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FILED
Date 7/13/15 By Susan Sayler

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **KILTER TERMITE AND PEST CONTROL,** **GREGORY S. MCKENDALL,** **QUALIFYING MANAGER** **381 West Grove Avenue** **Orange, CA 92865** **Company Registration Certificate No. PR 2272** **Operator's License No. OPR 10496** **Branch Office Registration No. BR 5284** **41785 Enterprise Circle South** **Temecula, CA 92590** **Branch Office Registration No. BR 4912** **10148 Artesia Place** **Bellflower, CA 90706** **Branch Office Registration No. BR 4962** **41785 Enterprise Circle South, Unit A** **Temecula, CA 92590** Respondent.	Case No. 2016-3 **ACCUSATION**

Complainant alleges:

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PARTIES

1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of Consumer Affairs.

2. On or about November 1, 2001, the Structural Pest Control Board issued Operator's License Number OPR 10496 to Gregory S. McKendall as Branch 3 Qualifying Manager of Kilter Termite and Pest Control. The Operator's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

3. On or about June 19, 1992, the Structural Pest Control Board issued Company Registration Certificate Number PR 2272 in Branch 3 to Kilter Termite and Pest Control. The Company Registration Certificate was upgraded on November 29, 2006 to include Branches 2 and 3. On December 20, 2012, the Company Registration Certificate reflected Gregory S. McKendall as Branch 2 Qualifying Manager. The Company Registration Certificate was in full force and effect at all times relevant to the charges brought herein.

4. On or about October 31, 2011, the Structural Pest Control Board issued Branch Office Registration Number BR 5284 to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor. The Branch Office Registration was in full force and effect at all times relevant to the charges brought herein.

5. On or about January 2, 2004, the Structural Pest Control Board issued Branch Office Registration Number BR 4962 to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor. The Branch Office Registration was in full force and effect at all times relevant to the charges brought.

6. On or about January 26, 2002, the Structural Pest Control Board issued Branch Office Registration Number BR 4912 to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor. The Branch Office Registration was in full force and effect at all times relevant to the charges brought.

7. Kilter Termite and Pest Control, Gregory S. McKendall, Company Registration Certificate Number PR 2272, Operator's License Number OPR 10496, Branch Office

Registration Number BR 5284, Branch Office Registration Number BR 4912, and Branch Office Registration Number BR 4962 are collectively referred to herein as "Respondent."

JURISDICTION

8. This Accusation is brought before the Structural Pest Control Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

9. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

10. Section 8625 of the Code 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

11. Section 8505.17, subdivision (c) of the Code states:

> Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide and the amount used. The report shall be submitted to the commissioner by the 10th day of the month following the month of application and a copy shall be maintained by the licensee for a period of three years after the report submission date. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall require a pesticide use stamp or stamp number issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and stamp numbers and for the refund of moneys paid for stamps and stamp numbers which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. A pesticide use stamp or stamp number is not required on negative use reports.

12. Section 8506.2 of the Code states:

> A "qualifying manager" is the licensed operator or operators designated by a registered company to supervise the daily business of the company and to be available to supervise and assist the company's employees.

13. Section 8516, subdivision (b) of the Code states:

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

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

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

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

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensed field representative or operator making the inspection.

(2) The name and address of the person or firm ordering the report.

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

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

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

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

(8) One of the following statements, as appropriate, printed in bold type: (A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

"NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company." An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

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14. Section 8518 of the Code states:

(a) When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 business days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

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

(c) A filing fee shall be assessed pursuant to Section 8674 for every property upon which work is completed.

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

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

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

15. Section 8610 of the Code states:

(a) Every company that engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof, shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more ownership interest, if it is a corporation, and the address of the company's principal office in this state.

(b)(1) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, whose license or registration is revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(2) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, who owns or has owned in the past more than a 10 percent interest in another sole proprietorship, partnership, corporation, or other organization that has its license or registration revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

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

16. Section 8611 of the Code states:

Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative and his or her license shall be prominently displayed in the branch office.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

17. Section 8641 of the Code states:

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

18. Section 8624 of the Code states:

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

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

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

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19. Section 8646 of the Code states:

Disregard and violation of pesticide use and application, structural pest control device, fumigation, or extermination laws of the state or of any of its political subdivisions, or regulations adopted pursuant to those laws, is a ground for disciplinary action.

20. Section 8654 of the Code states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

21. Section 15204 of the Food and Agriculture Code states:

(a) Each licensed Branch 2 and Branch 3 structural pest control operator qualifying manager, as defined in Section 8506.2 of the Business and Professions Code, and Structural Pest Control Board registered company, as defined in Section 8506.1 of the Business and Professions Code, shall register with the commissioner prior to operating a structural pest control business in the county. The registration shall cover a calendar year. A fee may also be required at the time of registration. The fee shall be set by the county board of supervisors, except that in no case shall the fee exceed the actual cost of processing the registration or ten dollars ($10), whichever is less. Payment of the fee shall be due by the date designated by the commissioner.

(b) Each registration shall be in a form prescribed by the director after consulting with the Structural Pest Control Board and commissioners and shall include the structural pest control licensee' s name and address, including all satellite locations conducting business in the county, telephone numbers, responsible persons, and the type of pest control to be conducted.

(c) If ordered by the commissioner, other structural pest control licensees shall appear in person at the office of the commissioner to complete registration.

(d) The commissioner may levy a civil penalty against any person who violates the provisions of this section in accordance with the procedures provided in Section 12999.5.

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REGULATORY PROVISIONS

22. California Code of Regulations, title 16, section 1918 states:

"Supervise" as used in Business and Professions Code Sections 8506.2, 8610 and 8611 means the oversight, direction, control, and inspection of the daily business of the company and its employees, and the availability to observe, assist, and instruct company employees, as needed to secure full compliance with all laws and regulations governing structural pest control.

In cases of ownership of more than one registered company by the same sole owner, corporation or partnership where the qualifying manager or managers cannot supervise each registered company because of the location of the companies, the qualifying manager or managers may designate an individual or individuals licensed as an operator or as a field representative in the branch or branches of business being conducted to supervise the company. This designated supervisor or supervisors must be under the direct supervision of the qualifying manager or managers. Any such designation of supervisors does not relieve the qualifying manager or managers of responsibility to supervise as required in sections 8506.2 and 8610.

23. California Code of Regulations, title 16, section 1996.3 states:

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

(b) The form shall contain the following information for each property inspected and/or upon which work was completed.

(1) Company Name

(2) Company registration number

(3) Branch office registration number (when a branch office issues an inspection report or notice of work completed

(4) Date of Activity

(5) Address of property inspected or upon which work was completed, including zip code

(6) Activity Code

(7) License number of licensee performing the inspection

(c) Failure of a registered company to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of not more then two thousand five hundred dollars ($2,500).

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COSTS

24. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

25. On March 7, 2006, Kilter Termite and Pest Control (the Company) was issued Citation No. CF 2006-181 by the Board in the amount of $2,500 for a violation of Code section 8648 (false advertising). The Company complied with the citation.

26. On July 13, 2007, the Company was issued Citation No. CF 2008-6 by the Board in the amount of $750 for a violation of Code section 8648 (false advertising), and section 8651 (perform/solicit beyond scope of license). Respondent complied with the citation.

27. On August 15, 2007, the Company was issued Citation No. CF 2008-23 by the Board in the amount of $200 for a violation of Code section 8638 (failure to exterminate a drywood termite infestation at a property). The Company complied with the citation.

28. On September 27, 2007, the Company was issued Citation No. CF 2008-56 by the Board in the amount of $2,813 for a violation of Code section 8516 (failure to file inspection report pertaining to wood destroying organisms (WDO)), and Code section 8518 (failure to file notice of work completed/not completed with the Board no later than 10 business days after completed work). The Company complied with the citation.

29. On April 29, 2008, the Company was issued Citation No. SP 2008-233 by the Los Angeles County Agricultural Commissioner's office (CAC) in the amount of $1,100 for violations of Title 3, California Code of Regulations sections 6678 (service container label), 6738 (respirator training not completed), 6670 (pesticides not properly stored/handled/disposed of), Code section 8551 (unlawful acts by non-licensees), and Food and Agricultural Code section 15204 (failure to notify CAC). The Company complied with the citation.

30. On June 30, 2008, the Company was issued Citation No. SP 2009-36 by the San Diego CAC in the amount of $250 for violation of Food and Agricultural Code section 15204 (failure to notify CAC). The Company complied with the citation.

31. On August 12, 2008, the Company was issued Citation No. CF 2009-14 by the Board in the amount of $1,750 for a violation of Code section 8551.5 (unlawful acts by non-licensees). The Company complied with the citation.

32. On October 23, 2009, the Company was issued Citation No. CF 2010-46 by the Board in the amount of $3,500 for violations of Code section 8648 (false advertising), and section 8651 (perform/solicit beyond scope of license). The Company complied with the citation.

33. On May 11, 2010, the Company was issued Citation No. SP 2011-27 by the Riverside CAC for a violation of Food and Agricultural Code section 15204 (failure to notify CAC). The Company complied with the citation.

34. On June 8, 2010, the Company was issued Citation No. CF 2010-109 by the Board in the amount of $2,500 for a violation of Code section 8516 (failure to file inspection report pertaining to WDO). The Company complied with the citation.

35. On March 9, 2011, the Company was issued Citation No. SP 2011-155 by the San Diego CAC in the amount of $250 for violation of Food and Agricultural Code section 15204 (failure to notify CAC). The Company complied with the citation.

36. On April 23, 2012, Company was issued Citation No. SP 2012-254 by the Riverside CAC in the amount of $50 for violation of Food and Agricultural Code section 15204 (failure to notify CAC). The Company complied with the citation.

37. On April 26, 2012, the Company was issued Citation No. CF 2012-127 by the Board in the amount of $2,500 for a violation of Code section 8516 (failure to file inspection reports pertaining to WDO). The Company complied with the citation.

38. On July 12, 2012, the Company was issued Citation No. SP 2013-50 by the San Diego CAC in the amount of $400 for violation of Food and Agricultural Code section 15204 (failure to notify CAC). The Company complied with the citation.

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39. On May 22, 2014, the Company was issued Citation No. SP 2014-226 by the Orange CAC in the amount of $50 for a violation of Code section 8505.17 (failure to submit County Monthly Pesticide Use Report). The Company complied with the citation.

40. In February 2015, the Board conducted an audit of Respondent's WDO activity submittals for the period from January 1, 2013 to February 5, 2015, and found the following discrepancies:

a. The principal registration (PR2272 located at 381 West Grove Avenue, Orange) filed no WDO activities from October 27, 2012 through February 6, 2013. It filed 30 WDO activities from February through June 20, 2013, and no WDO activities have been filed since June 20, 2013.

b. Two branch offices are located at 41785 Enterprise Circle in Temecula. BR4962 filed 299 WDO activities on April 6, 2012; 192 were filed late. BR5284 has no WDO activities on file from April 25, 2013 through February 28, 2014, and from July 12, 2014 to the present.

c. The branch office at 10148 Artesia Place in Bellflower (BR 4912) has no WDO activities on file from July 2, 2013 to February 28, 2014, and July 12, 2014 to the present.

d. From June 27, 2014 to December 15, 2014, Respondent submitted 1,851 WDO activities. Of those submitted, 1,666 WDO activities were submitted late.

e. Research of Respondent's WDO activities from January 1, 2015 to February 26, 2015 found that they were not registered with any of the counties where they performed work, which included Orange, San Bernardino, Los Angeles, and Riverside Counties.

41. After telephone discussions and personal interviews with Respondent's employees on February 11, 2015, they provided declarations stating that they were not trained or properly supervised in the submission of WDO activities reports.

42. A specialist with the Board met with Respondent Gregory S. McKendall on February 19, 2015. Respondent McKendall's WDO Activity computer program listed the following information:

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a. Principal Registration (PR2272): From January 1, 2013 to February 19, 2015, there were 74 WDO activities completed but not submitted.

b. Branch Office (BR5284): From July 14, 2013 to February 19, 2015, there were 2,012 WDO activities completed but not submitted. From April 25, 2013 to February 28, 2014, there were 2,673 WDO activities completed but not submitted.

c. Branch Office (BR4912) From July 2, 2013 to February 28, 2014, there were 1,403 WDO activities completed but not submitted. From July 14, 2014 to February 19, 2014, there were 1,545 WDO activities completed but not submitted.

d. A total of 7,707 WDO activities were not submitted during the referenced time period.

43. On February 12, 2015, Respondent was issued Violation Notice No. V001-015-14/15 by the Los Angeles CAC for violating Code section 8505.17(c) in that from January 2013 to August 2014, Respondent failed to submit Monthly Summary Pesticide Use Reports affixed with pesticide usage stickers by the 10th day of the month following the month of application.

44. On February 17, 2015, the Board received a copy of the Orange CAC's undated Letter of Warning to Respondent stating that they failed to submit pesticide use reports for the months of February 2012 through June 2013.

45. On February 17, 2015, the Board received a copy of the Orange CAC's Notice of Proposed Action dated May 22, 2014. Respondent was fined $50 for violating Code section 8505.17(c) in that they failed to submit pesticide use reports from January 2013 to February 2014.

46. Between February 19, 2015 and March 27, 2015, Respondent submitted a total of 6,762 WDO activity reports, 6689 of which were filed late. No WDO activities have been submitted by Respondent since March 27, 2015.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply With Pesticide Use Report Requirements)

47. Respondent's Company Registration Certificate, Operator's License, and Branch Office Registrations are subject to disciplinary action under section 8641, as described in paragraphs 25-46, in that they failed to prepare and submit Pesticide Use Reports and/or be

registered as required in Orange, San Bernardino, Los Angeles, and Riverside Counties at the time it completed structural pest control work in those counties, as required by Code section 8505.17, subdivision (c).

SECOND CAUSE FOR DISCIPLINE

(Failure to Supervise Registered Companies and Branch Offices)

48. Respondent's Company Registration Certificate, Operator's License, and Branch Office Registrations are subject to disciplinary action under Code section 8641, as described in paragraphs 25-46, in that Respondent Gregory S. McKendall failed to supervise the daily operations of the company and branches, and failed to assist its employees as required by Code sections 8506.2 and 8610, subdivision (c), and 8611, and California Code of Regulations, title 16, section 1918.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply With WDO Activities Reports & Inspection Requirements)

49. Respondent's Company Registration Certificate, Operator's License, and Branch Office Registrations are subject to disciplinary action under Code section 8641, as described in paragraphs 25-46, in that Respondent failed to report and file the address of properties inspected or where work was completed, failed to submit its wood destroying organisms (WDO) activity statements, and/or failed to remit the required fees to the Board within 10 business days, as required by Code sections 8516, subdivision (b) and 8518, and California Code of Regulations, title 16, section 1996.3.

FOURTH CAUSE FOR DISCIPLINE

(Disregard and Violation of Pesticide Use and Application)

50. Respondent's Company Registration Certificate, Operator's License, and Branch Office Registrations are subject to disciplinary action under Code section 8646, as described in paragraphs 25-46, in that Respondent failed to register with Orange, San Bernardino, Los Angeles, and Riverside Counties prior to operation of business in that county.

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OTHER MATTERS

51. Pursuant to sections 8624 and 8654 of the Code, if discipline is imposed on Company Registration Certificate Number PR 2272, Operator's License Number OPR 10496, Branch Office Registration Number BR 5284, Branch Office Registration Number BR 4912, and/or Branch Office Registration Number BR 4962, Gregory S. McKendall shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Gregory S. McKendall shall be subject to disciplinary action.

PRAYER

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

1. Revoking or suspending Company Registration Certificate Number PR 2272, issued to Kilter Termite and Pest Control, with Gregory S. McKendall as the Qualifying Manager;

2. Revoking or suspending Operator's License Number OPR 10496, issued to Gregory S. McKendall as the Qualifying Manager of Kilter Termite and Pest Control;

3. Revoking or suspending Branch Office Registration Number BR 5284, issued to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor;

4. Revoking or suspending Branch Office Registration Number BR 4912, issued to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor;

5. Revoking or suspending Branch Office Registration Number BR 4962, issued to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor;

6. Ordering Kilter Termite and Pest Control and/or Gregory S. McKendall to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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7. Prohibiting Gregory S. McKendall from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of any registered company during the period that discipline is imposed on Operator License Number OPR 10496, issued to Gregory S. McKendall;

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

DATED: 7/13/15

SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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