

2008-2500

**BEFORE THE
BEFORE THE STRUCTURAL PEST CONTROL BOARD**

In the Matter of the Accusation Against:
BASE LINE TERMITE COMPANY, et al.

Case No. 2007-30
OAH No. L-2008030208

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board as its Decision in this matter.

This Decision shall become effective on September 2, 2009.

It is so ORDERED August 3, 2009.

Clifford J. Attey
FOR THE STRUCTURAL PEST CONTROL BOARD


DA

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2557
Facsimile: (213) 897-2804
6
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 BASE LINE TERMITE COMPANY, et al.
13
14 Respondents.

Case No. 2007-30
OAH No. L-2008030208

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER (AS TO
RESPONDENTS ROBERTS AND
BASE LINE ONLY)**

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

- 21 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the
22 Structural Pest Control Board. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
24 by Christina Thomas, Deputy Attorney General.
25 2. Respondent Base Line Termite Company (Respondent Base Line) and
26 William Ray Roberts (Respondent Roberts) are represented in this proceeding by attorney D. La
27 Bruce Allen, whose address is 1334 Towne Avenue Claremont, CA 91711.
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1 3. On or about December 3, 2002, the Structural Pest Control Board issued
2 Company Registration Certificate No. PR 4236 in Branch 3 to Base Line Termite Company, with
3 William Ray Roberts as owner and qualifying manager. On August 21, 1990, the Board issued
4 Field Representative's License No. FR 18880 in Branch 2 to Respondent Roberts. On April 22,
5 1996, Respondent's Field Representative's License was upgraded to include Branches 2 and 3.
6 On September 16, 2002, Respondent's Field Representative's License was downgraded to
7 Branch 2 due to issuance of his Branch 3 Operator's License. The Company Registration
8 Certificate, Field Representative's and Operator's Licenses were in full force and effect at all
9 times relevant to the charges brought in Accusation No. 2007-30. Respondent's Field
10 Representative's and Operator's Licenses are renewed through June 30, 2011.

11 JURISDICTION

12 4. Accusation No. 2007-30 was filed before the Board and is currently
13 pending against Respondents Base Line and Roberts. The Accusation and all other statutorily
14 required documents were properly served on Respondents on February 29, 2008. Respondents
15 timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No.
16 2007-30 is attached as exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 5. Respondent has carefully read, fully discussed with counsel, and
19 understands the charges and allegations in Accusation No. 2007-30. Respondent has also
20 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
21 Settlement and Disciplinary Order.

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

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

3 CULPABILITY

4 8. Respondent Roberts admits the truth of each and every charge and
5 allegation in Accusation No. 2007-30.

6 9. Respondent agrees that his Company Registration Certificate, Field
7 Representative's and Operator's Licenses are subject to discipline and agrees to be bound by the
8 Board's imposition of discipline as set forth in the Disciplinary Order below.

9 CONTINGENCY

10 10. The parties understand and agree that facsimile copies of this Stipulated
11 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
12 force and effect as the originals.

13 11. In consideration of the foregoing admissions and stipulations, the parties
14 agree that the Board may, without further notice or formal proceeding, issue and enter the
15 following Disciplinary Order:

16 DISCIPLINARY ORDER

17 IT IS HEREBY ORDERED that Company Registration Certificate No. PR 4236
18 issued to Respondent Base Line Termite Company, Field Representative's License No. FR 18880
19 and Operator's License No. OPR 10627 issued to Respondent Roberts are revoked. However,
20 the revocations are stayed and Respondents are placed on probation for three (3) years on the
21 following terms and conditions:

22 **Actual Suspension.** Respondents are suspended for 30 business days or the sum
23 of \$5,000.00 shall be paid in lieu of the 30 days suspension.

24 1. **Obey All Laws.** Respondent Roberts shall obey all laws and rules relating
25 to the practice of structural pest control.

26 2. **Quarterly Reports.** Respondents shall file quarterly reports with the
27 Board during the period of probation.

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1 3. **Tolling of Probation.** Should Respondent Roberts leave California for
2 periods over 29 days to reside outside this state, Respondent must notify the Board in writing of
3 the dates of departure and return. Periods of residency or practice outside the state shall not
4 apply to reduction of the probationary period.

5 4. **Notice to Employers.** Respondent Roberts shall notify all present and
6 prospective employers of the decision in Case No. 2007-30 and the terms, conditions and
7 restriction imposed by said decision. Within 30 days of the effective date of this decision, and
8 within 15 days of Respondent undertaking new employment, Respondent shall cause his
9 employer to report to the Board in writing acknowledging the employer has read the decision in
10 Case No. 2007-30.

11 5. **Notice to Employees.** Respondent Base Line shall, upon or before the
12 effective date of this decision, post or circulate a notice to all employees involved in structural
13 pest control operations which accurately recite the terms and conditions of probation.
14 Respondent shall be responsible for said notice being immediately available to said employees.
15 "Employees" as used in this provision includes all full-time, part-time, temporary and relief
16 employees and independent contractors employed or hired at any time during probation.

17 6. **Posted Notice of Suspension.** Respondent Base Line, if applicable, shall
18 prominently post a suspension notice provided by the Board of the Board's order of suspension at
19 its principal office and each of its branch offices in a place conspicuous and readable to the
20 public. Said notice shall remain so posted during the entire period of actual suspension.

21 7. **Completion of Probation.** Upon successful completion of probation,
22 Respondents' license/certificate will be fully restored.

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

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1 9. **Courses - Branch 3.** Respondent Roberts shall complete within 90 days
2 of the effective date of this decision, approved continuing education courses in rules and
3 regulations (8 hrs.) and technical training (8 hrs.), Pest Control, Branch 3. These hours are in
4 addition to any hours required for re-licensure.

5 10. **Random Inspections.** Respondent Base Line shall reimburse the Board
6 for one random inspection per quarter by Board specialists during the period of probation not to
7 exceed \$125 per inspection.

8 11. **Prohibited from Serving as Officer, Director, Associate, Partner or**
9 **Qualifying Manager.** Respondent Roberts is prohibited from serving as an officer, director,
10 associate, partner, qualifying manager or branch office manager of any registered company, nor
11 have any legal or beneficial interest in any company, other than Respondent Base Line, during
12 the period that discipline is imposed on Field Representative's No. FR 18880, Operator's License
13 No. OPR 10627 and on Company Registration Certificate No. PR 4236. Probation shall extend to
14 any change in license status/class issued by the Board.

15 12. **No Interest In Any Registered Company.** Respondent Roberts shall not
16 have any legal or beneficial interest in any company currently or hereinafter registered by the
17 Board.

18 13. **Costs.** Within 365 days from the effective date of this decision,
19 Respondents Baseline and Roberts shall jointly and severally with Respondent Pablo Raul Pabon,
20 and Respondent James Pernod reimburse the Board the sum of \$11, 543.29 for its costs of
21 investigation and prosecution.

22 ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and
24 have fully discussed it with my attorney, D. La Bruce Allen. I understand the stipulation and the
25 effect it will have on my Field Representative's and Operator's Licenses and Company

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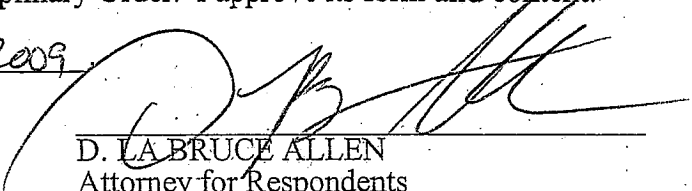
1 Registration Certificate. I enter into this Stipulated Settlement and Disciplinary Order
2 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
3 Board.

4 DATED: MAR. 5, 2009


BASE LINE TERMITE COMPANY AND WILLIAM
RAY ROBERTS
Respondents

8 I have read and fully discussed with Respondent Base Line Termite Company and
9 William Ray Roberts, the terms and conditions and other matters contained in the above
10 Stipulated Settlement and Disciplinary Order. I approve its form and content.

11 DATED: MAR. 5, 2009


D. LA BRUCE ALLEN
Attorney for Respondents


15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Board.

18 DATED: 5/3/09

EDMUND G. BROWN JR., Attorney General
of the State of California

MARC D. GREENBAUM
Supervising Deputy Attorney General


CHRISTINA THOMAS
Deputy Attorney General

Attorneys for Complainant



Exhibit A
Accusation No. 2007-30

BSP

DJA

1 BILL LOCKYER, Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA M. THOMAS, State Bar No. 171168
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2557
6 Facsimile: (213) 897-2804

FILED

Date 1-22-07 By *Yell Okuma*

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 2007-30

13 BASE LINE TERMITE COMPANY
14 WILLIAM RAY ROBERTS,
a.k.a. BILLY RAY ROBERTS, OWNER/QM
15 P.O. Box 192
Claremont, CA 91711
- and -
16 11472 Homewood Place
Fontana, CA 92337

ACCUSATION

17 Company Registration Certificate No. PR 4236,

18 WILLIAM RAY ROBERTS
19 P.O. Box 192
Claremont, CA 91711

20 - and -
21 11472 Homewood Place
Fontana CA 92337

22 Operator's License No. OPR 10627
Field Representative's License No. FR 18880,

23 JAMES PAUL PERNOD
24 8232 Comolette Avenue
Downey, CA 90242

25 Operator's License No. OPR 7134,

26
27 ///

28 ///

1 PABLO RAUL PABON,
a.k.a. PABLO RAUL CALLAJES
2 15314 Devonshire Street, Suite C
Mission Hills, CA 91345

3 Field Representative's License No. FR 30819,

4 and

5 BRIAN THOMAS WATSON
6 10944 Almond Avenue
Fontana, CA 92337

7 - and -
8 10232 Effen Street
Rancho Cucamonga, CA 91730

9 Field Representative's License No. FR 35917

10 Respondents.

11
12 Complainant alleges:

13 **PARTIES**

14 1. Kelli Okuma ("Complainant") brings this Accusation solely in her official
15 capacity as the Registrar of the Structural Pest Control Board ("Board"), Department of
16 Consumer Affairs.

17 **Base Line Termite Company**
18 **Company Registration Certificate No. PR 4236**

19 2. On or about December 3, 2002, the Board issued Company Registration
20 Certificate Number PR 4236 in Branch 3 (termite) to Base Line Termite Company ("Respondent
21 Base Line"), with William Ray Roberts, also known as Billy Ray Roberts ("Respondent
22 Roberts"), as owner and qualifying manager. On October 24, 2005, Respondent's company
23 registration certificate was suspended for failing to maintain a \$4,000 surety bond as required by
24 Business and Professions Code ("Code") section 8697. Respondent's company registration
25 certificate was reinstated on November 17, 2005, after posting the surety bond. On January 13,
26 2006, the qualifying manager was changed to James Paul Pernod ("Respondent Pernod"). On
27 March 16, 2006, Respondent's company registration certificate was suspended due to its failure
28 to maintain a policy of general liability insurance as required by Code section 8690.

1 Respondent's company registration certificate was reinstated on March 24, 2006, after posting its
2 general liability insurance. On September 1, 2006, Respondent Pernod disassociated as
3 qualifying manager. On September 26, 2006, Respondent's company registration certificate was
4 suspended due to its failure to maintain a policy of general liability insurance as required by
5 Code section 8690, and for failing to replace the qualifying manager. On October 5, 2006,
6 Respondent Roberts became the qualifying manager. On October 12, 2006, Respondent's
7 company registration certificate was reinstated after posting its general liability insurance.

8 **William Ray Roberts**
9 **Operator's License No. OPR 10627**
10 **Field Representative's License No. FR 18880**

11 3. On or about September 16, 2002, the Board issued Operator's License
12 Number OPR 10627 in Branch 3 to Respondent Roberts, employee of Hydrex Pest Control
13 Company. On December 3, 2002, Respondent became the owner and qualifying manager of
14 Respondent Base Line. On January 13, 2006, Respondent disassociated as qualifying manager.
15 On October 5, 2006, Respondent Roberts resumed his position as qualifying manager.
16 Respondent's operator's license will expire on June 30, 2008, unless renewed.

17 4. On or about August 21, 1990, the Board issued Field Representative's
18 License Number FR 18880 in Branch 2 (general pest) to Respondent Roberts, employee of
19 Corky's Pest Control, Inc. ("Corky's"). On or about November 15, 1991, Respondent left the
20 employ of Corky's. On April 22, 1996, Respondent's field representative's license was upgraded
21 to include Branches 2 and 3. On September 16, 2002, Respondent's field representative's license
22 was downgraded to Branch 2 due to the issuance of his Branch 3 operator's license.
23 Respondent's field representative's license will expire on June 30, 2008, unless renewed.

24 **James Paul Pernod**
25 **Operator's License No. OPR 7134**

26 5. On or about February 19, 1985, the Board issued Operator's License
27 Number OPR 7134 in Branch 1 (fumigation) to Respondent Pernod, employee of Grimm's Pest
28 Control Company, Inc. ("Grimm's"). On August 13, 1990, Respondent's operator's license was
upgraded to include Branches 1 and 3. On June 30, 1991, Respondent left the employ of

1 Grimm's. On January 13, 2006, Respondent became the Branch 3 qualifying manager for
2 Respondent Base Line. On March 16, 2006, Respondent's operator's license was suspended due
3 to Respondent Base Line's failure to maintain a policy of general liability insurance as required
4 by Code section 8690. Respondent's license was reinstated in or about May 2006. On
5 September 1, 2006, Respondent disassociated as the qualifying manager and his operator's
6 license was placed on inactive status. Respondent's operator's license will expire on June 30,
7 2008, unless renewed.

8 **Pablo Raul Pabon, a.k.a. Pablo Raul Callajes**
9 **Field Representative's License No. FR 30819**

10 6. On or about April 24, 1999, the Board issued Field Representative's
11 License Number FR 30819 in Branch 3 to Pablo Raul Pabon, also known as Pablo Raul Callajes
12 ("Respondent Pabon"), employee of The Bugman Olsen Enterprises, Inc. ("The Bugman"). On
13 May 12, 2002, Respondent left the employ of The Bugman. Respondent's field representative's
14 license was canceled on June 30, 2004.

15 **Brian Thomas Watson**
16 **Field Representative's License No. FR 35917**

17 7. On or about May 8, 2003, the Board issued Field Representative's License
18 Number FR 35917 in Branch 3 to Brian Thomas Watson ("Respondent Watson"), employee of
19 Hydrex Pest Control Company of Los Angeles Valley, Inc. Respondent's field representative's
20 license was canceled on June 30, 2005.

21 **JURISDICTION**

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

26 9. Code section 8625 states:

27 The lapsing or suspension of a license or company registration by
28 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

1 board of jurisdiction to proceed with any investigation of or action or disciplinary
2 proceeding against such licensee or company, or to render a decision suspending or
3 revoking such license or registration.

4 10. Code section 118, subdivision (b), states:

5 The suspension, expiration, or forfeiture by operation of law of a license
6 issued by a board in the department, or its suspension, forfeiture, or cancellation
7 by order of the board or by order of a court of law, or its surrender without the
8 written consent of the board, shall not, during any period in which it may be
9 renewed, restored, reissued, or reinstated, deprive the board of its authority to
10 institute or continue a disciplinary proceeding against the licensee upon any
11 ground provided by law or to enter an order suspending or revoking the license or
12 otherwise taking disciplinary action against the licensee on any such ground.

13 11. Code section 8624 states, in pertinent part:

14

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

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

25 12. Code section 8654 states:

26 Any individual who has been denied a license for any of the reasons
27 specified in Section 8568, or who has had his or her license revoked, or whose
28 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.

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STATUTORY PROVISIONS

13. Code section 8516 states, in pertinent part:

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(b) 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 this 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 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 . . .

14. Code section 8550 states, in pertinent part:

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

(b) Notwithstanding subdivision (a), an unlicensed individual may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, to "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.

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1 (c) It is unlawful for an unlicensed individual, soliciting pest control work
2 on behalf of a registered structural pest control company pursuant to subdivision
3 (b), to perform or offer to perform any act for which an operator, field
4 representative, or applicator license is required, including, but not limited to,
5 performing or offering pest control evaluations or inspections, pest identification,
6 making any claims of pest control safety or pest control efficacy, or to offer price
7 quotes other than what is provided and printed on the company advertising or
8 literature, or both . . .

9
10
11 15. Code section 8639 states:

12 Aiding or abetting an unlicensed individual or unregistered company to
13 evade the provisions of this chapter [the Structural Pest Control Act] or knowingly
14 combining or conspiring with an unlicensed individual or unregistered company,
15 or allowing one's license or company registration to be used by an unlicensed
16 individual or unregistered company, or acting as agent or partner or associate, or
17 otherwise, of an unlicensed individual or unregistered company to evade the
18 provisions of this chapter is a ground for disciplinary action.

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21 16. Code section 8641 states:

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

27 17. Code section 8642 states that "[t]he commission of any grossly negligent
28 or fraudulent act by the licensee as a pest control operator, field representative, or applicator or
by a registered company is a ground for disciplinary action."

18 18. Code section 8649 states:

19 Conviction of a crime substantially related to the qualifications, functions,
20 and duties of a structural pest control operator, field representative, applicator, or
21 registered company is a ground for disciplinary action. The certified record of
conviction shall be conclusive evidence thereof.

22 19. Code section 8652 states:

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

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20. Code section 8655 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

Cost Recovery

21. Code section 125.3 states, in pertinent part, that a Board may request the administrative law judge to direct a licensee 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.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

22. Respondent Roberts is subject to disciplinary action pursuant to Code section 8649. On or about August 23, 2005, in the criminal proceeding titled *People v. William Ray Roberts* (Super. Ct. San Bernardino County, 2005, Case No. FVA023857), Respondent plead guilty to a violation of Vehicle Code section 2800.2, subdivision (a) (evading a pursuing peace officer with wanton disregard for the safety of persons or property, a felony), a crime substantially related to the qualifications, functions, and duties of a structural pest control operator and field representative. On January 12, 2006, Respondent was sentenced to 365 days in a San Bernardino County Jail facility and was placed on supervised probation for a period of 36 months. The circumstances of the crime are that on or about September 9, 2004, Respondent, while operating a Base Line van, willfully and unlawfully evaded, fled, or otherwise attempted to elude a pursuing peace officer's motor vehicle while all of the following conditions existed: the peace officer's motor vehicle exhibited at least one lighted red lamp visible from the front and Respondent saw and reasonably should have seen the lamp, the peace officer's motor vehicle was

1 sounding its siren as was reasonably necessary, the peace officer's motor vehicle was
2 distinctively marked, and the peace officer's motor vehicle was operated by a peace officer.
3 Further, Respondent drove the pursued vehicle with a willful or wanton disregard for the safety
4 of persons and property.

5 BOARD INVESTIGATION

6 23. On and between February 21, 2005, and March 7, 2006, Respondent
7 Base Line (hereinafter "Base Line") reported and filed with the Board the addresses of
8 approximately 162 properties that were inspected by Respondent Pabon on behalf of Base Line.
9 On and between July 1, 2005, and October 5, 2005, Base Line reported and filed with the Board
10 the addresses of approximately 22 properties that were inspected by Respondent Watson on
11 behalf of Base Line.

12 24. Board Specialist Steven R. Smith ("Smith") determined that Respondents
13 Pabon's and Watson's field representative's licenses were canceled at the time the inspections
14 were conducted.

15 25. On March 15, 2006, Smith went to Base Line's principal office located at
16 11472 Homewood Place in Fontana, California, a private residence, to review the company's pest
17 control records. Smith identified himself to Respondent Roberts' wife, Patricia Roberts
18 ("Patricia"), and advised Patricia that he needed to look at the company's paperwork and discuss
19 several issues relating to Base Line's pest control business. Patricia told Smith that she did not
20 know much about the business and that if Smith had any questions, he would have to speak with
21 Respondent Pabon or "Jesse". Patricia also stated that Smith would have to make an
22 appointment if he needed to look at any paperwork. Smith informed Patricia that the law
23 requires that a pest control company's records be made available to representatives of the Board
24 during business hours. Patricia told Smith that he had arrived during business hours; however,
25 she needed to leave. Smith asked Patricia if the qualifying manager was available to speak with
26 him. Patricia gave Smith the cellular telephone number for Respondent Pabon. Approximately
27 15 minutes later, Patricia left the residence in a Base Line truck.

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1 26. That same day, Smith contacted Pabon and asked him what his position
2 was with Base Line. Pabon told Smith that he was the service manager. Smith telephoned Base
3 Line and left a voice mail message requesting that a representative from the company contact him
4 regarding scheduling an appointment to review Base Line's records.

5 27. On March 16, 2006, Smith received a telephone message from Patricia,
6 stating that it would be two or three weeks before she would be able to schedule an appointment
7 for Smith. Smith telephoned Base Line and told Patricia that he could not wait two or three
8 weeks to review the records and explained again that the company was required to make their
9 pest control records available to representatives of the Board during business hours. Patricia
10 refused to schedule an appointment with Smith.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Aiding and Abetting Unlicensed Individuals)**

13 28. Respondents Base Line, Roberts, and Pernod are subject to disciplinary
14 action pursuant to Code section 8639 in that they aided or abetted, knowingly combined or
15 conspired with, or acted as agents or partners or associates, or otherwise, of unlicensed
16 individuals to evade the provisions of the Structural Pest Control Act, as follows:

17 a. In and between February 2005, and March 2006, Respondents Base Line,
18 Roberts and/or Pernod authorized or permitted Respondent Pabon to perform Wood Destroying
19 Pests and Organisms ("WDO") inspections on behalf of Respondent Base Line when, in fact,
20 Pabon's field representative's license was canceled, in violation of Code section 8550.

21 b. In and between July 2005, and October 2005, Respondents Base Line and
22 Roberts authorized or permitted Respondent Watson to perform WDO inspections on behalf of
23 Base Line when, in fact, Watson's field representative's license was canceled, in violation of
24 Code section 8550.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Failure to Make Bona Fide WDO Inspections)**

27 29. Respondent Base Line is subject to disciplinary action pursuant to Code
28 section 8641. In and between February 2005, and March 2006, Respondent furnished WDO

1 inspection reports to an unknown number of consumers without the making of bona fide
2 inspections of the consumers' premises for wood-destroying pests or organisms in that the WDO
3 inspections were performed by Respondents Pabon and Watson, whose field representative's
4 licenses had been canceled.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 30. Respondent Base Line and its owner, Respondent Roberts, are subject to
8 disciplinary action pursuant to Code section 8642 in that in and between February 2005, and
9 March 2006, Respondents committed fraud, as follows: Respondents charged and obtained
10 payment from an unknown number of consumers for performing bona fide inspections of the
11 consumers' premises for wood-destroying pests or organisms. In fact, Respondents authorized or
12 permitted unlicensed individuals, Respondents Pabon and Watson, to conduct the inspections,
13 therefore depriving the consumers of bona fide WDO inspections of their properties.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Make Structural Pest Control Records**

16 **Available to Representatives of the Board)**

17 31. Respondent Base Line is subject to disciplinary action pursuant to Code
18 section 8652 in that in or about March 2006, it failed to make its inspection records available to
19 Board Specialist Steven R. Smith, as set forth in paragraphs 25 through 27 above.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Unlicensed Activity)**

22 32. Respondent Pabon is subject to disciplinary action pursuant to Code
23 section 8641 in that in and between February 2005, and March 2006, Respondent failed to
24 comply with Code section 8550, subdivision (a), by engaging in or offering to engage in the
25 business or practice of structural pest control when, in fact, his field representative's license had
26 been canceled.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Gross Negligence or Fraud)**

3 33. Respondent Pabon is subject to disciplinary action pursuant to Code
4 section 8642 in that in and between February 2005, and March 2006, Respondent committed
5 grossly negligent or fraudulent acts, as follows: Respondent performed approximately 162 WDO
6 inspections of various consumers' properties when his field representative's licence was
7 canceled, therefore depriving the consumers of bona fide WDO inspections of their properties.

8 **EIGHTH CAUSE FOR DISCIPLINE**

9 **(Unlicensed Activity)**

10 34. Respondent Watson is subject to disciplinary action pursuant to Code
11 section 8641 in that in and between July 2005, and October 2005, Respondent failed to comply
12 with Code section 8550, subdivision (a), by engaging in or offering to engage in the business or
13 practice of structural pest control when, in fact, his field representative's license had been
14 canceled.

15 **NINTH CAUSE FOR DISCIPLINE**

16 **(Gross Negligence or Fraud)**

17 35. Respondent Watson is subject to disciplinary action pursuant to Code
18 section 8642 in that in and between July 2005, and October 2005, Respondent committed grossly
19 negligent or fraudulent acts, as follows: Respondent performed approximately 22 WDO
20 inspections of various consumers' properties when his field representative's licence was
21 canceled, therefore depriving the consumers of bona fide WDO inspections of their properties.

22 **MATTERS IN AGGRAVATION**

23 36. To determine the degree of penalty, if any, to be imposed on Respondents
24 Base Line and Roberts, Complainant alleges:

25 **Respondent Base Line:**

26 a. On May 10, 2004, Respondent paid a fine of \$7,500 levied by the Board
27 for Respondent's violation of Code section 8516, subdivision (b).

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1 b. On September 16, 2004, Respondent paid a fine of \$50 levied by the Los
2 Angeles County Agricultural Commissioner for Respondent's violation of Code section 8505.17.

3 **Respondent Roberts:**

4 c. On January 23, 2004, Respondent paid a fine of \$75 levied by the Board
5 against Respondent's field representative's license for Respondent's violation of Code section
6 8516, subdivision (b)(6) and (7).

7 d. On May 10, 2004, Respondent paid a fine of \$7,500 levied by the Board
8 against Respondent's operator's license for Respondent's violation of Code section 8516,
9 subdivision (b).

10 **OTHER MATTERS**

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

16 38. Pursuant to Code section 8624, the causes for discipline established as to
17 Respondent Base Line likewise constitute causes for discipline against William Ray Roberts, also
18 known as Billy Ray Roberts (hereinafter "William Ray Roberts"), who served as the qualifying
19 manager for Respondent Base Line from December 3, 2002, through January 13, 2006,
20 regardless of whether William Ray Roberts had knowledge of or participated in the acts or
21 omissions which constitute causes for discipline against Respondent Base Line.

22 39. Pursuant to Code section 8624, if Operator's License Number OPR 10627,
23 issued to William Ray Roberts, is suspended or revoked, the Board may suspend or revoke
24 Company Registration Certificate Number PR 4236 issued to Respondent Base Line, with
25 William Ray Roberts as qualifying manager.

26 40. Pursuant to Code section 8624, the causes for discipline established as to
27 Respondent Base Line likewise constitute causes for discipline against James Paul Pernod, who
28 served as the qualifying manager for Respondent Base Line from January 13, 2006, through

1 September 1, 2006, regardless of whether James Paul Pernod had knowledge of or participated in
2 the acts or omissions which constitute causes for discipline against Respondent Base Line.

3 41. Pursuant to Code section 8624, if Operator's License Number OPR 7134,
4 issued to James Paul Pernod, is suspended or revoked, the Board may suspend or revoke
5 Company Registration Certificate Number PR 4236 issued to Respondent Base Line.

6 42. Pursuant to Code section 8654, if discipline is imposed on Field
7 Representative's License Number FR 30819, issued to Pablo Raul Pabon, also known as Pablo
8 Raul Callajes (hereinafter "Pablo Raul Pabon"), Pablo Raul Pabon shall be prohibited from
9 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
10 employee for any registered company during the time the discipline is imposed, and any
11 registered company which employs, elects, or associates Pablo Raul Pabon shall be subject to
12 disciplinary action.

13 43. Pursuant to Code section 8654, if discipline is imposed on Field
14 Representative's License Number FR 35917, issued to Brian Thomas Watson, Brian Thomas
15 Watson shall be prohibited from serving as an officer, director, associate, partner, qualifying
16 manager, or responsible managing employee for any registered company during the time the
17 discipline is imposed, and any registered company which employs, elects, or associates Brian
18 Thomas Watson shall be subject to disciplinary action.

19 **PRAYER**

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

22 1. Revoking or suspending Company Registration Certificate Number
23 PR 4236, issued to Base Line Termite Company;

24 2. Revoking or suspending Operator's License Number OPR 10627, issued to
25 William Ray Roberts, also known as Billy Ray Roberts;

26 3. Revoking or suspending Field Representative's License Number FR
27 18880, issued to William Ray Roberts, also known as Billy Ray Roberts;

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1 4. Revoking or suspending Operator's License Number OPR 7134, issued to
2 James Paul Pernod;

3 5. Revoking or suspending Field Representative's License Number
4 FR 30819, issued to Pablo Raul Pabon, also known as Pablo Raul Callajes;

5 6. Prohibiting Pablo Raul Pabon, also known as Pablo Raul Callajes, from
6 serving as an officer, director, associate, partner, qualifying manager or responsible managing
7 employee of any registered company during the period that discipline is imposed on Field
8 Representative's License Number FR 30819, issued to Pablo Raul Pabon, also known as Pablo
9 Raul Callajes;


10 7. Revoking or suspending Field Representative's License Number
11 FR 35917, issued to Brian Thomas Watson;

12 8. Prohibiting Brian Thomas Watson from serving as an officer, director,
13 associate, partner, qualifying manager or responsible managing employee of any registered
14 company during the period that discipline is imposed on Field Representative's License Number
15 FR 35917, issued to Brian Thomas Watson;

16 9. Ordering Respondents Base Line Termite Company, William Ray Roberts,
17 James Paul Pernod, Pablo Raul Pabon, and/or Brian Thomas Watson to pay the Structural Pest
18 Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to
19 Business and Professions Code section 125.3;

20 10. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 1-22-07

23
24 
25 KELLI OKUMA
26 Registrar
27 Structural Pest Control Board
28 Department of Consumer Affairs
State of California
Complainant