EDMUND G. BROWN JR.
Attorney General of California
Karen B. Chappelle
Supervising Deputy Attorney General
Gregory J. Salute
Supervising Deputy Attorney General
State Bar No. 164015
300 S. Spring St., Ste. #1702
Los Angeles, CA 90013
Telephone: (213) 897-2520
Facsimile: (213) 897-2804
Attorneys for Complainant

FILED
Date 5/9/12
William H. Douglas

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **APPLE TERMITE INC.** **DAVE DANIEL CHAVEZ, QM** 15859 Edna Place, #207 Irwindale, California 91706 -and- 30130 Cove View, Canyon Lake, Ca. 92587 -and- 9459 Slauson Avenue, Pico Rivera, Ca. 90660 **Company Registration License No. PR 5934, Br. 3** **Branch Office Registration No. BR 5280** **Operator License No. OPR 11588, Br. 3** **WENDELL T. POLK, Jr.** P.O. Box 1909 South Gate, California 90208 **Field Representative License No. FR 21710, Br. 3** Respondents.	Case No. 2012-56 **ACCUSATION**

William H. Douglas ("Complainant") alleges:

PARTIES

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

Company Registration Certificate No. PR 5934

2. On or about October 1, 2009, the Board issued Company Registration Certificate Number PR 5934 ("registration") to Apple Termite Inc. ("Respondent or Respondents") in Branch 3, with Jenhnsen Lopez as President and Dave Daniel Chavez ("Respondent Chavez or Respondents") as Qualifying Manager.

Branch Office BR 5280

3. On or about September 1, 2011, Branch Office Registration No. Br. 5280 was issued to Respondent, with Dave Daniel Chavez as Branch Office Supervisor.

Operator's License No. OPR 11588

4. On or about October 4, 2007, the Board issued Operator's License Number OPR 11588 ("license") in Branch 3 to Respondent Chavez. On or about October 1, 2009, Respondent Chavez became the Qualifying Manager of Apple Termite Inc. The Operator's license will expire on June 30, 2013, unless renewed.

Field Representative's License No. FR 21710, Br. 3

5. On or about May 2, 1993, the Board issued Field Represenative's License Number FR 21710 ("license") in Branch 3 to Wendell T. Polk, Jr. ("Respondent Polk or Respondents"). The license will expire on June 30, 2013, unless renewed.

JURISDICTION

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

7. Code section 8624 states:

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

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

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

8. Code section 8625 states:

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

9. Code section 8622 states:

When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

STATUTORY PROVISIONS

10. Code section 8516 states, in pertinent part:

(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 subdivision (b) of Section 8516.1, or Section 8518, or subdivision (b) of this section 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 8516.1, Section 8518, or this section are grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500).

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

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

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

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

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

(10) Recommendations for corrective measures.

11. Code section 8514 states, in pertinent part, that no registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

12. Code section 8519 states, in pertinent part:

> Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.
>
> Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:
>
> (c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: (describing infestations, infections, damage or evidence thereof, excepted)."
>
> This certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any notice has been prepared at the time of the certification, or the certification may be endorsed on and made a part of that inspection report or notice of work completed.

13. Code section 8525 states:

> The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

14. Code section 8622 states:

> When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued

pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

15. Code section 8638 states:

Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

16. Code section 8641 states:

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

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1920 subsection (d), states, in pertinent part:

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

18. California Code of Regulations, title 16, section 1990, states, in pertinent part:

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

(3) Infestations, infections or evidence thereof.

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

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

(1) Faulty Grade Level. A faulty grade level exists when the top of any foundation is even with or below the adjacent earth. The existing earth level shall be considered grade.

(2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches clear space between the bottom of the floor joists and the unimproved ground area.

(4) Earth-wood contacts.

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

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

(3) When evidence of moisture, infestations or infections exists as a result of faulty grade levels, earth fill planters or loose stucco, a recommendation shall be made to correct the condition. Any method of controlling infestations arising from these conditions is considered adequate if the infestation is controlled.

(4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the California Code of Regulations (Effective July 1992).

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural members

which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

(6) Comply with the provisions of section 2516(c)(6) of Title 24 of the California Code of Regulations.

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

(A) enclose the structure for an all encompassing treatment utilizing materials listed in Section 8505.1 of the code, or

(B) use another all encompassing method of treatment which exterminates the infestation of the structure, or

(C) locally treat by any or all of the following:

1. exposing the infested area(s) for local treatment,
2. removing the infested wood,
3. using another method of treatment which exterminates the infestation. (If any recommendation is made for local treatment, the report must contain the following statement: "Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated.")

When a complete inspection is performed, a recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the inspection is limited to the area(s) described and diagrammed. A recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests in the limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

(11) Correct any excessive moisture condition that is commonly controllable. When there is reasonable evidence to believe a fungus infection exists in a concealed wall or area, recommendations shall be made to open the wall or area.

20. Regulations, Title 16, section 1996.3, states:

(a) The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/03) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

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

(1) Company Name

(2) Company registration number

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

(4) Date of Activity

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

(6) Activity Code

(7) License number of licensee performing the inspection

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

COST RECOVERY/RESTITUTION

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

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

MA PROPERTY

23. On or about June 24, 2010, Respondent Chavez inspected the property located at 522 N. Orange Avenue, La Puente, California ("MA property"), for wood destroying pests and organisms for escrow purposes and thereafter issued a Wood Destroying Pests and Organisms Inspection Report No. W 9195 ("Inspection Report No. 9195"). The report indicated it was ordered by, and provided to Trien Tan of Homesales Express, 9391 Bolsa Avenue, Westminster, Ca. 92683. The report certified that the property was free of active infestation or infection in all visible and accessible areas.

24. On or about June 14, 2011, Respondent Polk, an employee of Respondent Apple Termite Inc., performed a complete inspection of the property. The inspection was ordered by Leo Ma ("Ma"), the owner of the property. The inspection reported evidence of drywood termite infestations, drywood termite damage and dryrot damage at wood members of the property. The complete inspection recommended to utilize local chemical treatment to exterminate drywood termites and to replace termite and dryrot damaged wood.

25. On or about June 22, 2011, the Board received a written complaint from Mr. Ma. He wrote that the Respondent inspected the property on or about June 24, 2010, certified it to be free of active infestations or infections and less than one year later, on or about June 14, 2011, completed another inspection reporting drywood termite infestations, drywood termite damage and dryrot damage at the property. Ma wrote that he expected the Respondent to fumigate the property to exterminate termite infestations and replace termite and dryrot damaged wood.

26. On or about July 7, 2011, Roy Edwards, an employee of Western Exterminator Company, inspected the property. The complete inspection reported evidence of drywood termites at various areas of the attic framing, garage framing and garage door extending into inaccessible areas and a partially inaccessible garage due to storage. The complete inspection included a corrective recommendation to fumigate the property to exterminate drywood termites extending into inaccessible areas.

27. On or about July 13, 2011, Board Specialist Charles Alsky examined the property and determined that Respondent committed multiple violations of the Board's rules and regulations in his Report of Findings. The Report of Findings requires the company to bring the property into compliance within 30 days upon receipt of the Report of Findings. A Standard Notice of Work Completed and Not Completed has not been filed or submitted to the Board as required. To date, Respondent has not complied with Board Specialist Charles Alsky's Report of Findings.

///

///

///

///

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with the Code - Improper Inspection)

28. Respondent Apple Termite Inc's company registration, Respondent Chavez's Operator License and Respondent Polk's Field Representative License are subject to discipline under Code section 8641, in that on or about June 24, 2010 and June 14, 2011, concerning the MA property, Respondents failed to comply with the following Code sections:

Section 8516:

a. Respondents failed to report evidence of drywood termites in the attic and infestations which appear to extend into inaccessible areas, as required by California Code of Regulations, title 16, section 1990(a)(3).

Section 8516:

b. Respondents failed to make a proper recommendation in regards to local treatment of drywood termites in the attic and garage. Moreover, the infestations appear to extend into inaccessible areas. The recommendation for local treatment does not address infestations that appear to extend into the inaccessible areas in violation of California Code of Regulations, title 16, section 1991(a)(8).

SECOND CAUSE FOR DISCIPLINE

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

29. Respondents Apple Termite Inc. and Chavez are subject to disciplinary action under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of Regulations, in that Respondents failed to file WDO[1] activities reports with the Board, within 10 business days after commencement of inspection or upon completed work. Respondents failed to file a WDO activities report for the MA property.

///

///

///

[1] The abbreviation "WDO" stands for the Wood Destroying Organism Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/03).

THIRD CAUSE FOR DISCIPLINE

(Failed to Comply with Report of Findings)

30. Respondents Apple Termite Inc. and Chavez are subject to discipline under Section 8641, in that Respondents failed to comply with Section 8622, by failing to correct the items described in the Report of Findings within thirty calendar days of receipt of the Notice, and by failing to bring the Property into compliance with the Board's Notice and Report of Findings, dated 11/30/11. Complainant refers to, and by this reference incorporates fully, the allegations set forth above in Paragraphs 23-27.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Address Outstanding Citations and Fines)

31. Respondents Apple Termite Inc. and Chavez are subject to discipline under Section 8641, in that Respondents failed to comply with Section 8525, and California Code of Regulations, title 16, section 1920 subsection (d) in that Respondent Chavez has not paid $13,650 in regards to 11 different Citations issued to him for violations of the Structural Pest Control Act. Complainant refers to, and by this reference incorporates fully, the allegations set forth below in Paragraphs 33-43.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with Board's Rules and Regulations)

32. Respondents Apple Termite Inc. and Chavez are subject to discipline under Section 8641, in that Respondents failed to comply with the Board's rules and regulations. Complainant refers to, and by this reference incorporates fully, the allegations set forth above in Paragraphs 23-31.

PRIOR DISCIPLINE

Company Registration No. PR 5934

33. On or about October 4, 2011, a fine in the amount of $100 was levied against the registration by the San Bernardino County Agricultural Commissioner for violating Business and Professions Code, section 8505.17. The fine has been paid.

34. On or about October 4, 2011, a fine in the amount of $500 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating California Code of Regulations, title 16, section 6739. The fine has been paid.

35. On or about October 11, 2011, a fine in the amount of $750 was levied against the registration by the Board for violating section 8653 of the Business and Professions Code. The fine has not been paid.

36. On or about November 9, 2011, a fine in the amount of $2200 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code and section 8550 (e) of the Business and Professions Code. The fine has not been paid.

Operator License No. OPR 11588

37. On or about July 6, 2010, a fine in the amount of $2750 was levied against the Operator license by the Board for violating Business and Professions Code sections 8622 and 8638. The fine was affirmed after an informal conference on October 5, 2010 and has not been paid.

38. On or about July 30, 2010, a fine in the amount of $2750 was levied against the Operator license by the Board for violating Business and Professions Code section 8622. The fine was modified to $500 after an informal conference on October 5, 2010. The fine has not been paid.

39. On or about October 4, 2011, a fine in the amount of $100 was levied against the Operator license by the San Bernardino County Agricultural Commissioner for violating Business and Professions Code section 8505.17.

40. On or about October 4, 2011, a fine in the amount of $500 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section section 6739 of the California Code of Regulations.

41. On or about October 11, 2011, a fine in the amount of $750 was levied against the Operator license by the Board for violating section 8653 of the Business and Professions Code. The fine has not been paid.

42. On or about November 9, 2011, a fine in the amount of $2200 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code and section 8550 (e) of the Business and Professions Code. The fine has not been paid.

Field Representative License No. FR 21710

43. On or about February 14, 2011, a fine in the amount of $200 was levied against the Field Represenative license by the Board for violating California Code of Regulations, title 16, section 1950 and section 8593 of the Business and Professions Code. The fine has been paid but there has been no compliance with the Order of Abatement.

OTHER MATTERS

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

45. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 5934, issued to Apple Termite Inc., likewise constitute cause for discipline against Operator's License Number OPR 11588, issued to Dave Daniel Chavez, who serves as the Qualifying Manager of Apple Termite Inc., regardless of whether Dave Daniel Chavez had knowledge of or participated in the acts or omissions which constitute cause for discipline against Apple Termite Inc..

46. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5934, issued to Apple Termite Inc., then Dave Daniel Chavez, who serves as the Qualifying Manager of Apple Termite Inc., shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, shall be subject to disciplinary action.

PRAYER

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

1. Revoking or suspending Company Registration Certificate Number PR 5934, issued to Apple Termite Inc.;

2. Revoking or suspending Operator's License Number OPR 11588, issued to Dave Daniel Chavez;

3. Revoking or suspending any other license for which Dave Daniel Chavez is furnishing the qualifying experience or appearance;

4. Revoking or suspending Field Representative License Number FR 21710, issued to Wendell T. Polk, Jr.;

4. Ordering restitution of all damages according to proof suffered by Leo Ma as a condition of probation in the event probation is ordered;

5. Prohibiting Dave Daniel Chavez from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration Certificate Number PR 5934, issued to Apple Termite Inc.;

6. Ordering Dave Daniel Chavez, Apple Termite Inc. and Wendell T. Polk, Jr. to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 5/9/12

William H. Douglas

William H. Douglas
Interim Executive Officer/ Registrar
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant