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Attorneys for Complainant

FILED

Date 4/23/15 By

Susan Saylor

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No. 2015-51

13 **SERGIO ZAMORANO**
14 P.O. Box 6
Overgaard, AZ 85933
Operator License No. OPR 10565

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Susan Saylor (Complainant) brings this Accusation and Petition to Revoke Probation
20 solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control
21 Board, Department of Consumer Affairs (Board).

22 2. On or about May 10, 2002, the Board issued Operator License No. OPR 10565 to
23 Sergio Zamorano (Respondent). The Operator License was in full force and effect at all times
24 relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

25 3. In a disciplinary action entitled *In the Matter of the Accusation Against: Sergio*
26 *Zamorano*, Case No. 2014-37, the Board issued a Decision and Order effective November 29,
27 2014, in which Respondent's Operator License was revoked. However, the revocation was stayed
28 and Respondent's Operator License was placed on probation for three (3) years with certain terms

1 and conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated
2 by reference.

3 **ACCUSATION**

4 **JURISDICTION**

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

8 **STATUTORY PROVISIONS**

9 5. Section 8593 of the Code states, in pertinent part:

10 “(a) The board shall require as a condition to the renewal of each operator's and field
11 representative's license that the holder submit proof satisfactory to the board that he or she has
12 informed himself or herself of developments in the field of pest control either by completion of
13 courses of continuing education in pest control approved by the board or equivalent activity approved
14 by the board. In lieu of submitting that proof, the license holder, if he or she so desires, may take and
15 successfully complete an examination given by the board, designed to test his or her knowledge of
16 developments in the field of pest control since the issuance of his or her license.”

17 “(b) The board shall develop a correspondence course or courses with any educational
18 institution or institutions as it deems appropriate. This course may be used to fulfill the requirements
19 of this section. The institution may charge a reasonable fee for each course.”

20 “(c) The board may charge a fee for the taking of an examination in each branch of pest
21 control pursuant to this section in an amount sufficient to cover the reasonable regulatory cost of
22 administering each examination.”

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

26 7. Section 8625 of the Code states, in pertinent part:

27 “The lapsing or suspension of a license or company registration by operation of law or by
28 order or decision of the board or a court of law, or the voluntary surrender of a license or

1 company registration shall not deprive the board of jurisdiction to proceed with any investigation
2 of or action or disciplinary proceeding against such licensee or company, or to render a decision
3 suspending or revoking such license or registration."

4 8. Section 8637 of the Code states that "[m]isrepresentation of a material fact by the
5 applicant in obtaining a license or company registration is a ground for disciplinary action."

6 9. Section 8641 of the Code states, in pertinent part:

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

11 10. Section 8654 of the Code states, in pertinent part:

12 "Any individual who has been denied a license for any of the reasons specified in Section
13 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
14 failed to renew his or her license while it was under suspension, or who has been a member,
15 officer, director, associate, qualifying manager, or responsible managing employee of any
16 partnership, corporation, firm, or association whose application for a company registration has
17 been denied for any of the reasons specified in Section 8568, or whose company registration has
18 been revoked as a result of disciplinary action, or whose company registration is under
19 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
20 responsible managing employee had knowledge of or participated in any of the prohibited acts for
21 which the license or registration was denied, suspended or revoked, shall be prohibited from
22 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
23 employee of a registered company, and the employment, election or association of such person by
24 a registered company is a ground for disciplinary action."

25 REGULATORY PROVISION

26 11. California Code of Regulations, title 16, section 1950 states, in pertinent part:

27 "(a) Except as provided in section 1951, every licensee is required, as a condition to
28 renewal of a license, to certify that he or she has completed the continuing education

1 requirements set forth in this article. A licensee who cannot verify completion of continuing
2 education by producing certificates of activity completion, whenever requested to do so by the
3 Board, may be subject to disciplinary action under section 8641 of the code.

4 (b) Each licensee is required to complete a certain number of continuing education hours
5 during the three year renewal period. The number of hours required depends on the number of
6 branches of pest control in which licenses are held. The subject matter covered by each activity
7 shall be designated as "technical" or "general" by the Board when the activity is approved. Hour
8 values shall be assigned by the Board to each approved educational activity, in accordance with
9 the provisions of section 1950.5.

10 (c) Operators licensed in one branch of pest control shall complete 16 continuing
11 education hours during each three year renewal period. Operators licensed in two branches of pest
12 control shall complete 20 continuing education hours during each three year renewal period.
13 Operators licensed in three branches of pest control shall complete 24 continuing education hours
14 during each three year renewal period. In each case, a minimum of four continuing education
15 hours in a technical subject directly related to each branch of pest control held by the licensee
16 must be completed for each branch license, a minimum of two hours in Integrated Pest
17 Management as defined in section 1984 must be completed by Branch 2 and/or 3 licensees
18 renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board
19 approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest
20 control related agencies' rules and regulations.

21

22 (e) For the renewal period ending December 31, 2008, and each subsequent renewal
23 period up to the renewal period ending June 29, 2010, a licensed applicator shall have completed
24 12 hours of Board approved continuing education. Such continuing education shall consist of
25 eight hours of continuing education covering pesticide application and use, and four hours
26 covering the Structural Pest Control Act and its rules and regulations or structural pest related
27 agencies' rules and regulations.

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1 (f) For the renewal period ending June 30, 2010 and each subsequent renewal period, a
2 licensed applicator shall have completed 12 hours of Board approved continuing education. Such
3 continuing education shall consist of six hours of continuing education covering pesticide
4 application and use, two hours covering Integrated Pest Management, and four hours covering the
5 Structural Pest Control Act and its rules and regulations or structural pest related agencies' rules
6 and regulations.

7 (g) Operators who hold a field representative's license in a branch of pest control in
8 which they do not hold an operator's license must complete four of the continuing education
9 hours required by section 1950(c) in a technical subject directly related to the branch or branches
10 of pest control in which the field representative's license is held, in order to keep the field
11 representative's license active.

12 (h) No course, including complete operator's courses developed pursuant to section
13 8565.5, may be taken more than once during a renewal period for continuing education hours.

14 **COST RECOVERY**

15 12. Section 125.3 of the Code states, in pertinent part, that a Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Failure to Provide Proof of Continuing Education)**

21 13. Respondent is subject to disciplinary action pursuant to Code sections 8593 and 8641
22 in conjunction with California Code of Regulations, title 16, section 1950, subdivision (a), in that
23 on or about June 3, 2013, Respondent failed to provide the Board with verifiable documentation
24 to demonstrate that he completed all continuing education requirements as a condition of renewal
25 of his Operator License, as follows:

26 a. On or about June 3, 2013, Respondent submitted an Operator License renewal
27 application to the Board wherein Respondent certified under penalty of perjury that he
28 successfully completed all required education coursework during his last renewal period.

1 b. On or about January 4, 2014, Respondent was notified that he had been selected for a
2 continuing education (CE) audit by the Board. Respondent was informed that he needed to
3 submit to the Board, copies of his certificates of completion that verify the CE hours for the
4 renewal period July 1, 2010, through June 30, 2013. Respondent was given 14 days to respond to
5 the Board's request or risk disciplinary action against his license. Respondent failed to provide
6 the Board with any certificates of completion of CE requirements for the renewal period
7 indicated.

8 c. Thereafter, on or about March 21, 2014, and June 28, 2014, Respondent was notified
9 by "SECOND REQUEST" and "FINAL REQUEST" (respectively), that he had been selected for
10 the 2013 CE audit. Each time, Respondent was given 14 days to respond to the Board's request.
11 Respondent was advised that his failure to supply the requested information could subject his
12 Operator License to disciplinary action. Respondent has not responded to any of the Board's
13 requests.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Misrepresentation of Material Fact)**

16 14. Respondent is subject to disciplinary action pursuant to Code section 8637, in that on
17 or about June 3, 2013, Respondent misrepresented to the Board that he had completed sixteen
18 (16) hours of continuing education coursework in his license renewal application, when in fact he
19 had not. Specifically, Respondent signed a License Renewal Application, which provided in
20 pertinent part:

21 Continuing Education Certification – I have completed "16" hours of continuing
22 education required for renewal of my license. I DECLARE UNDER PENALTY OF
23 PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE
24 FOREGOING IS TRUE AND CORRECT.

25 Respondent filled in "16" for the number of hours, signed his name below the above
26 certification, and dated his signature "6/3/13." Complainant refers to and by this reference
27 incorporates, the allegations set forth above in paragraph 13, as though set forth fully.

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1 PETITION TO REVOKE PROBATION

2 JURISDICTION

3 15. This Petition to Revoke Probation is brought before the Board under Probation Term
4 and Condition 7 of the Decision and Order *In the Matter of Accusation Against: Sergio*
5 *Zamorano*, Case No. 2014-37. That term and condition states:

6 **Violation of Probation.** Should Respondent violate probation in any respect,
7 the Board, after giving Respondent notice and an opportunity to be heard, may
8 revoke probation and carry out the disciplinary order which was stayed. If a
9 petition to revoke probation is filed against Respondent during probation, the Board
shall have continuing jurisdiction until the matter is final, and the period of
probation shall be extended until the matter is final

10 16. Grounds exist to revoke Respondent's probationary Operator License No.
11 OPR 10565, in that Respondent failed to comply with his probation terms and conditions, as
12 follows:

13 FIRST CAUSE TO REVOKE PROBATION

14 (Failure to Obey All Laws)

15 17. At all times after the effective date of Respondent's probation, Condition 1 stated:
16 "Respondent shall obey all Federal, State and Local laws along with all laws and rules
17 relating to the practice of structural pest control."

18 18. Respondent's probation is subject to revocation because he failed to comply with
19 Probation Condition 1, referenced above, as follows:

20 a. On or about June 3, 2013, Respondent failed to comply with Code sections 8641 and
21 8593 in conjunction with California Code of Regulations, title 16, section 1950 subdivision (a),
22 by failing to provide proof of continuing education. Complainant refers to and by this reference
23 incorporates, the allegations set forth above in paragraph 13, as though set forth fully.

24 b. On or about June 3, 2013, Respondent failed to comply with Code section 8637 by
25 misrepresenting material facts. Complainant refers to and by this reference incorporates, the
26 allegations set forth above in paragraph 14, as though set forth fully.

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1 **PRIOR DISCIPLINE**

2 19. In a disciplinary action entitled *In the Matter of the Accusation Against Sergio*
3 *Zamorano*, Case No. 2004-1, the Board issued a Decision and Order effective November 14,
4 2004, in which Respondent's Operator License No. OPR 10565 was revoked. However, the
5 revocation was stayed and Respondent's Operator License was placed on probation for three (3)
6 years with certain terms and conditions. This matter is now final.

7 **OTHER MATTERS**

8 20. Section 8620, provides, in pertinent part, that a Respondent may request that a civil
9 penalty of not more than \$5,000 be assess in lieu of an actual suspension of 1 to 19 days, or not
10 more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the
11 time of hearing and must be noted in the proposed decision. The proposed decision shall not
12 provide that a civil penalty shall be imposed in lieu of a suspension.

13 21. Pursuant to section 8654 if discipline is imposed on Operator License No. OPR
14 10565 issued to Respondent, Respondent shall be prohibited from serving as an officer, director,
15 associate, partner, qualifying manager, or responsible managing employee for any registered
16 company during the time the discipline is imposed, and any registered company which employs,
17 elects, or associates Respondent shall be subject to disciplinary action may suspend or revoke a
18 license when it finds that the licensee has been convicted of a crime.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3 Accusation and Petition to Revoke Probation, and that following the hearing, the Board issue a
4 decision:

5 1. Revoking the probation that was granted by the Board in Case No. 2014-37 and
6 imposing the disciplinary order that was stayed thereby revoking Operator License No.
7 OPR 10565 issued to Sergio Zamorano;

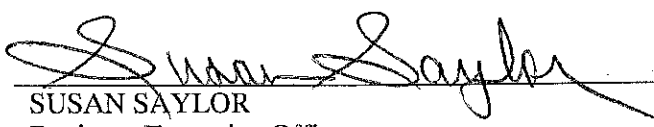
8 2. Revoking or suspending Operator License No. OPR 10565, issued to Sergio
9 Zamorano;

10 3. Prohibiting Sergio Zamorano from serving as an officer, director, associate, partner,
11 qualifying manager, or responsible managing employee of any registered company during the
12 period that discipline is imposed on Operator License No. OPR 10565, issued to Sergio
13 Zamorano;

14 4. Ordering Sergio Zamorano to pay the Board the reasonable costs of the investigation
15 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

16 5. Taking such other and further action as deemed necessary and proper.
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18

19 DATED: 4/23/15


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

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Exhibit A

Decision and Order

Structural Pest Control Board Case No. 2014-37

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

In the Matter of the Accusation Against:

**HYDREX TERMITE AND PEST
CONTROL OF SAN GABRIEL VALLEY**
11104 Rush St., Unit #5
South El Monte, CA 91733
Company Registration Certificate No. PR
4531, Br. 2 and 3

STANLEY KARL SANDERS, President
**ERIC JOSEPH WERNER, Qualifying
Manager**
**SERGIO ZAMORANO, Qualifying
Manager**

-and-

ERIC JOSEPH WERNER
11072-A Mt. Brow Road
Sonora, CA 95370
Operator License No. OPR 11667, Br. 2

-and-

SERGIO ZAMORANO
14408 East Whittier Boulevard #B3
Whittier, CA 90605
Operator License No. OPR 10565, BR. 3

Respondents.

Case No. 2014-37

OAH No. 2014030514

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision for Respondent Sergio Zamorano in this matter.

This Decision shall become effective on November 29, 2014.

It is so ORDERED October 30, 2014



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

CERTIFIED COPY



Susan Saylor
Registrar/Executive Officer

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
Deputy Attorney General
4 State Bar No. 274129
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

7
8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2014-37

11 **HYDREX TERMITE AND PEST**
12 **CONTROL OF SAN GABRIEL VALLEY**
11104 Rush St., Unit #5
13 South El Monte, CA 91733
Company Registration Certificate No. PR
14 4531, Br. 2 and 3

OAH No. 2014030514
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT SERGIO ZAMORANO
ONLY

15 **STANLEY KARL SANDERS, President**
16 **ERIC JOSEPH WERNER, Qualifying**
Manager
17 **SERGIO ZAMORANO, Qualifying**
Manager

18 -and-

19 **ERIC JOSEPH WERNER**
11072-A Mt. Brow Road
20 Sonora, CA 95370
Operator License No. OPR 11667, Br. 2

21 -and-

22 **SERGIO ZAMORANO**
23 14408 East Whittier Boulevard #B3
Whittier, CA 90605
24 Operator License No. OPR 10565, BR. 3

25 Respondents.

26 CERTIFIED COPY



Susan Saylor
Registrar/Executive Officer

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties¹ to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Susan Saylor ("Complainant") is the Registrar/Executive Officer of the Structural
5 Pest Control Board. She brought this action solely in her official capacity and is represented in
6 this matter by Kamala D. Harris, Attorney General of the State of California, by Zachary T.
7 Fanselow, Deputy Attorney General.

8 2. Respondent Sergio Zamorano is representing himself in this proceeding and has
9 chosen not to exercise his right to be represented by counsel.

10 3. On or about May 10, 2002, the Structural Pest Control Board issued Operator's
11 License No. OPR 10565 to Sergio Zamorano ("Respondent"). Respondent's Operator's License
12 was in full force and effect at all times relevant to the charges brought in Accusation No. 2014-37
13 and will expire on June 30, 2016, unless renewed.

14 JURISDICTION

15 4. Accusation No. 2014-37 was filed before the Structural Pest Control Board
16 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The
17 Accusation and all other statutorily required documents were properly served on Respondent on
18 December 3, 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

19 5. A copy of Accusation No. 2014-37 is attached as Exhibit A and incorporated herein
20 by reference.

21 ADVISEMENT AND WAIVERS

22 6. Respondent has carefully read, and understands the charges and allegations in
23 Accusation No. 2014-37. Respondent has also carefully read, and understands the effects of this
24 Stipulated Settlement and Disciplinary Order.

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26
27 ¹ The parties in this Stipulated Settlement are the Structural Pest Control Board and
28 Respondent Sergio Zamorano only. The other named Respondents are not a party to this settlement.



7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 2014-37.

10. Respondent agrees that his Operator's License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondent understands and agrees that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

1 which accurately recite the terms and conditions of probation. Respondent shall be responsible
2 for said notice being immediately available to said employees. "Employees" as used in this
3 provision includes all full-time, part-time, temporary and relief employees and independent
4 contractors employed or hired at any time during probation.

5 **6. Completion of Probation.** Upon successful completion of probation, Respondent's
6 license will be fully restored.

7 **7. Violation of Probation.** Should Respondent violate probation in any respect, the
8 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
9 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
10 Respondent during probation, the Board shall have continuing jurisdiction until the matter is
11 final, and the period of probation shall be extended until the matter is final.

12 **8. Correspondence Course - Branch 3.** Respondent Sergio Zamorano shall complete
13 with a final grade of C Minus (C-) or better within eighteen (18) months of the effective date of
14 this decision a Board approved course for Rules and Regulations. The course must be at least
15 four (4) hours and these hours cannot be used towards the renewal of Respondent's Operator's
16 License.

17 **9. Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**
18 **Manager.** Respondent is prohibited from serving as an officer, director, associate, partner,
19 qualifying manager or branch office manager of any registered company during the period that
20 discipline is imposed on Operator's License No. OPR 10565.

21 **10. No Interest In Any Registered Company.** Respondent shall not have any legal or
22 beneficial interest in any company currently or hereinafter registered by the Board.

23 **11. Cost Recovery.** Respondent shall pay to the Board, pursuant to Business and
24 Professions Code section 125.3, the costs of investigation and enforcement in this matter in the
25 amount of \$1,803.95. Payment to the Bureau shall be made in thirty-three (33) equal monthly
26 installments, with the final payment due three (3) months before the termination of probation.

27 Failure to complete payment of cost recovery within this time frame shall constitute a violation of
28 probation which may subject Respondent's Operator's License to outright revocation.

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DATED:

Dated:

Susan Saylor
Registrar/Executive Office

1 KAMALA D. HARRIS
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2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
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Attorneys for Complainant

FILED

Date 1/30/14 By *Susan Saylor*

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

In the Matter of the Accusation Against:

Case No. 2014-37

HYDREX TERMITE AND PEST CONTROL
OF SAN GABRIEL VALLEY
11104 Rush St., Unit #5
13 South El Monte, CA 91733
Company Registration Certificate No. PR 4531,
14 Br. 2 and 3

ACCUSATION

15 STANLEY KARL SANDERS, President
16 ERIC JOSEPH WERNER, Qualifying Manager
SERGIO ZAMORANO, Qualifying Manager

17 -and-

18 ERIC JOSEPH WERNER
11072-A Mt. Brow Road
19 Sonora, CA 95370
Operator License No. OPR 11667, Br. 2

20 -and-

21 SERGIO ZAMORANO
22 14408 East Whittier Boulevard #B3
Whittier, CA 90605
23 Operator License No. OPR 10565, BR. 3

24 Respondents.

CERTIFIED COPY



Susan Saylor
Registrar/Executive Officer

1 Complainant alleges:

2 PARTIES

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

6 2. On or about May 7, 2004, the Structural Pest Control Board issued Company
7 Registration Certificate Number PR 4531 ("Registration") to Hydrex Termite and Pest Control of
8 San Gabriel Valley ("Respondent Hydrex"). Stanley Karl Sanders is the current President of
9 Respondent Hydrex.

10 3. On or about March 17, 2008, the Structural Pest Control Board issued Operator's
11 License No. OPR 11667 to Eric Joseph Werner ("Respondent Werner"). Respondent Werner's
12 Operator's License was in full force and effect at all times relevant to the charges brought herein
13 and will expire on June 30, 2016, unless renewed.

14 4. On or about May 10, 2002, the Structural Pest Control Board issued Operator's
15 License No. OPR 10565 to Sergio Zamorano ("Respondent Zamorano"). Respondent
16 Zamorano's Operator's License was in full force and effect at all times relevant to the charges
17 brought herein and will expire on June 30, 2016, unless renewed.

18 JURISDICTION

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

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

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28 ///

CERTIFIED COPY



Susan Saylor
Registrar/Executive Officer

Accusation

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Accusation

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

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

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

13 10. Section 8518 states:

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

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

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

24 "Failure of a registered company to report and file with the board the address of any
25 property upon which work was completed pursuant to subdivision (b) of Section 8516 or Section
26 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not
27 more than two thousand five hundred dollars (\$2,500).

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Registrar/Executive Officer

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

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

7 11. Section 8610 states, in pertinent part:

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

14 12. Section 8613 states:

15 "A registered company which changes the location of its principal office or any branch office
16 or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall
17 notify the registrar in writing of such change within 30 days thereafter. A fee for filing such
18 changes shall be charged in accordance with Section 8674."

19 13. Section 8617 states, in pertinent part:

20 "(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of
21 assessment or to comply with the order of suspension, unless the citation is being appealed, may
22 result in disciplinary action being taken by the board."

23 14. Section 8641 states:

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

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Susan Saylor
Registrar/Executive Officer

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Susan Saylor
Registrar/Executive Officer

1 Section 8500) or the regulations adopted by the Board.

2

3 "(d) Compliance with Orders of Abatement: When a citation is not contested or if the
4 citation is appealed and the person cited does not prevail, failure to comply with the order of
5 abatement or to pay the fine in the citation within the time allowed by a licensee may result in
6 disciplinary action being taken by the Board against the person cited, or where the cited person is
7 unlicensed in appropriate judicial relief being taken against the person cited."

8 19. California Code of Regulations, title 16, section 1996.3 states, in pertinent part:

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

14

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

19 COST RECOVERY

20 20. Section 125.3 states, in pertinent part, that a Board may request the administrative law
21 judge to direct a licensee found to have committed a violation or violations of the licensing act to
22 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

23 FIRST CAUSE FOR DISCIPLINE

24 (Engaging in the Practice of Structural Pest Control without a Required Insurance Policy)

25 21. Respondent Hydrex, Respondent Werner and Respondent Zamorano are subject to
26 disciplinary action under sections 8691 and 8695 in that Respondent Hydrex engaged in the
27 practice of structural pest control without an insurance policy that provided the minimum limits as
28 required by law. The circumstances are as follows:



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Accusation

1 a. On or about May 25, 2012, Respondent Hydrex's insurance policy was cancelled due
2 to a nonpayment of the policy and its endorsements.

3 b. On or about August 17, 2012, Respondent Hydrex obtained requisite insurance.

4 c. On or about March 22, 2013, a Specialist for the Board traveled to Respondent
5 Hydrex's office and found wood destroying pest and organism reports, standard notices of work
6 completed and not completed and pest control daily detail reports dated and performed during the
7 period of time in which Respondent Hydrex's insurance policy had lapsed.

8 d. On or about June 17, 2013, the Board specialist identified 73 wood destroying pest
9 and organism activities that occurred during the insurance lapse from May 25, 2012, to August 17,
10 2012.

11 SECOND CAUSE FOR DISCIPLINE

12 (Failure to Report and File with the Board Addresses of Inspected Properties)

13 22. Respondent Hydrex and Respondent Zamorano are subject to disciplinary action under
14 section 8516, subdivision (b), section 8518 and California Code of Regulations, title 16, section
15 1996.3 for failing to report and file with the Board the addresses of the properties inspected or
16 upon which work was completed on a form prescribed by the Board no later than 10 business days
17 after the commencement of an inspection or upon completion of work. The circumstances are as
18 follows:

19 a. On or about March 25, 2013, a Specialist for the Board traveled to Respondent
20 Hydrex's office. Following that visit sixty-nine (69) wood destroying pest and organism activities
21 were filed with the Board by Respondent Hydrex. These activities were filed 161 to 213 days late
22 and only after the Board Specialist visited Respondent Hydrex's office.

23 b. On or about June 18, 2013, a Specialist for the Board found an additional one hundred
24 and twenty (120) wood destroying pest and organism activity inspection reports and completion
25 reports for activities occurring between February 1, 2013, and June 18, 2013, that were not
26 properly reported to the Board.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Notify Registrar of Change to Corporate Officers)**

3 23. Respondent Hydrex is subject to disciplinary action under section 8613 for failing to
4 notify the registrar of changes to the corporate officers of Respondent Hydrex within 30 days.
5 The circumstances are that the prior CEO had been deceased for over two years, and the new
6 President and CEO had been operating for over two years without notifying the registrar.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Citation)**

9 24. Respondent Hydrex is subject to disciplinary action under section 8617, subdivision
10 (f), and section 8641 in conjunction with California Code of Regulations, title 16, section 1920,
11 subdivision (d), for failing to pay the fine in citation number CF 2007 22 within the time allowed.
12 The circumstances are that on or about August 16, 2006, Respondent Hydrex was issued citation
13 number CF 2007-22 in the amount of \$2,750.00 for violating sections 8550, 8506.2 by doing
14 business without a qualifying manager and section 8653 for failing to pay subcontractors for
15 completed fumigations. As of January 6, 2014, the fine has not been paid.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Failure of Qualifying Managers to Properly Supervise)**

18 25. Respondent Werner and Respondent Zamorano are subject to disciplinary action under
19 section 8610, subdivision (c), in conjunction with section 8641, for failing to supervise the daily
20 operations of the company and make themselves available to supervise and assist all employees of
21 the company. The circumstances are as follows:

22 a. On or about June 12, 2013, in an interview with a Board Specialist, Respondent
23 Zamorano stated that he comes in once a week to view the company's activities.

24 b. On or about June 12, 2013, a Board Specialist found that Respondent Werner lives
25 approximately 6 hours away from Respondent Hydrex's business location. In a telephone
26 interview Respondent Werner admitted that he has never been to Respondent Hydrex's office.

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Registrar/Executive Officer

Accusation

DISCIPLINARY CONSIDERATIONS

26. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges the following:

Prior Discipline Against Respondent Zamorano

a. On or about July 8, 2003, the Structural Pest Control Board brought a disciplinary action against Respondent Zamorano entitled In the Matter of the Accusation Against K. Force Exterminators in Board case number 2004-1 and OAH number 2003110355. On or about November 14, 2004, Respondent Zamorano's Operator's License No. OPR 10565 was placed on probation for three years for violating section 8610, subdivision (c), by failing to supervise the daily operations of the company where he was serving as the qualifying manager. That decision is now final and is incorporated by reference as if fully set forth.

Prior Citations Against Respondent Hydrex

b. On or about January 25, 2008, in Citation No. CF 08-114, the Board issued a fine in the amount of \$2,500.00 against Respondent Hydrex for violating section 8692 by failing to maintain required insurance between September 27, 2007, and December 1, 2007. The fine has been paid.

c. On or about June 10, 2009, in File No. 08092091, the Los Angeles County Agricultural Commissioner issued a fine in the amount of \$50.00 to Respondent Hydrex for violating section 8505.17, subdivision (c), by failing to submit monthly summary pesticide use reports. The fine has been paid.

d. On or about December 15, 2010, in File No. 10112030, the Los Angeles County Agricultural Commissioner issued a fine in the amount of \$250.00 to Respondent Hydrex for violating section 8505.17, subdivision (c), by failing to submit monthly summary pesticide use reports. The fine has been paid.

Prior Citations Against Respondent Hydrex and Respondent Zamorano

e. On or about May 16, 2011, in File No. 10112118, the Los Angeles County Agricultural Commissioner issued a fine in the amount of \$250.00 to Respondent Hydrex and Respondent Zamorano for violating the Flood and Agricultural Code section 15204, subdivision

1 (a), by failing to register the structural pest control company with the county agricultural
2 commissioner. The fine has been paid.

3 f. On or about August 15, 2011, in File No. 10112180, the Los Angeles County
4 Agricultural Commissioner issued a fine in the amount of \$250.00 to Respondent Hydrex and
5 Respondent Zamorano for violating section 8505.17, subdivision (c), by failing to submit monthly
6 summary pesticide use reports. The fine has been paid.

7 **Prior Citation Against Respondents Hydrex, Zamorano and Werner**

8 g. On or about August 6, 2012, in File No. 12132014, the Los Angeles County
9 Agricultural Commissioner issued a fine in the amount of \$250.00 to Respondent Hydrex,
10 Respondent Zamorano and Respondent Werner for violating California Code of Regulations, title
11 3, section 6739, subdivision (d); by failing to provide employees with a respirator medical
12 evaluation. The fine has been paid.

13 **Prior Citations Against Respondent Zamorano**

14 h. On or about March 14, 2003, in File No. 068-SCP-SD-02/03, the San Diego
15 Department of Agriculture, Weights & Measures issued a fine in the amount of \$50.00 to
16 Respondent Zamorano for violating Flood and Agricultural Code section 15204, subdivision (a),
17 by failing to register the structural pest control company with the county agricultural commissioner
18 during the 2002 calendar year. The fine has been paid.

19 i. On or about May 14, 2003, in File No. 070-SCP-SD-02/03, the San Diego
20 Department of Agriculture, Weights & Measures issued a fine in the amount of \$100.00 to
21 Respondent Zamorano for violating Flood and Agricultural Code section 15204, subdivision (a),
22 by failing to register the structural pest control company with the county agricultural commissioner
23 during the 2003 calendar year. The fine has been paid.

24 j. On or about August 15, 2003, in Case No. CF 04-25, the Board issued a fine in the
25 amount of \$10,000.00 to Respondent Zamorano for violating sections 8516, subdivision (b), 8519
26 and 8520 by failing to file wood destroying pest and organism activity reports with the Board from
27 November 25, 2002, through March 18, 2003. Respondent Zamorano appealed the citation and a
28 hearing was held by the Board's Citation and Fine Appeal Panel on September 23, 2003.



1 Following the hearing, the citation was upheld but the fine was reduced to \$6,000.00. The fine has
2 been paid.

3 k. On or about April 7, 2004, in Case No. CF 04-204, the Board issued a citation and
4 fine in the amount of \$1,050.00 to Respondent Zamorano for violating section 8622 by failing to
5 comply with a report of findings within 30 days and California Code of Regulations section
6 1937.14 for failing to complete work in a quality and workmanlike manner. Respondent
7 Zamorano requested an informal office conference and a conference was held on June 17, 2004.
8 Respondent Zamorano failed to appear at the informal office conference and the citation and fine
9 were upheld in full. The fine has been paid.

10 OTHER MATTERS

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

17 28. Pursuant to Code section 8624, the causes for discipline established as to Company
18 Registration Certificate Number PR 4531, issued to Hydrex Termite and Pest Control of San
19 Gabriel Valley, likewise constitute cause for discipline against Operator's License Number OPR
20 11667, issued to Eric Joseph Werner, who served as the Qualifying Manager of Hydrex Termite
21 and Pest Control of San Gabriel Valley, regardless of whether Eric Joseph Werner had knowledge
22 of or participated in the acts or omissions which constitute cause for discipline against Hydrex
23 Termite and Pest Control of San Gabriel Valley.

24 29. Pursuant to Code section 8654, if discipline is imposed on Company Registration
25 Certificate Number PR 4531, issued to Hydrex Termite and Pest Control of San Gabriel Valley,
26 then Eric Joseph Werner, who served as the Qualifying Manager of Hydrex Termite and Pest
27 Control of San Gabriel Valley, shall be prohibited from serving as an officer, director, associate,
28 partner, qualifying manager, or responsible managing employee for any registered company during



1 the time the discipline is imposed, and any registered company which employs, elects, or associates
2 him, shall be subject to disciplinary action.

3 30. Pursuant to Code section 8624, the causes for discipline established as to Company
4 Registration Certificate Number PR 4531, issued to Hydrex Termite and Pest Control of San
5 Gabriel Valley, likewise constitute cause for discipline against Operator's License Number OPR
6 10565, issued to Sergio Zamorano, who served as the Qualifying Manager of Hydrex Termite and
7 Pest Control of San Gabriel Valley, regardless of whether Sergio Zamorano had knowledge of or
8 participated in the acts or omissions which constitute cause for discipline against Hydrex Termite
9 and Pest Control of San Gabriel Valley.

10 31. Pursuant to Code section 8654, if discipline is imposed on Company Registration
11 Certificate Number PR 4531, issued to Hydrex Termite and Pest Control of San Gabriel Valley,
12 then Sergio Zamorano, who served as the Qualifying Manager of Hydrex Termite and Pest Control
13 of San Gabriel Valley, shall be prohibited from serving as an officer, director, associate, partner,
14 qualifying manager, or responsible managing employee for any registered company during the time
15 the discipline is imposed, and any registered company which employs, elects, or associates him,
16 shall be subject to disciplinary action.

17 PRAYER

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

- 20 1. Revoking or suspending Company Registration Certificate Number PR 4531, issued to
21 Hydrex Termite and Pest Control of San Gabriel Valley, Stanley Karl Sanders as President;
- 22 2. Revoking or suspending Operator's License Number OPR 11667, issued to Eric
23 Joseph Werner;
- 24 3. Revoking or suspending Operator's License Number OPR 10565, issued to Sergio
25 Zamorano;
- 26 4. Prohibiting Eric Joseph Werner from serving as an officer, director, associate, partner,
27 qualifying manager or responsible managing employee of any registered company during the
28



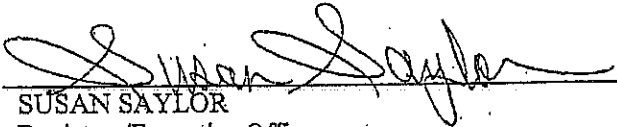
1 period that discipline is imposed on Company Registration Certificate number PR 4531, issued to
2 Hydrex Termite and Pest Control of San Gabriel Valley;

3 5. Prohibiting Sergio Zamorano from serving as an officer, director, associate, partner,
4 qualifying manager or responsible managing employee of any registered company during the
5 period that discipline is imposed on Company Registration Certificate number PR 4531, issued to
6 Hydrex Termite and Pest Control of San Gabriel Valley;

7 6. Ordering Hydrex Termite and Pest Control of San Gabriel Valley, Stanley Karl
8 Sanders, Eric Joseph Werner, and Sergio Zamorano to pay the Structural Pest Control Board the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3; and,

11 7. Taking such other and further action as deemed necessary and proper.
12
13

14 DATED: 1/30/14


15 SUSAN SAYLOR
16 Registrar/Executive Officer
17 Structural Pest Control Board
18 Department of Consumer Affairs
19 State of California
20 Complainant
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