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FILED

Date 3/12/12 By *William H. Douglas*

7
8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2012-41

11 **PROFESSIONAL TERMITE**
12 **SOLUTIONS, BRANCH 3; ROLANDO**
13 **MENDEZ, UNLICENSED OWNER AND**
PRESIDENT
14 **6505 Rosemead Boulevard, Suite 102**
Pico Rivera, CA 90660
15 **Company Registration Certificate No. PR**
5455,

ACCUSATION

16 **ELISHA LILLIBRIDGE**
17 **QUALIFYING MANAGER OF**
PROFESSIONAL TERMITE SOLUTIONS
18 **8797 Hunt Canyon Road**
Corona, CA 92883
19 **Operator's License No. OPR 10342,**

20 and

21 **RENATO MENDEZ, VICE PRESIDENT**
OF PROFESSIONAL TERMITE
SOLUTIONS
22 **6505 Rosemead Boulevard, Suite 102**
Pico Rivera, CA 90660
23 **Field Representative No. FR 45449,**

24 Respondents.

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26 Complainant alleges:

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PARTIES

1. William H. Douglas (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.

2. On or about October 18, 2007, the Board issued Company Registration Certificate Number PR 5455, Branch 3, to Professional Termite Solutions (Respondent Professional Termite), with Rolando Mendez as Owner and Edward Count Lincoln (Lincoln) as Qualifying Manager. On June 17, 2010, the registration certificate reflected the disassociation of Lincoln as Qualifying Manager. On June 29, 2010, the registration certificate reflected Elisha Lillibridge (Respondent Lillibridge) as Qualifying Manager.

3. On or about December 1, 2000, the Board issued Operator's License Number OPR 10342, Branch 3, to Respondent Lillibridge. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

4. On or about September 18, 1996, the Board issued Field Representative License Number FR 45449 to Renato Mendez (Respondent Mendez). The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

5. The Board has never issued a license to Rolando Mendez, the Owner and President of Respondent Professional Termite.

JURISDICTION

6. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

7. Section 118, subdivision (b) of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

1 11. Section 8516 of the Code states, in pertinent part:

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

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

14 “A written inspection report conforming to this section and on a form approved by the
15 board shall be prepared and delivered to the person requesting the inspection or to the person’s
16 designated agent within 10 business days of the inspection, except that an inspection report
17 prepared for use by an attorney for litigation purposes is not required to be reported to the board.
18 The report shall be delivered before work is commenced on any property. The registered
19 company shall retain for three years all original inspection reports, field notes, and activity forms.

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

23 The following shall be set forth in the report:

24

25 “(3) The name and address of any person who is a party in interest.

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27 “(10) Recommendations for corrective measures.

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1 “(13) [¶][¶] A reinspection shall be an inspection of those items previously listed on an
2 original report to determine if the recommendations have been completed. Each reinspection
3 shall be reported on an original inspection report form and shall be labeled "Reinspection" in
4 capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original
5 report by date.

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7 “(c) At the time a report is ordered, the registered company or licensee shall inform the
8 person or entity ordering the report, that a separated report is available pursuant to this
9 subdivision. If a separated report is requested at the time the inspection report is ordered, the
10 registered company or licensee shall separately identify on the report each recommendation for
11 corrective measures as follows:

12 “(1) The infestation or infection that is evident.

13 “(2) The conditions that are present that are deemed likely to lead to infestation or
14 infection.

15 “If a registered company or licensee fails to inform as required by this subdivision and a
16 dispute arises, or if any other dispute arises as to whether this subdivision has been complied
17 with, a separated report shall be provided within 24 hours of the request but, in no event, later
18 than the next business day, and at no additional cost.”

19 12. Section 8518 of the Code states:

20 “When a registered company completes work under a contract, it shall prepare, on a form
21 prescribed by the board, a notice of work completed and not completed, and shall furnish that
22 notice to the owner of the property or the owner’s agent within 10 working days after completing
23 the work. The notice shall include a statement of the cost of the completed work and estimated
24 cost of work not completed.

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

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1 "Every property upon which work is completed shall be assessed a filing fee pursuant to
2 Section 8674.

3 "Failure of a registered company to report and file with the board the address of any
4 property upon which work was completed pursuant to subdivision (b) of Section 8516 or Section
5 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not
6 more than two thousand five hundred dollars (\$2,500).

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

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

13 13. Section 8550 of the Code states, in pertinent part:

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

17 14. Section 8551.5 of the Code states, in pertinent part:

18 "No unlicensed individual in the employ of a registered company shall apply any pesticide,
19 rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating,
20 controlling, or preventing infestation or infections of pests, or organisms included in . . . Branch
21 3. However, an individual may, for 30 days from the date of employment, apply pesticides,
22 rodenticides, or allied chemicals or substances for the purposes of training under the direct
23 supervision of a licensed field representative or operator employed by the company. This direct
24 supervision means in the presence of the licensed field representative or operator at all times. The
25 30-day time period may not be extended."

26 15. Section 8652 of the Code states:

27 "Failure of a registered company to make and keep all inspection reports, field notes,
28 contracts, documents, notices of work completed, and records, other than financial records, for a

1 period of not less than three years after completion of any work or operation for the control of
2 structural pests or organisms, is a ground for disciplinary action. These records shall be made
3 available to the executive officer of the board or his or her duly authorized representative during
4 business hours.”

5 REGULATORY PROVISIONS

6 16. California Code of Regulations, title 16, section 1990, subdivision (f) states:

7 “The following language shall appear just prior to the first finding/recommendation on each
8 separated report:

9 “This is a separated report which is defined as Section I/Section II conditions
10 evident on the date of the inspection. Section I contains items where there is visible
11 evidence of active infestation, infection or conditions that have resulted in or from
12 infestation of infection. Section II items are conditions deemed likely to lead to
13 infestation or infection but where no visible evidence of such was found. Further
14 inspection items are defined as recommendations to inspect area(s) which during the
15 original inspection did not allow the inspector access to complete the inspection and
16 cannot be defined as Section I or Section II.”

17 17. California Code of Regulations, title 16, section 1991, states, in pertinent part:

18 “(a) Recommendations for corrective measures for the conditions found shall be made as
19 required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform
20 with the provisions of Title 24 of the California Code of Regulations and any other applicable
21 local building code, and shall accomplish the following:

22

23 “(5) Structural members which appear to be structurally weakened by wood-
24 destroying pests to the point where they no longer serve their intended purpose shall
25 be replaced or reinforced. Structural members which are structurally weakened by
26 fungus to the point where they no longer serve their intended purpose shall be
27 removed or, if feasible, may remain in place if another structural member is installed
28 adjacent to it to perform the same function, if both members are dry (below 20%

1 moisture content), and if the excessive moisture condition responsible for the fungus
2 damage is corrected. Structural members which appear to have only surface fungus
3 damage may be chemically treated and/or left as is if, in the opinion of the inspector,
4 the structural member will continue to perform its originally intended function and if
5 correcting the excessive moisture condition will stop the further expansion of the
6 fungus.”

7 18. California Code of Regulations, title 16, section 1993 states, in pertinent part:

8 “All of the following reports must be in compliance with the requirements of Section 8516
9 of the code. All reports must be on the form prescribed by the board.

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11 “(e) A reinspection report is the report on the inspections of item(s) completed as
12 recommended on an original report or subsequent report(s). The areas reinspected can be limited
13 to the items requested by the person ordering the original inspection report. A licensed operator or
14 field representative shall refer to the original report in such a manner to identify it clearly.”

15 19. California Code of Regulations, title 16, section 1996.3, subdivision (a) states:

16 “The address of each property inspected and/or upon which work was completed shall be
17 reported on a form prescribed by the Board and designated as the WDO Inspection and
18 Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section.
19 This form shall be prepared by each registered company and shall comply with all of the
20 requirements pursuant to Section 8516(b), and 8518.”

21 REASONABLE COSTS

22 20. Section 125.3 of the Code provides that the Board may request the administrative law
23 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
24 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unlicensed Activity Involvement)

3 21. Respondents Professional Termite and Lillibridge are subject to disciplinary action
4 under Code section 8550, subdivision (a) in that unlicensed activity was taking place. The
5 circumstances are as follows:

- 6 a. On or about May 9, 2011, a Wood Destroying Organisms (WDO) Activity Search on
7 Respondent Professional Termite revealed that the company's prior practice of
8 filing excessive WDO activities in a given day was continuing, even though
9 Respondent Professional Termite only had one individual licensed to perform
10 WDO inspections and treatments, Respondent Renato Mendez.
- 11 b. On or about July 27, 2011, Respondent Renato Mendez purportedly performed five
12 (5) WDO inspections in Los Angeles, Canyon Country and Glendora, and
13 completed two (2) jobs, one in Los Angeles and the second in Canyon Country.
14 This amount of work is excessive for only one licensee to perform.
- 15 c. On or about October 12, 2011, Respondent Renato Mendez declared under penalty of
16 perjury that he had unlicensed workers conduct inspections and treatments
17 when he was present for a period exceeding 30 days.

18 SECOND CAUSE FOR DISCIPLINE

19 (Allowing Unlicensed Individual to Apply Pesticides for Over 30 Days)

20 22. Respondents Professional Termite and Lillibridge are subject to disciplinary action
21 under section 8551.5 in that they allowed unlicensed workers to apply pesticides for over 30 days
22 from date of employment. Complainant refers to and incorporates all the allegations contained in
23 paragraph 21, subparagraph c above, inclusive, as though set forth fully.

24 THIRD CAUSE FOR DISCIPLINE

25 (Failure to Issue Proper Completion Notice)

26 23. Respondents Professional Termite and Lillibridge are subject to disciplinary action
27 under section 8518 in that Respondents failed to issue a proper completion notice. The
28 circumstances are as follows:

- 1 a. The Standard Notice of Work Completed and Not Completed form, dated April 6, 2011,
2 for property at 1121 Mountain Avenue in Riverside (Mountain Property) erroneously
3 refers to a February 1, 2010 inspection report date, instead of the correct date of January
4 10, 2011 listed on the WDO Inspection Report.

5 FOURTH CAUSE FOR DISCIPLINE

6 (Failure to Maintain Records)

7 24. Respondents Professional Termite and Lillibridge are subject to disciplinary action
8 under section 8652 in that on or about May 20, 2011, they failed to maintain the following
9 records.

- 10 a. There was no Field Work Sheet (FWS) for property located at 8108 Michigan
11 Avenue in Whittier (Michigan Property).
12 b. There was no FWS for property located at 3726 Creeppark Street in Riverside.
13 c. There was no FWS for property located at 8206 Laurel Ridge in Riverside.
14 d. Respondents could not produce a file for property located at 14068 Putnam Street in
15 Whittier, even though Respondents filed with the Board a WDO activity report, a
16 completion notice, dated January 20, 2011.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Failure to Issue Reinspection Inspection Report)

19 25. Respondents Professional Termite and Lillibridge are subject to disciplinary action
20 under section 8516, subdivision (b)(13) and subdivision (e) of section 1993 of the California
21 Code of Regulations, in that Respondents failed to issue a reinspection inspection report. The
22 circumstances are as follows:

- 23 a. Following Respondents' WDO inspection report on Respondents' January 10, 2011
24 inspection of the Mountain Property, the property was painted and sealed by E&A Painting
25 Service. Rather than issue a reinspection report after the painting and sealing, Respondent Renato
26 Mendez wrote a letter dated April 14, 2011, stating in part, "We inspected the property and
27 everything is properly painted and sealed to our satisfaction."

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1 within 10 business days after commencement of inspection or upon completed work. The
2 circumstances are as follows:

3 a. Of the 232 WDO activities reports filed with the Board on August 10, September 9,
4 September 28, October 11, October 26, November 10, and November 15, 2011, there were 119
5 reports that were filed late.

6 NINTH CAUSE FOR DISCIPLINE

7 (Failure to Issue Proper Separated Inspection Report)

8 29. Respondent Renato Mendez is subject to disciplinary action under section 8516,
9 subdivision (c) and subdivision (f) of section 1990 of title 16 of the California Code of
10 Regulations, in that Respondent failed to issue a proper separated inspection report. The
11 circumstances are as follows:

12 a. The January 10, 2011 WDO inspection report, checked off as "COMPLETE
13 REPORT," for 125 East Hammond Street, in Pasadena, incorrectly identifies the inaccessible
14 areas at the attic and garage each as "(Section Unknown)," instead of as "Further Inspection."
15 (Pages 3 and 4 of report.)

16 TENTH CAUSE FOR DISCIPLINE

17 (Failure to Make Proper Findings and Recommendations)

18 30. Respondent Renato Mendez is subject to disciplinary action under section 8516,
19 subdivision (b)(10), and subdivision (a)(5) of section 1991 of title 16 of the California Code of
20 Regulations, in that Respondent failed to make proper findings and recommendations in the
21 following five inspection reports, each checked off as "COMPLETE REPORT." The decay
22 fungi/dryrot damage findings failed to identify the excessive moisture conditions responsible for
23 the infections, and the recommendations failed to contain a recommendation to correct the
24 excessive moisture conditions responsible for the infections.

25 a. Report for the Second Street Property, dated February 15, 2011. (Pages 1 and 3 of
26 report.)

27 b. Report for the Second Street Property, dated October 26, 2010. (Pages 1 and 3 of
28 report.)

1 c. Report for the Michigan Property, dated November 23, 2010. (Pages 1 and 3 of
2 report.)

3 d. Report for property located at 6639 San Mateo Street, A, B in Paramount, dated
4 January 1, 2011. (Pages 1 and 3 of report.)

5 ELEVENTH CAUSE FOR DISCIPLINE

6 (Failure to Include Property Owner/Party of Interest Information)

7 31. Respondent Renato Mendez is subject to disciplinary action under section 8516,
8 subdivision (b)(3), in that Respondent failed to include information on the property owner and/or
9 party of interest in the following three inspection reports.

10 a. Report for the Wilder Property, dated July 24, 2010. (Page 1 of report.)

11 b. Report for the Michigan Property, dated November 23, 2010. (Page 1 of report.)

12 c. Report for the Forty-Second Place Property, dated October 8, 2010. (Page 1 of
13 report.)

14 DISCIPLINE CONSIDERATIONS

15 32. To determine the degree of discipline, if any, to be imposed on Respondents
16 Professional Termite and Lillibridge, Complainant alleges that the Board issued the following
17 fine against Company Registration Certificate No. PR 5455 and Operator's License No. OPR
18 10342.

19 a. On or about June 17, 2011, a \$2,700 fine was issued for violations of Code sections
20 8505.17 and 8652.

21 OTHER MATTERS

22 33. Pursuant to section 8654 of the Code, if Operator's License No. OPR 10342, issued to
23 Respondent Lillibridge, is suspended or revoked, she shall be prohibited from serving as an
24 officer, director, associate, partner, qualifying manager, or responsible managing employee for
25 any registered company during the time the discipline is imposed, and any registered company
26 which employs, elects, or associates Respondent Lillibridge shall be subject to disciplinary action.

27 34. Pursuant to section 8624 of the Code, the causes for discipline established as to
28 Respondent Professional Termite constitute cause for discipline against Respondent Lillibridge as

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4. Ordering Respondents to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and

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

DATED: 3/12/12

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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