIXTH CAUSE FOR DISCIPLINE**

6 (Failure to Comply with Laws Adopted by the Board -
7 Failure to Notify Board of Address Change)

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8 24. Respondent Radar Termite's company registration and Respondent Nazarian's
9 operator's license and field representative's license are subject to discipline under Code section
10 8641, in that Respondents failed to comply with Code section 8613 by failing to notify the
11 registrar in writing within thirty (30) days after changing the location of their principal office.

12

13 **OTHER MATTERS**

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15 25. Notice is hereby given that section 8620 of the Code provides, in pertinent part,
16 that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of
17 an actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to
18 45 days. Such request must be made at the time of the hearing and must be noted in the
19 proposed decision. The proposed decision shall not provide that a civil penalty shall be imposed
20 in lieu of a suspension.

21

22 26. Pursuant to Code section 8624, if Operator's License Number OPR 10700, issued
23 to Frances Nazar Nazarian, who serves as the Qualifying Manager of Radar Termite, is
24 suspended or revoked, the Board may suspend or revoke Company Registration Certificate
25 Number PR 5344, issued to Radar Termite.

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27 27. Pursuant to Code section 8624, the causes for discipline established as to Radar
28 Termite likewise constitute causes for discipline against Frances Nazar Nazarian, who serves as
the Qualifying Manager of Radar Termite, regardless of whether Frances Nazar Nazarian had
knowledge of or participated in the acts or omissions which constitute causes for discipline
against Radar Termite.

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28. Pursuant to Code section 8654, if discipline is imposed on Operator's License

1 Number OPR 10700, issued to Frances Nazar Nazarian, then Frances Nazar Nazarian shall be
2 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
3 responsible managing employee for any registered company during the time the discipline is
4 ///
5 imposed, and any registered company which employees, elects, or associates Frances Nazar
6 Nazarian shall be subject to disciplinary action.

7 29. Pursuant to Code section 8654, if discipline is imposed on Company Registration
8 Certificate Number PR 5344, issued to Radar Termite, with Danny Williams as the owner, then
9 Danny Williams shall be prohibited from serving as an officer, director, associate, partner,
10 qualifying manager, or responsible managing employee for any registered company during the
11 time the discipline is imposed, and any registered company which employees, elects, or
12 associates Danny Williams shall be subject to disciplinary action.

13 PRAYER

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

- 16 1. Revoking or suspending Company Registration Certificate Number PR 5344,
17 issued to Radar Termite;
- 18 2. Revoking or suspending Operator's License Number OPR 10700, issued to
19 Frances Nazar Nazarian;
- 20 3. Revoking or suspending any other license for which Frances Nazar Nazarian is
21 furnishing the qualifying experience or appearance;
- 22 4. Revoking or suspending Field Representative License Number FR 41068, issued
23 to Frances Nazar Nazarian;
- 24 5. Prohibiting Frances Nazar Nazarian from serving as an officer, director, associate,
25 partner, qualifying manager or responsible managing employee of any registered company
26 during the period that discipline is imposed on Company Registration Certificate Number PR
27 5344, issued to Radar Termite;

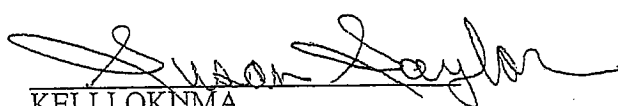
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5 6. Ordering Radar Termite and Frances Nazar Nazarian to pay the Structural Pest
6 Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to
7 Business and Professions Code section 125.3; and,

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

9 DATED: 9/15/09

10 *for* 
11 KELLI OKUMA
12 Registrar
13 Structural Pest Control Board
14 Department of Consumer Affairs
15 State of California
16 Complainant

15 LA2009603509
16 Accusation (kdg) 9/4/09

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