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FILED
Date 4/10/12 By

William H. Douglas

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

11 In the Matter of the Accusation Against:
12 **CB TERMITE CONTROL, BRANCH 3;**
VICTORIA MARTINEZ, OWNER AND
13 **PRESIDENT**
1534 Channelwood Drive
Whittier, CA 90601
14 Company Registration Certificate No. PR 6410
15 **RICARDO G. RANGEL, QUALIFYING**
MANAGER, CB TERMITE CONTROL
16 1534 Channelwood Drive
Whittier, CA 90601 and
17 P.O. Box 39603
18 Downey, CA 90239
Operator's License No. OPR 11992
19 Field Representative's License No. FR 45757
20 Respondents.

Case No. 2012-48

ACCUSATION

21
22 Complainant alleges:

23 **PARTIES**

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

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28 //

1 **LICENSE HISTORY**

2 **CB Termite Control Company Registration Certificate PR 6410**

3 2. On or about December 7, 2011, the Structural Pest Control Board (Board) issued
4 Company Registration Certificate Number PR 6410, Branch 3, to CB Termite Control
5 (Respondent CB Termite), with Victoria Martinez as Owner and Ricardo G. Rangel as Qualifying
6 Manager (Respondents).

7 3. On or about December 28, 2011, Company Certificate Number PR 6410 was issued a
8 \$2,747.50 fine levied by the Board for a violation of Section 8516, subdivision (b) of the Business
9 and Professions Code.

10 **Ricardo G. Rangel, Operator's License No. OPR 11992; Field Representative License**
11 **Nos. FR 32330 and 45757; and Applicator's License No. RA 6468, 34625 and 34818**

12 4. On or about March 3, 2010, the Board issued Operator License No. OPR 11992 to
13 Ricardo G. Rangel, which will expire on June 30, 2012, unless renewed.

14 5. On or about March 8, 2011, Operator License No. OPR 11992 paid a \$400 fine levied
15 by the San Bernardino County Agricultural Commissioner for a violation of Sections 6630 and
16 6738 of the California Code of Regulations.

17 6. On or about December 7, 2011, Operator License No. OPR 11992 as Qualifying
18 Manager from CB Termite Control, Inc. and became the Qualifying Manager of CB Termite
19 Control.

20 7. On or about December 28, 2011, Company Certificate Number PR 6410 was issued a
21 \$2,747.50 fine levied by the Board for a violation of Section 8516, subdivision (b) of the Business
22 and Professions Code.

23 8. On or about May 30, 2000, Field Representative's License No. FR 32330 was issued
24 in Branch 3 to Ricardo G. Rangel, employee of CB Termite Control, and was cancelled on March
25 3, 2010, due to the issuance of an Operator's license.

26 9. On or about February 6, 2004, Field Representative's License No. FR 32330 paid a
27 \$200 fine levied by the Board for a violation of Sections 8516 and 8516, subdivision (b)(7)(9) of
28

1 the Code and the California Code of Regulations, title 16, sections 1990, subdivisions (a)(3)(4),
2 1990, subdivision (d), 1991, subdivision (a)(12) and 1991, subdivision (b)(5).

3 10. On or about July 20, 2010, Field Representative's License No. FR 45757 was issued
4 in Branch 2 to Ricardo G. Rangel, employee of CB Termite, Inc., and is currently in effect and
5 renewed through June 30, 2013.

6 11. On or about March 3, 2010, Field Representative's License No. FR 32330 was
7 cancelled due to the issuance of OPR 11992 to Ricardo G. Rangel on March 3, 2010.

8 12. On or about April 23, 1997, Applicator License No. RA 6468 was issued in Branch 2
9 to Ricardo G. Rangel, employee of CB Termite Control.

10 13. On or about April 23, 2003, Applicator License No. RA 6468 was downgraded to a
11 Branch 2 due to the issuance of a Field Representative License.

12 14. On or about April 23, 2006, Applicator License No. RA 6468 expired and was not
13 renewed.

14 15. On or about February 9, 1994, Applicator License No. RA 34625 was issued in
15 Branch 2 to Ricardo G. Rangel, employee of Corona Exterminators, Inc. On or about February 9,
16 1997, Applicator License No. RA 34625 expired and was not renewed.

17 16. On or about March 9, 1994, Applicator License No. RA 34818 was issued in Branch
18 3 to Ricardo G. Rangel, employee of Black J Exterminators. On or about March 9, 1997,
19 Applicator License No. RA 34818 expired and was not renewed.

20 **CB Termite, Inc. Company Registration Certificate PR 3737**

21 17. On or about August 1, 2000, the Board issued Company Registration Certificate
22 Number PR 3737, Branch 3, to CB Termite, Inc., with Victoria Martinez as President, Felipe
23 Martinez as Secretary, Maria Luisa Salomon as Treasurer, and Edward C. Lincoln as Qualifying
24 Manager.

25 18. On or about June 10, 2004, Company Registration Certificate Number PR 3737 was
26 upgraded to include Branches 2 and 3 and reflected Edward C. Lincoln as Branch 2 Qualifying
27 Manager.

1 19. On or about February 6, 2004, Company Registration Certificate Number PR 3737
2 paid a \$750 fine levied by the Board for a violation of Section 8638 of the Code and the
3 California Code of Regulations, title 16, section 1937.14.

4 20. On or about May 16, 2005, Company Registration Certificate Number PR 3737
5 reflected a change of Branch 3 Qualifying Manager from Edward C. Lincoln to Beatrice
6 Martinez.

7 21. On or about May 31, 2005, Company Registration Certificate Number PR 3737
8 reflected a change of Branch 2 Qualifying Manager from Edward C. Lincoln to Sergio Ornelas.

9 22. On or about October 31, 2005, Company Registration Certificate Number PR 3737
10 reflected the disassociation of Sergio Ornelas as Branch 2 Qualifying Manager.

11 23. On or about December 19, 2005, Company Registration Certificate Number PR 3737
12 was downgraded to Branch 3 only.

13 24. On or about January 18, 2006, Company Registration Certificate Number PR 3737
14 reflected a change of name to CB Termite Control, Inc.

15 25. On or about November 1, 2007, Company Registration Certificate Number PR 3737
16 reflected a change of Qualifying Manager from Beatrice Martinez to Edward C. Lincoln.

17 26. On or about June 18, 2009, Company Registration Certificate Number PR 3737 paid
18 a \$100 fine levied by the San Bernardino County Agricultural Commissioner for a violation of
19 Section 15204 of the Food and Agricultural Code.

20 27. On or about December 7, 2011, Company Registration Certificate Number PR 3737
21 was canceled from the Board's files, due to re-registering as a sole owner.

22 **JURISDICTION**

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

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

1 30. Section 8620 of the Code authorizes the Board to suspend or revoke a license when it
2 finds that the holder, while a licensee or applicant, has committed any acts or omissions
3 constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

4 31. Section 8625 of the Code states:

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

10 STATUTORY PROVISIONS

11 32. Section 8516 of the Code provides as follows:

12 “(a) This section, and Section 8519, apply only to wood destroying pests or organisms.

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

19 Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a
20 filing fee pursuant to Section 8674.

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

25 A written inspection report conforming to this section and a form approved by the board
26 shall be prepared and delivered to the person requesting the inspection or to the person’s
27 designated agent within 10 business days of the inspection, except that an inspection report
28 prepared for use by an attorney for litigation purposes is not required to be reported to the board.

1 The report shall be delivered before work is commenced on any property. The registered
2 company shall retain for three years all original inspection reports, field notes, and activity forms.

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

6 The following shall be set forth on the report:"

7 * * *

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

9 * * *

10 "(6) A foundation diagram or sketch of the structure or structures or portions of the
11 structures inspected, indicating thereon the approximate location of any infested or infected areas
12 evident, and the parts of the structure where conditions that would ordinarily subject those parts
13 to attack by wood destroying pests or organisms exist.

14 (7) Information regarding the substructure, foundation walls and footings, porches, patios
15 and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias,
16 exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack
17 by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation
18 or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels,
19 excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be
20 reported."

21 * * *

22 "(10) Recommendations for corrective measures."

23 * * *

24 "(c) At the time a report is ordered, the registered company or licensee shall inform the
25 person or entity ordering the report, that a separated report is available pursuant to this
26 subdivision. If a separated report is requested at the time the inspection report is ordered, the
27 registered company or licensee shall separately identify on the report each recommendation for
28 corrective measures as follows:

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

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

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

7 33. Section 8518 of the Code states as follows:

8 “When a registered company completes work under a contract, it shall prepare, on a form
9 prescribed by the board, a notice of work completed and not completed, and shall furnish that
10 notice to the owner of the property or the owner’s agent within 10 working days after completing
11 the work. The notice shall indicate a statement of the cost of the work not completed.

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

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

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

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

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

27 34. Section 8519 of the Code provides in relevant part that:

28

1 "Certification as used in this section means a written statement by the registered company
2 attesting to the statement contained therein relating to the absence or presence of wood-destroying
3 pests or organisms and, listing such recommendations, if any, which appear on an inspection
4 report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-
5 destroying pests or organisms found, or (2) repair of structurally weakened members caused by
6 such infestation or infection, and which recommendations have not been completed at the time of
7 certification.

8 Any registered company which makes an inspection report pursuant to Section 8516, shall,
9 if requested by the person ordering the inspection report, prepare and deliver to that person or his
10 or her designated agent, a certification, to provide:

11 (a) When the inspection report prepared pursuant to Section 8516 has disclosed no
12 infestation or infection: "This is to certify that the above property was inspected on _____
13 (date) in accordance with the Structural Pest Control Act and rules and regulations adopted
14 pursuant thereto, and that no evidence of active infestation or infection was found in the visible
15 and accessible areas."

16 35. Section 8619, subdivision (a) states that "An inspection tag shall be posted whenever
17 an inspection for wood destroying pests or organisms is made."

18 36. Section 8622 of the Code states, in pertinent part:

19 "When a complaint is accepted for investigation of a registered company, the board,
20 through an authorized representative, may inspect any or all properties on which a report has been
21 issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section
22 8518 by the registered company to determine compliance with the provisions of this chapter and
23 the rule and regulations issued thereunder. If the board determines the property or properties are
24 not in compliance, a notice shall be sent to the registered company so stating. The registered
25 company shall have 30 days from the receipt of the notice to bring such property into compliance,
26 and it shall submit a new original report or completion notice or both and an inspection fee of not
27 more than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent
28 reinspection is necessary, pursuant to the board's review of the new original report or notice or

1 both, a commensurate reinspection fee shall also be charged. If the board's authorized
2 representative makes no determination or determines the property is in compliance, no inspection
3 fee shall be charged."

4 37. Section 8636 of the Code provides that: "Disregard and violation of the buildings
5 laws of the state, or of any of its political subdivisions, or of the safety laws, labor laws, health
6 laws, or compensation insurance laws of the state relating to the practice of structural pest control
7 is a ground of disciplinary action."

8 38. Section 8638 of the Code sets forth that: "Failure on the part of a registered company
9 to complete any operation or construction repairs for the price stated in the contract for such
10 operation or construction repairs or in any modification of such contract is a ground of
11 disciplinary action."

12 39. Section 8641 of the Code states:

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

17 REGULATORY PROVISIONS

18 40. California Code of Regulations, Title 16, section 1937.14 states:

19 "All work completed by licensees or registered companies shall be done within the
20 specific requirements of any plans or specifications and shall meet accepted trade standards for
21 good and workmanlike construction in any material respect, and shall comply with provisions of
22 Section 2516(c)(1), (2), (4) and (6) of Title 24, California Code of Regulations."

23 41. California Code of Regulations, Title 16, section 1990, sets forth report requirements
24 and provides, in pertinent part:

25 "(a) All reports shall be completed as prescribed by the board. Copies filed with the board
26 shall be clear and legible. All reports must supply the information required by Section 8516 of
27 the Code and the information regarding the pesticide or pesticides used as set forth in Section
28 8538 of the Code, and shall contain or describe the following:"

1 * * *

2 “(4) Wood members found to be damaged by wood destroying pests or organisms.”

3 * * *

4 “(b) Conditions usually deemed likely to lead to infestation or infection include, but are
5 not limited to:”

6 * * *

7 “(4) Earth-wood contacts.

8 (5) Commonly controllable moisture conditions which would foster the growth of a
9 fungus infection materially damaging to woodwork.”

10 * * *

11 “(d) Even though the licensee may consider the following areas inaccessible for purposes
12 of inspection, the licensee must state specifically which of these areas or any other areas were not
13 inspected and why the inspection of these areas is not practical: furnished interiors; inaccessible
14 attics or portions thereof; the interior of hollow walls; spaces between a floor or porch deck and
15 the ceiling or soffit below; stall showers over finished ceilings; such structural segments as porte
16 cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without
17 defacing or tearing out lumber, masonry or finished work; built-in cabinet work; floors beneath
18 coverings, areas where storage conditions or locks make inspection impracticable.

19 (e) Information regarding all accessible areas of the structure including but not limited to
20 the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents,
21 abutments, stucco walls, columns, attached structures or other parts of a structure normally
22 subject to attack by wood-destroying pests or organisms.

23 (f) The following language shall appear just prior to the first finding/recommendation on
24 each separated report:

25 ‘This is a separated report which is defined as Section I/Section II conditions evident on the
26 date of the inspection. Section I contains items where there is visible evidence of active
27 infestation, infection or conditions that have resulted in or from infestation of infection. Section II
28 items are conditions deemed likely to lead to infestation or infection but where no visible

1 evidence of such was found. Further inspection items are defined as recommendations to inspect
2 area(s) which during the original inspection did not allow the inspector access to complete the
3 inspection and cannot be defined as Section I or Section II.’”

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

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

9 * * *

10 “(5) Structural members which appear to be structurally weakened by wood-destroying
11 pests to the point where they no longer serve their intended purpose shall be replaced or
12 reinforced. Structural members which are structurally weakened by fungus to the point where
13 they no longer serve their intended purpose shall be removed or, if feasible, may remain in place
14 if another structural member is installed adjacent to it to perform the same function, if both
15 members are dry (below 20% moisture content), and if the excessive moisture condition
16 responsible for the fungus damage is corrected. Structural members which appear to have only
17 surface fungus damage may be chemically treated and/or left as is if, in the opinion of the
18 inspector, the structural member will continue to perform its originally intended function and if
19 correcting the excessive moisture condition will stop the further expansion of the fungus.”

20 43. California Code of Regulations, title 16, section 1993 states, in pertinent part:

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

23 * * *

24 “(c) A limited report is the report on only part of a structure. Such a report shall have a
25 diagram of the area inspected and shall specifically indicate which portions of the structure were
26 inspected with recommendation for further inspection of the entire structure and the name of the
27 person or agency requesting a limited report.

28

1 (d) A supplemental report is the report on the inspection performed on inaccessible areas
2 that have been made accessible as recommended on a previous report. Such report shall indicate
3 the absence or presence of wood-destroying pests or organisms or conditions conducive thereto.
4 This report can also be used to correct, add, or modify information in a previous report. A
5 licensed operator or field representative shall refer to the original report in such a manner to
6 identify it clearly.”

7 * * *

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

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

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

18 **COST RECOVERY/ RESTITUTION**

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

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

25 **CLOUDBURST TRAIL PROPERTY**

26 47. On or about May 13, 2010, at the request of Red Carpet Real Estate, De Anza
27 Termite & Pest Control (De Anza), performed a wood destroying organisms inspection (WDO
28 inspection) and issued a “complete”, “separated” Wood Destroying Pests and Organisms

1 Inspection Report on the property located at 12302 Cloudburst Trail, Moreno Valley, CA ("the
2 Property"), for escrow purposes. The inspection report contained 13 findings and
3 recommendations, and several notes.

4 48. On or about June 1, 2010, at the request of Red Carpet Real Estate, Respondent CB
5 Termite performed a WDO inspection and issued a "complete", "separated" inspection report on
6 the Property for escrow purposes. Qualifying Manager Ricardo Rangel performed the WDO
7 inspection and prepared the inspection report, containing 14 findings and recommendations, and
8 several notes. The Section I findings identified surface fungus (decay fungi) and decay fungi
9 damage at the garage, evidence of drywood termites at the patio and balcony, decay fungi damage
10 at the balcony, termite damaged wood at the patio, decay fungi at the patio and balcony and decay
11 fungi and decay fungi damage at the exterior. The Section I recommendations stated to scrape
12 and chemically treat the decay fungi, to replace the decay fungi damage as necessary, to
13 chemically treat the drywood termites, remove or cover the accessible evidence of infestation, and
14 replace the termite damaged wood as necessary, for a cost of \$3,720. The inspection report failed
15 to contain any Property Owner/Party of Interest information. Furthermore, the decay fungi and
16 decay fungi damage findings failed to identify the excessive moisture conditions responsible for
17 the infections, and the recommendations failed to contain a recommendation to correct the
18 excessive moisture conditions responsible for the infections. There are no Section II or further
19 inspection findings and recommendations.

20 49. On or about June 7, 2010, Respondent CB Termite issued a Standard Notice of Work
21 Completed and Not Completed (completion notice) for the Property, certifying that all
22 recommendations made on the June 1, 2010 inspection report had been completed for a total cost
23 of \$3,720. The buyer of the Property, T.W., paid \$3,720 for the work, and escrow on the
24 Property closed¹.

25
26
27 ¹ Initials are used in this Accusation to protect the privacy of the owner/consumer.
28 Complainant will reveal the identity of this individual to Respondents in response to a timely and
proper discovery request.

1 50. On or about March 17, 2011, at the request of T.W., Respondent CB Termite
2 performed a WDO inspection and issued a “supplemental”, “separated” inspection report on the
3 Property. The supplemental inspection report was prepared by Rangel, and contained three
4 findings and recommendations and a note. The Section I findings identified decay fungi damage
5 at the roof sheathing and fascia board. The Section I recommendations were to replace the decay
6 fungi damage as necessary, and that roofing repairs would have to be made by a licensed
7 tradesman, after Respondent replaced the damage. The inspection report indicated the decay
8 fungi damage was under warranty. The “Section Unknown” finding identified rusted nails at the
9 trimmings, with a recommendation to replace them with galvanized nails. There is not a “Section
10 Unknown” category in a “separated” inspection report, and information about the rusted nails
11 should have been identified as a Section II finding and recommendation. The note identified
12 weather trimmings at time of inspections that did not appear to be from wood destroying
13 organisms.

14 51. The March 17, 2011 inspection report failed to contain any Property Owner or Party
15 of Interest information, and also failed to identify where the inspection tag was posted.
16 Furthermore, the decay fungi and decay fungi damage findings failed to identify the excessive
17 moisture conditions responsible for the infections, and the recommendations did not contain a
18 recommendation to correct the excessive moisture conditions responsible for the infections.

19 52. The March 17, 2011 inspection report did not include a “supplemental” report
20 statement. In addition, the inspection report was not a “supplemental” inspection report, because
21 it did not correct items in a previous inspection report, or involve areas that were previously
22 reported as inaccessible. It should have been either a “complete” or a “limited” inspection report.

23 53. On or about April 28, 2011, the Board received a complaint from T.W., dated April
24 13, 2011, which states that Respondent CB Termite came to the address in June of 2010, but did
25 not complete the work because a worker was injured. T.W. called Respondent and it returned to
26 the Property on or about June 7, 2010. Respondent replaced a few boards on the second story
27 roof/garage area and three boards on the front porch area. Respondent claimed that the work had
28 been completed.

1 54. The complaint also states that, on or around July of 2010, Respondent returned to
2 complete some additional work on the patio of the Property. T.W. called Respondent again in
3 March of 2011, at which time Respondent's owner came to the Property and promised to
4 complete the work. Respondent did not provide T.W. with a completion notice or inspection
5 report for the March 2011 inspection. Respondent never returned to the Property and never
6 completed the work.

7 55. On or about May 18, 2011, the Board's representative sent a letter to Respondent CB
8 Termite notifying it of the complaint, and requesting a written response within 10 days from
9 receipt of the letter.

10 56. On or about May 25, 2011, Respondent's President and Owner, Victoria Martinez,
11 sent a letter to the Board's representative, stating that the delay in completing the work was a
12 result of a misunderstanding, and that Respondent would contact T.W. on May 31, 2011 to
13 schedule an appointment. On or about June 2, 2011, Martinez sent the Board's representative
14 another letter, stating that Respondent is willing to address the items on the March 17, 2011
15 "supplemental" inspection report, but will not address any issues involving the roofing, front
16 porch post, or rusted nails, other than the rusted nails on the trim by the front entry door.

17 57. On or about June 21, 2011, at the request of T.W., De Anza performed a WDO
18 inspection and issued another "complete", "separated" inspection report for the Property, which
19 contained six findings and recommendations and several notes.

20 58. On or about July 28, 2011, the Board's representative sent a letter to T.W. explaining
21 that the case would be closed, if she did not permit Respondent to complete the work. On or
22 about August 19, 2011, T.W. requested that the Board re-open its case against Respondent, after
23 her small claims case against Respondent CB Termite Control was dismissed.

24 59. On or about October 25, 2011, the Board's inspector performed an inspection of the
25 Property. On or about November 2, 2011, the Board's inspector prepared a Report of Findings to
26 Respondent, which contained 15 violations and a note.

27 60. On or about November 23, 2011, Respondent performed an inspection at the
28 Property, and prepared a "limited", "separated" inspection report for the Property, which

1 contained six findings and recommendations and three notes. The inspection report was not in
2 compliance for numerous reasons, including but not limited to it failed to contain any Property
3 Owner/Party in Interest information, failed to indicate where the inspection tag was posted, and
4 the decay fungi damage findings failed to identify the excessive moisture conditions responsible
5 for the inspections.

6 61. On December 6, 2011, the Board's inspector spoke with Martinez, and explained
7 issues he had with the November 23, 2011 inspection report, and advised her where the
8 substandard repair work was located at the Property, which was not on Respondent's inspection
9 report.

10 62. On or about December 19, 2011, the Board's inspector received a corrected version
11 of Respondent's November 23, 2011 inspection report for the Property, which was still not in
12 compliance for numerous reasons.

13 63. On or about December 21, 2011, the Board's inspector received a second, corrected
14 inspection report from Respondent for the Property, which was still not in compliance, for many
15 of the same reasons as the prior two reports. On or about December 23, 2011, even though the
16 inspection report was still not in compliance, the Board's inspector felt it did address most of the
17 required work issues, so he told Respondent that, as soon as he received a copy of the permit
18 paperwork, Respondent could commence work at the Property.

19 64. Between approximately December 27, 2011 and January 12, 2012, attempts were
20 made to obtain a permit for the work from the Moreno Valley City Hall, Building and Safety
21 Department, which refused to issue a permit to anyone except a homeowner or their agent, or a
22 licensed contractor. Therefore, the Board's inspector advised Respondent to go ahead and
23 schedule the work at the Property, and was told by Martinez that the work would start on January
24 17, 2012.

25 65. On January 13, 2012, the Board's inspector performed a WDO Activity Search for
26 the Property, and determined that Respondent had filed only one of its three November 23, 2011
27 "limited", "separated" inspection reports with the Board. The Board's inspector also made the
28 following findings, recommendations and noted violations for:

1 a. Failure to report the earth-to-wood contact at the post attached to the wall on the west
2 side of the house, on the 6/1/10 "complete", "separated" and 3/17/11 "supplemental", "separated"
3 inspection reports, in violation of Section 8516, subdivision (b)(6) & (7) and California Code of
4 Regulations, Title 16, section 1990, subdivision (b)(4).

5 b. Failure to report the dry rot (decay fungi damage) at the exterior siding, at the
6 southwest corner of the house, on the 3/17/11 "supplemental", "separated" inspection report, in
7 violation of Section 8516, subdivision (b)(6) & (7) and California Code of Regulations, Title 16,
8 section 1990, subdivision (a)(4).

9 c. Failure to report the decay fungi damage at the doorjamb of the wood deck French
10 doors, on the 3/17/11 "supplemental", "separated" inspection report, in violation of Section 8516,
11 subdivision (b)(6) & (7) and California Code of Regulations, Title 16, section 1990, subdivision
12 (a)(4).

13 d. Failure to report the inaccessible area at the pillar, adjacent to the front porch, on the
14 6/1/10 "complete", "separated" and 3/17/11 "supplemental", "separated" inspection reports, in
15 violation of Section 8516, subdivision (b)(6) & (7) and California Code of Regulations, Title 16,
16 section 1990, subdivision (b).

17 e. Failure to make a proper finding and recommendation, regarding the reported surface
18 fungus and decay fungi damage, on the 6/1/10 "complete", "separated" and the reported decay
19 fungi damage, on the 3/17/11 "supplemental", "separated" inspection reports. The findings failed
20 to identify the excessive moisture conditions responsible for the infections, and the
21 recommendations failed to include a recommendation to correct the excessive moisture conditions
22 responsible for the infections, in violation of Section 8516, subdivision (b)(6) & (7) and
23 California Code of Regulations, Title 16, section 1991, subdivision (a)(5).

24 f. Failure to complete the work in a quality and workmanlike manner, regarding the
25 replacement of the reported decay fungi damage and termite damaged wood at the patio/balcony
26 (wood deck). The damage was reported on the 6/1/10 "complete", "separated" inspection report
27 and was certified as having been completed on the 6/7/10 completion notice. A roof tile was
28 broken adjacent to completed repairs, the replaced plywood wood deck flooring/patio roof

1 sheathing is not properly nailed, there are water stains all over the replaced plywood wood deck
2 flooring/patio roof sheathing, the replaced rail on top of the balustrade does not rest flush on the
3 balustrade, the rail above the replaced corner post is not properly cut, the replaced corner post is
4 not properly nailed, and the wrong nails were used to secure the replacements, in violation of
5 California Code of Regulations, Title 16, section 1937.14.

6 g. Failure to complete the work in a quality and workmanlike manner, regarding the
7 replacement of the reported decay fungi damage at the roof sheathing, in the eave area adjacent to
8 the fireplace. The damage was reported on the 6/1/10 "complete", "separated" inspection report,
9 and was certified as having been completed on the 6/7/10 completion notice. The replaced roof
10 sheathing was not properly nailed. This is a violation of California Code of Regulations, Title 16,
11 section 1937.14.

12 h. Failure to complete the work in a quality and workmanlike manner, regarding the
13 replacement of the reported decay fungi damage at the exterior wood trim on the house and front
14 porch pillar. The damage was reported on the 6/1/10 "complete", "separated" inspection report,
15 and was certified as having been completed on the 6/7/10 completion notice. Some of the
16 replacements were not properly cut, some of the replacements had missing knots, and the wrong
17 nails were used to secure the replacements. This is a violation of California Code of Regulations,
18 Title 16, section 1937.14.

19 i. Failure to complete the work in a quality and workmanlike manner, regarding the
20 replacement of the reported decay fungi damage at the barge rafter, adjacent to the patio/wood
21 deck. The damage was reported on the 6/1/10 "complete", "separated" inspection report, and was
22 certified as having been completed on the 6/7/10 completion notice. The replaced barge rafter
23 was not properly nailed, and the wrong nails were used to secure the replacement. This is a
24 violation of California Code of Regulations, Title 16, section 1937.14.

25 j. Failure to complete the work in a quality and workmanlike manner, regarding the
26 replacement of the reported decay fungi damage at the southwest corner of the second story
27 eaves, above the garages. The damage was reported on the 6/1/10 "complete", "separated"
28 report, and was certified as having been completed on the 6/7/10 completion notice. Some of the

1 roof tiles were broken/damages from walking on and leaning a ladder against the roof, the
2 replacements are not properly nailed, and the wrong nails were used to secure the replacements.
3 This is a violation of California Code of Regulations, Title 16, section 1937.14.

4 k. Failure to complete the work in a quality and workmanlike manner, regarding the
5 replacement of reported decay fungi damage at the rafter tails and roof sheathing, at the front of
6 the house. The damage was reported on the 6/1/10 "complete", "separated" inspection report, and
7 was certified as having been completed on the 6/7/10 completion notice. Decay fungi damage
8 remains at the reported area, and the rafter tails were not properly replaced, which has allowed the
9 eave area to lose structural support and sag. The replacements were not properly nailed, wood
10 has been added where there was previously no wood, some of the adjacent wood has been
11 damaged by the nailing and sawing process, and the wrong nails were used to secure the
12 replacements. This is a violation of Section 8638 and California Code of Regulations, Title 16,
13 section 1937.14.

14 l. Failure to complete the work, regarding the replacement of the reported decay fungi
15 damage at the exterior siding, on the southeast corner of the house. The damage was reported on
16 the 6/1/10 "complete", "separated" inspection report, and was certified as having been completed
17 on the 6/7/10 completion notice. Decay fungi damage remains at the reported area.

18 m. Failure to complete the work, regarding the replacement of the reported decay fungi
19 damage at the fascia board, trimming and rafter tail, at the southeast corner of the second story
20 eaves above the garages. The damage was reported on the 6/1/10 "complete", "separated"
21 inspection report, and was certified as having been completed on the 6/7/10 completion notice.
22 Decay fungi damage remains at the reported area.

23 n. Failure to comply with the building laws, in that a Moreno Valley business license
24 was not obtained prior to performing an inspection and work in the city, and a building permit
25 was not obtained for the repair work completed at the patio/wood deck and eaves.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Code Regulations)**

3 66. Respondent's CB Termite's registration and Rangel's Operator's license are subject
4 to discipline under Section 8641, in that, concerning the Property, Respondent failed to comply
5 with the following Sections:

6 **Section 8516 and California Code of Regulations, title 16, Section 1993(c):**

7 a. Respondents failed to include a "limited" report statement on all three 11/23/11
8 inspection reports.

9 **Section 8516 and California Code of Regulations, title 16, Section 1993(d):**

10 b. Respondents failed to include a "supplemental" report statement on the 3/17/11
11 inspection report.

12 **Section 8516(b), Section 8518 and California Code of Regulations, title 16, Section**
13 **1993 and 1996.2:**

14 c. Respondents failed to issue an inspection report and/or completion notice for the
15 WDO inspections and repair work completed at the Property between 6/7/10 and 3/17/11.

16 **Section 8516(b)(10) and California Code of Regulations, title 16, Section 1991(a)(5):**

17 d. Respondents failed to make proper findings and recommendation regarding the
18 reported surface fungus/decay fungi and decay fungi damage, on the 6/1/10, 3/17/11 and all three
19 11/23/11 reports. The findings failed to identify the excessive moisture conditions responsible for
20 the infections, and failed to include recommendations to correct those conditions.

21 **Section 8516(b)(10) and California Code of Regulations, title 16, Section 1990(b)(5)**
22 **&(e):**

23 e. Respondents failed to make a proper finding and recommendation regarding the
24 inaccessible areas at the garage and patio/wood deck, and water stains at the patio/wood deck,
25 which were only reported as a note.

26 **Section 8641:**

27 f. Respondents furnished an initial 11/23/11 inspection report without making a bona
28 fide inspection, and appear to have altered the initial report to create the corrected second and

1 third versions which are also dated 11/23/11.

2 **Section 8619(a) and California Code of Regulations, title 16, Section 1996.1(a):**

3 g. Respondents failed to identify where the inspection tag was posted, on the 3/17/11
4 and all three 11/23/11 inspection reports.

5 **Section 8636:**

6 h. Complainant incorporates by reference Paragraph 72 in the Seventh Cause for
7 Discipline, below, as though set forth in full here.

8 **Section 8638:**

9 i. Respondents failed to complete the work, as delineated in Paragraph 65,
10 subparagraph m, which is incorporated by reference as though set forth in full here.

11 **California Code of Regulations, title 16, section 1937.14:**

12 j. Respondents failed to perform work at the Property in a quality and workmanlike
13 manner, as set forth in Paragraph 73 of the Eighth Cause for Discipline below, which is
14 incorporated as though set forth in full here.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Failure to File and/or Timely File WDO Activities)**

17 67. Respondents CB Termite and Rangel are subject to disciplinary action under Section
18 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of
19 Regulations, in that Respondents failed to file WDO activities reports with the Board, within 10
20 business days after commencement of inspection or upon completed work. The circumstances
21 are that:

22 a. Respondents only filed one of its three 11/23/11 "limited", "separated" inspection
23 reports with the Board.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Failure to Issue Proper Separated Inspection Report)**

26 68. Respondent Rangel is subject to disciplinary action under Section 8516, subdivision
27 (c) and subdivision (f) of Section 1990 of title 16 of the California Code of Regulations, in that
28

1 Respondent failed to issue a proper separated inspection report. The circumstances are as
2 follows:

3 a. The 3/17/11 "supplemental", "separated" inspection report and all three 11/23/11
4 "limited", "separated" inspection reports contain a category "Section Unknown", which is not a
5 category on a "separated" inspection report.

6 b. The 3/17/11 "supplemental", "separated" inspection report should have been either a
7 "complete" or "limited" inspection report, since it did not correct items in a previous inspection
8 report, or involve areas that were previously reported as inaccessible. The corrected and second
9 corrected 11/23/11 reports should have been "supplemental" inspection reports, since they
10 corrected, added or modified information in a previous inspection report.

11 c. All three of the 11/23/11 "limited", "separated" inspection reports identified an
12 inaccessible area at the exterior, as a Section I finding and recommendation, instead of a further
13 inspection finding and recommendation.

14 d. Failed to report dry rot/decay fungi damage and other conditions on the Property, as
15 described above in Paragraph 65, subparagraphs a, b, c, d, and e, and incorporated in full by this
16 reference.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Failure to Make Proper Findings and Recommendations)**

19 69. Respondents CB Termite, Martinez and Ricardo Rangel are subject to disciplinary
20 action under Section 8516, subdivision (b)(10), and subdivision (a)(5) of Section 1991 of title 16
21 of the California Code of Regulations, in that Respondent failed to make proper findings and
22 recommendations in the inspection report dated 6/1/10, checked off as "COMPLETE REPORT",
23 and the 3/17/11 inspection report, as set forth in Paragraphs 47-65 and incorporates by reference
24 the allegations as though set forth fully here.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 70. Respondents CB Termite, Martinez and Rangel are subject to disciplinary action
4 under Section 8516, subdivision (b)(3), in that Respondents failed to include information on the
5 property owner and/or party of interest in the following inspection reports:

6 a. "Complete", "separated" report for the Property dated 6/1/10. (Page 1 of report.)

7 b. "Supplemental", "separated" report for the Property dated 3/17/11. (Page 1 of
8 report.)

9 c. All three of the "limited", "separated" reports for the Property dated 11/23/11. (Page
10 1 of each report.) Complainant refers to, and by this reference incorporates fully, the allegations
11 set forth above in Paragraphs 47-65.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Failed to Comply with Report of Findings)**

14 71. Respondent CB Termite's registration license and Respondent Rangel's licenses are
15 subject to discipline under Section 8641, in that Respondents failed to comply with Section 8622,
16 by failing to correct the items described in the Report of Findings within thirty calendar days of
17 receipt of the Notice, and by failing to bring the Property into compliance with the Board's Notice
18 and Report of Findings, dated 11/20/11. Complainant refers to, and by this reference incorporates
19 fully, the allegations set forth above in Paragraphs 47-65.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Building Laws)**

22 72. Respondent CB Termite's registration license and Respondent Rangel's licenses are
23 subject to discipline under Section 8641, in that Respondents failed to comply with Section 8636,
24 by disregarding and/or failing to comply with the building laws, in that a Moreno Valley business
25 license was not obtained prior to performing an inspection and work in the city, and a building
26 permit was not obtained for the repair work completed at the patio/wood deck and eaves.

27 Complainant refers to, and by this reference incorporates fully, the allegations set forth above in
28 Paragraph 65, subparagraph n.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Poor Workmanship)**

3 73. Respondent CB Termite's registration and Rangel's operator's license are subject
4 to discipline under Section 8641, in that on the Property, Respondents failed to complete all work
5 to meet accepted trade standards for good and workmanlike construction in any material respect,
6 as defined by California Code of Regulations, title 16, section 1937.14, as set forth in detail in
7 Paragraph 65, subparagraphs f, g, h, i, j, k, l, and m, which are incorporated by reference as
8 though set forth in full.

9 **DISCIPLINE CONSIDERATIONS**

10 74. To determine the degree of discipline, if any, to be imposed on Respondents CB
11 Termite, Martinez and Rangel, Complainant alleges that the following fines were levied:

12 a. On or about December 28, 2011, Company Certificate Number PR 6410 was issued a
13 \$2,747.50 fine levied by the Board for a violation of Section 8516, subdivision (b) of the Business
14 and Professions Code.

15 b. On or about March 8, 2011, Operator License No. OPR 11992 paid a \$400 fine levied
16 by the San Bernardino County Agricultural Commissioner for a violation of Sections 6630 and
17 6738 of the California Code of Regulations.

18 c. On or about February 6, 2004, Field Representative's License No. FR 32330 paid a
19 \$200 fine levied by the Board for a violation of Sections 8516 and 8516, subdivision (b)(7)(9) of
20 the Code and the California Code of Regulations, title 16, sections 1990, subdivisions (a)(3)(4),
21 1990, subdivision (d), 1991, subdivision (a)(12) and 1991, subdivision (b)(5).

22 d. On or about February 6, 2004, Company Registration Certificate Number PR 3737
23 paid a \$750 fine levied by the Board for a violation of Section 8638 of the Code and the
24 California Code of Regulations, title 16, section 1937.14.

25 e. On or about June 18, 2009, Company Registration Certificate Number PR 3737 paid
26 a \$100 fine levied by the San Bernardino County Agricultural Commissioner for a violation of
27 Section 15204 of the Food and Agricultural Code.

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OTHER MATTERS

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2 75. Pursuant to Section 8654 of the Code, if Operator's License No. OPR 11992, issued
3 to Respondent Rangel, is suspended or revoked, he shall be prohibited from serving as an officer,
4 director, associate, partner, qualifying manager, or responsible managing employee for any
5 registered company during the time the discipline is imposed, and any registered company which
6 employs, elects, or associates Respondent Rangel shall be subject to disciplinary action.

7 76. Pursuant to Section 8654 of the Code, if Field Representative License No. FR 45757,
8 issued to Respondent Rangel, is suspended or revoked, he shall be prohibited from serving as an
9 officer, director, associate, partner, qualifying manager, or responsible managing employee for
10 any registered company during the time the discipline is imposed, and any registered company
11 which employs, elects, or associates Respondent Rangel shall be subject to disciplinary action.

12 77. Pursuant to Section 8624 of the Code, the causes for discipline established as to
13 Respondent CB Termite constitute cause for discipline against Respondent Rangel as Qualifying
14 Manager regardless of whether he had knowledge of or participated in the acts or omissions
15 which constitute cause for discipline against Respondent CB Termite.

16 78. Pursuant to Section 8624 of the Code, the causes for discipline established as to
17 Respondent CB Termite constitute cause for discipline against Victoria Martinez as Owner
18 regardless of whether she had knowledge of or participated in the acts or omissions which
19 constitute cause for discipline against Respondent CB Termite.

20 79. Pursuant to Section 8624 of the Code, the causes for discipline established as to
21 Respondent CB Termite constitute cause for discipline against Respondent Rangel as a
22 responsible officer, regardless of whether he had knowledge of or participated in the acts or
23 omissions which constitute cause for discipline against Respondent CB Termite.

24 80. Pursuant to Section 8654 of the Code, if Company Registration Certificate No. PR
25 6410, issued to Respondent CB Termite, is suspended or revoked, Victoria Martinez shall be
26 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
27 responsible managing employee for any registered company during the time the discipline is
28

1 imposed, and any registered company which employs, elects, or associates Respondent Martinez
2 shall be subject to disciplinary action.

3 PRAYER

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

6 1. Revoking or suspending Company Registration Certificate Number PR 6410, issued
7 to CB Termite Control and Victoria Martinez;

8 2. Revoking or suspending Operator's License No. OPR 11992 issued to Ricardo G.
9 Rangel;

10 3. Revoking or suspending Field Representative's License No. FR 45757 issued to
11 Ricardo G. Rangel;

12 4. Prohibiting Ricardo G. Rangel from serving as an officer, director, associate, partner,
13 qualifying manager or responsible managing employee of any registered company during the
14 period that discipline is imposed on Company Registration Certificate Number PR 3982, issued to
15 CB Termite, Operator's License No. OPR 11992, or Field Representative's License No. FR
16 45757;

17 5. Prohibiting Victoria Martinez from serving as an officer, director, associate, partner,
18 qualifying manager or responsible managing employee of any registered company during the
19 period that discipline is imposed on Company Registration Certificate Number PR 3982, issued to
20 CB Termite;

21 6. Ordering Victoria Martinez and Ricardo G. Rangel to pay the Structural Pest Control
22 Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business
23 and Professions Code section 125.3;

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7. Ordering restitution of all damages according to proof suffered by T.W. as a condition of probation in the event probation is ordered; and

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

DATED: 4/10/12

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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