

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

In the Matter of the Accusation Against:

Case No. 2011-63

**RAIDEN EXTERMINATING COMPANY;
KAM LUN SITO
5007 Heleo Avenue
Temple City, CA 91780
Company Registration Certificate No. PR
5623
Operator's License No. OPR 11678**

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on November 13, 2011.

It is so ORDERED October 14, 2011.



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2011-63

11 **RAIDEN EXTERMINATING COMPANY;**
12 **KAM LUN SITO**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

13 **5007 Heleo Avenue**
14 **Temple City, CA 91780**
15 **Company Registration Certificate No. PR**
5623

16 **Operator's License No. OPR 11678**

17 Respondents.

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Structural Pest Control Board of the Department of Pesticide
20 Regulation, the parties hereby agree to the following Stipulated Settlement and Disciplinary
21 Order which will be submitted to the Board for approval and adoption as the final disposition of
22 the First Amended Accusation with respect to Kam Lun Sito and Raiden Exterminating
23 Company.

24 **PARTIES**

25 1. William H. Douglas ("Complainant") is the Interim Registrar/Executive Officer of
26 the Structural Pest Control Board. He brought this action solely in his official capacity and is
27 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
28 Katherine Messana, Deputy Attorney General.

1 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
2 against them; the right to present evidence and to testify on its own behalf; the right to the
3 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
4 the right to reconsideration and court review of an adverse decision; and all other rights accorded
5 by the California Administrative Procedure Act and other applicable laws.

6 8. Respondents voluntarily, knowingly, and intelligently waive and gives up each and
7 every right set forth above.

8 CULPABILITY

9 9. Respondents admit the truth of each and every charge and allegation in First
10 Amended Accusation No. 2011-63.

11 10. Respondent Raiden Exterminating Company agrees that its Company Registration
12 Certificate is subject to discipline and they agree to be bound by the Structural Pest Control
13 Board's probationary terms as set forth in the Disciplinary Order below. Respondent Kam Lun
14 Sito agrees that his Operator's License is subject to discipline and agrees to be bound by the
15 Structural Pest Control Board's probationary terms as set forth in the Disciplinary Order below.

16 CONTINGENCY

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

27
28

1 4. **Notice to Employers.** Respondent Sito shall notify all present and prospective
2 employers of the decision in case No. 2011-63 and the terms, conditions and restriction imposed
3 on Respondents by said decision.

4 Within 30 days of the effective date of this decision, and within 15 days of Respondents
5 undertaking new employment, Respondents shall cause his/her employer to report to the Board in
6 writing acknowledging the employer has read the decision in case No. 2011-63.

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

13 6. **Posted Notice of Suspension.** Respondents shall prominently post a suspension
14 notice provided by the Board of the Board's order of suspension at its principal office and each of
15 its branch offices in a place conspicuous and readable to the public. Said notice shall remain so
16 posted during the entire period of actual suspension.

17 7. **Completion of Probation.** Upon successful completion of probation, Respondents
18 license/certificates will be fully restored.

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

24 9. **Random Inspections.** Respondents shall reimburse the Board for quarterly random
25 inspection by Board specialists during the period of probation not to exceed \$125 per inspection.

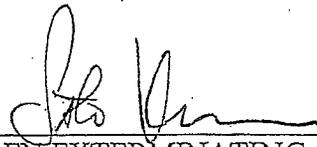
26 10. **Reimbursement to Board.** Respondents shall reimburse the Board for investigative
27 costs of \$1,137.27 within sixty (60) days from the effective date of this decision.

28 11. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**

1 **Manager.** Respondent Sito is prohibited from serving as an officer, director, associate, partner,
2 qualifying manager or branch office manager of any other registered company during the period
3 that discipline is imposed on Company Registration Certificate Number PR 5623 and Operator's
4 License Number OPR 11678.

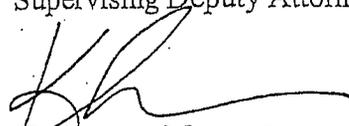
5 ACCEPTANCE

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
7 stipulation and the effect it will have on my Company Registration Certificate, and Operator's
8 License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
9 and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control
10 Board.

11
12 DATED: 9-15-2011 
13 RAIDEN EXTERMINATING COMPANY; KAM
14 LUN SITO
15 Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Structural Pest Control Board of the Department of Pesticide
19 Regulation.

20 Dated: August 23, 2011
21 Respectfully submitted,
22 KAMALA D. HARRIS
23 Attorney General of California
24 GLORIA A. BARRIOS
25 Supervising Deputy Attorney General
26 
27 KATHERINE MESSANA
28 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2011-63

1 KAMALA D. HARRIS
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FILED

Date 8/19/11 By *William H. Douglas*

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

10 In the Matter of the Accusation Against:
11 **RAIDEN EXTERMINATING COMPANY**
12 **5007 Heleo Avenue**
13 **Temple City, CA 91780**
14 **KAM LUN SITO, QUALIFYING MANAGER**
15 **Company Registration Certificate No. PR 5623,**
Branches 2 and 3
16 **Operator's License No. OPR 11678,**
17 **Branches 2 and 3**
18 Respondents.

Case No. 2011-63

FIRST AMENDED
ACCUSATION

19 Complainant alleges:

20 **PARTIES**

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

24 **Company Registration Certificate**

25 2. On or about May 30, 2008, the Board issued Company Registration Certificate
26 Number PR 5623 in Branch 3 ("registration") to Raiden Exterminating Company with Kam Lun
27 Sito ("Respondent") as the Owner and Qualifying Manager. On July 18, 2008, the registration
28

1 was upgraded to include Branches 2 and 3, reflecting Kam Lun Sito as the Branch 2 Qualifying
2 Manager.

3 Operator's License

4 3. On or about April 11, 2008, the Board issued Operator's License Number OPR 11678
5 in Branch 3 ("license") to Respondent. On May 30, 2008, Respondent became the Owner and
6 Qualifying Manager of Raiden Exterminating Company. On June 17, 2008, the license was
7 upgraded to include Branches 2 and 3. On July 18, 2008, Respondent became the Branch 2
8 Qualifying Manager for Raiden Exterminating Company. The license was in full force and effect
9 at all times relevant to the charges brought herein and will expire on June 30, 2013, unless
10 renewed.

11 JURISDICTION

12 4. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that
13 the Board may suspend or revoke a license when it finds that the holder, while a licensee or
14 applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu
15 of a suspension may assess a civil penalty.

16 5. Code section 8624 states:

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

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

21 The performance by any partnership, corporation, firm, association, or
22 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
23 time the act or omission occurred, was the qualifying manager, a partner, responsible
officer, or owner of the partnership, corporation, firm, association, or registered
24 company whether or not he or she had knowledge of, or participated in, the prohibited
act or omission.

25 6. Code section 8625 states:

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

1 investigation of or action or disciplinary proceeding against such licensee or company, or to
2 render a decision suspending or revoking such license or registration.

3 STATUTORY PROVISIONS

4 7. Code section 8516 states, in pertinent part:

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

13 Every property inspected pursuant to subdivision (b) of Section 8516.1,
14 or Section 8518, or subdivision (b) of this section shall be assessed a filing fee
15 pursuant to Section 8674.

16 Failure of a registered company to report and file with the board the
17 address of any property inspected or work completed pursuant to Section 8516.1,
18 Section 8518, or this section are grounds for disciplinary action and shall subject the
19 registered company to a fine of not more than two thousand five hundred dollars
20 (\$2,500).

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

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

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

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

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

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

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

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

9 (10) Recommendations for corrective measures.

10 8. Code section 8518 states, in pertinent part:

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

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

20 9. Code section 8519 states, in pertinent part:

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

10. 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.

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

7
8
9 11. Code section 8638 states:

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

14
15 12. Code section 8641 states:

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

21
22 13. Code section 8642 states:

23 The commission of any grossly negligent or fraudulent act by the licensee
24 as a pest control operator, field representative, or applicator or by a registered
25 company is a ground for disciplinary action.

26
27
28 **REGULATORY PROVISIONS**

14. 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:

(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.

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1 (3) Excessive Cellulose Debris. This is defined as any cellulose debris of
2 a size that can be raked or larger. Stumps and wood imbedded in footings in earth
3 contact shall be reported.

4 (4) Earth-wood contacts.

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

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

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

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

18 (2) Remove from the subarea all excessive cellulose debris in earth
19 contact. This excludes shavings or other cellulose too small to be raked or stored
20 goods not in earth contact. Stumps and wood imbedded in footings in earth contact
21 shall be treated if removal is impractical.

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

16. California Code of Regulations, title 16, section 1992, states:

In addition to the recommendations required in section 1991, the report
may suggest secondary recommendations. When secondary recommendations are
made, they shall be labeled as secondary recommendations and included as part of the
inspection report with a full explanation of why they are made, with the notation that
they are below standard measures. If secondary recommendations are performed, any
letter of completion, billing or other document referring to the work completed, must
state specifically the name of the person or agency requesting completion of the
secondary recommendations.

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1 17. California Code of Regulations, title 16, section 1993, states, in pertinent part:

2 All of the following reports must be in compliance with the requirements
3 of Section 8516 of the code. All reports must be on the form prescribed by the Board.

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

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

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

16 (a) The address of each property inspected and/or upon which work was
17 completed shall be reported on a form prescribed by the Board and designated as the
18 WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev.
19 5/09) at the end of this section. This form shall be prepared by each registered
20 company and shall comply with all of the requirements pursuant to Section 8516,
21 subdivision (b) and 8518.

22 COST RECOVERY/RESTITUTION

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

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

29 IOWA STREET PROPERTY

30 21. On or about June 7, 2010, Steven R. Smith, a Specialist with the Board, went to
31 Respondent's office to follow up on a Compliance Inspection. The Specialist reviewed reports
32 regarding a property located at 4654 Iowa Street, San Diego, California ("Iowa Property") and
33 found a Wood Destroying Pests and Organisms Inspection Report No. W8034 ("Report No.
34

1 W8034") and that on or about May 28, 2010, Respondent issued Standard Notice of Work
2 Completed and Not Completed No. W8034 ("Completion Notice No. W8034"), for the Iowa
3 property. Report No. W8034 disclosed that Respondent made findings, which included evidence
4 of drywood termite infestations at the exterior siding, door trimming, and at the fence/gate.
5 Respondent made primary a recommendation to fumigate the property and a secondary
6 recommendation to chemically treat visible and accessible infestations. Respondent documented
7 evidence of subterranean termite infestation at the fence/gate with recommendations to pressure
8 "ROD" treat trench application or low pressure spot spray. Respondent also made findings of
9 excessive moisture at the fence/gate and at the window trimming. Respondent recommended
10 contacting a proper tradesman to correct the moisture conditions.

11 22. The secondary recommendations made by Respondent failed to include a full
12 explanation of why they were made and that those recommendations were below standard
13 measures. The Standard Notice of Work Completed and Not Completed No. W8034 ("Report
14 W8034") failed to state that the primary recommendation of fumigation was not completed, failed
15 to include an estimated cost of the work not completed, and that the buyer was the one who
16 requested that Respondent perform the secondary recommendations stated in Report No. W8034.
17 The Specialist informed Respondent that performing secondary recommendations on a
18 freestanding single-family residence during an escrow transaction is typically not allowed
19 because the lender will not allow it. The Specialist also informed Respondent that because the
20 reports were not in compliance, the lenders and others who read the reports did not have a clear
21 understanding of the findings and recommendations and the work performed. The Specialist told
22 Respondent to return to the Iowa Property and clarify his findings and recommendations, then
23 provide him with new inspection report and completion notice.

24 23. On or about June 17, 2010, Respondent reinspected the Iowa Property and issued
25 Wood Destroying Pests and Organisms Inspection Report-Supplemental No. W8038 ("Report
26 No. W8038"), with findings and recommendations. Respondent reported evidence of drywood
27 termite infestations at the exterior siding and door trimming and recommended fumigating the
28 structure. A cover letter that accompanied Report No. W8038 informed the Specialist that both

1 the seller and buyer were made aware of the mistake on the initial inspection report regarding the
2 secondary treatment option and both decided not to fumigate the property. The property
3 subsequently closed escrow in early June 2010.

4 24. On August 25, 2010, the Board Specialist inspected and photographed the Iowa
5 Property and made the following findings:

- 6 a. Cellulose debris in the substructure.
- 7 b. Form boards in the substructure.
- 8 c. Evidence of drywood termites and drywood termite damage in the substructure.
- 9 d. Insufficient substructure ventilation.
- 10 e. Decay fungus and dry rot at the substructure framing.
- 11 f. Earth-to-wood contacts in the substructure and at all sides of the detached storeroom.
- 12 g. Substandard substructure supports
- 13 h. Evidence of live drywood termites and drywood termite damage in the attic.
- 14 i. Inaccessible attic areas and below the floor of the detached storeroom.
- 15 j. Decay fungi and decay fungi damage at the carport framing.
- 16 k. Decay fungi damage at the balustrade framing.
- 17 l. Decay fungi damage at the second floor corbel.

18 25. On or about September 8, 2010, the Board Specialist prepared a Report of Findings
19 ("ROF") outlining numerous violations of the Code, based on his inspection of August 25, 2010.
20 That same day, the Board sent a notice with a copy of the ROF report to Respondent directing
21 him to bring the Iowa Property into compliance by correcting the items described in the ROF and
22 to submit a corrected inspection report and a completion notice to the Board within thirty (30)
23 calendar days from the receipt of the notice.

24 26. On or about September 24, 2010, Respondent reinspected the Iowa Property and
25 issued Wood Destroying Pests and Organisms Inspection Report No. W8047 ("Report No.
26 W8047"), dated October 13, 2010. Respondent made the following findings:

27 ///

28 ///

1 **Structure**

2 a. Evidence of drywood termite infestation at the wood member and floor joist (Item
3 1A). Respondent recommended fumigation.

4 b. Evidence of termite damaged wood members noted at the time of inspection at crawl
5 area and floor joist (Item 1B). Respondent recommended replacing or repairing the termite
6 damaged wood members as necessary.

7 c. Dry-rot wood members (Item 1C). Respondent recommended replacing the dry-rot
8 damaged wood members as necessary.

9 d. Cellulose debris in the sub area (Item 1D). Respondent recommended cleaning and
10 removing the cellulose debris from the premises.

11 e. Earth-to-wood contacts were visible at form board (Item 1E). Respondent
12 recommended breaking the earth-to-wood contact and/or heavily treat wood members where
13 conditions are deemed likely to lead to infestation.

14 f. Inaccessible areas at the storeroom due to construction and/or storage, or other
15 conditions preventing inspection (Item 1F). Respondent recommended that the owner make the
16 areas accessible for further inspection.

17 **Attic Spaces**

18 g. Evidence of drywood termite infestations at attic framing (Item 7A). Respondent
19 recommended fumigation.

20 h. Inaccessible areas at attic due to construction and/or storage, or other conditions
21 preventing inspection (Item 7B). Respondent recommended that the owner make the areas
22 accessible for further inspection.

23 **Garages**

24 i. Dry-rot wood members at the carport (Item 8A). Respondent recommended replacing
25 or repairing the dry-rot damaged wood members as necessary.

26 **Other Exterior**

27 j. Evidence of drywood termite infestations at the rafter tail and attached carport (Item
28 11A). Respondent recommended fumigation.

1 k. Evidence of drywood termite infestations at the door jamb (Item 11B). Respondent
2 recommended fumigation.

3 l. Evidence of termite damaged wood members at the door jamb (Item 11C).
4 Respondent recommended replacing or repairing the termite damaged window. Respondent
5 recommended repairing the door jamb.

6 m. Dry-rot wood members found at the corbel (Item 11D). Respondent recommended
7 replacing or repairing the dry-rot damaged wood members as necessary.

8 n. Dry-rot members found at the balustrade (Item 11E). Respondent recommended
9 replacing or repairing the dry-rot damaged wood members as necessary.

10 o. Dry-rot wood members at the door jamb (Item 11F). Respondent recommended
11 replacing or repairing the dry-rot damaged wood members as necessary.

12 27. Respondent failed to submit a Standard Notice of Work Completed and Not
13 Completed to the Board for the inspection date of September 24, 2010. Four months after the
14 Board Specialist issued the ROF, Respondent still had not brought the Iowa Property into
15 compliance and had committed additional violations while attempting to do so.

16 28. On or about June 1, 2011, Respondent reinspected the Iowa Property and issued
17 Wood Destroying Pests and Organisms Inspection Report-Supplemental No. W8064 ("Report
18 No. W8064"). Respondent made the following findings:

19 **Structure**

20 a. Loose and unsecured pier posts and girders (Item 1G). Respondent recommended
21 replacing all loose and unsecured pier posts and girders.

22 b. Earth-wood contacts visible at time of inspection at substructure. (Item 1H).
23 Respondent recommended correction of all the earth-wood contacts.

24 c. Earth-wood contacts visible at time of inspection at form boards (Item 1J).
25 Respondent recommended treatment of form boards with approved termiticide to prevent future
26 infestation.

27 d. Inadequacy of opening/venting in substructure resulting in poor ventilation (Item 1K).
28 Respondent recommended increasing more opening/venting according to the city's requirement.

1 e. Inaccessible areas at detached storeroom due to construction and or, storage, or other
2 condition preventing inspection (Item 1L). Respondent recommended making an opening into
3 the floor to inspect.

4 f. Earth-wood contacts visible at the time of inspection at detached storeroom (Item
5 1M). Respondent recommended breaking the earth-wood contacts by evacuating and lowering
6 soil away from the detached storeroom.

7 g. Evidence of white pocket-rot wood members noted at the time of inspection at
8 substructure (Item 1N). Respondent recommended scraping away all the white pocket-rot in the
9 substructure.

10 Attic Spaces

11 h. Evidence of drywood termite infestations at attic framing (Item 7A). Respondent
12 recommended fumigation.

13 i. Evidence of termite damaged wood members noted at time of inspection at attic wood
14 members (Item 7B). Respondent recommended no further action.

15 Garages

16 j. Surface fungus condition visible at time of inspection at carport wood members (Item
17 8A). Respondent recommended scraping, chemically treating fungus condition and patching any
18 minor surface damage found during treatment.

19 Other Exterior

20 k. All the repair/replacement, those are needed to be painted is going to be done by the
21 pest control company.

22 29. On or about June 1, 2011, Respondent contacted the Board Specialist and informed
23 him that the required work at the property had been completed and signed off by the city. On or
24 about that same day, Respondent issued Standard Notice of Work Completed and Not Completed
25 No. W8064 ("Completion Notice No. W8064"), for the Iowa Property.

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April 30, 2010, Inspection

Section 8516, subdivisions (b)(6) and (7):

- a. Respondent failed to report the cellulose debris in the substructure, as defined by California Code of Regulations, title 16, section 1990, subdivision (b)(3).
- b. Respondent failed to report the form boards in the substructure, as defined by California Code of Regulations, title 16, section 1990, subdivision (b)(3).
- c. Respondent failed to report the evidence of drywood termites and drywood damage in the substructure, as defined by California Code of Regulations, title 16, section 1990, subdivision (b)(3).
- d. Respondent failed to report the decay fungi and decay fungi damage in the substructure, as defined by California Code of Regulations, title 16, section 1990, subdivisions (a)(3) and (4).
- e. Respondent failed to report the earth-to-wood contacts in the substructure, as defined by California Code of Regulations, title 16, section 1990, subdivision (a)(4).
- f. Respondent failed to report the substandard support framing (girders and piers) in the substructure, as defined by California Code of Regulations, title 16, section 1990, subdivision (e).
- g. Respondent failed to report the inadequate substructure ventilation, as defined by California Code of Regulations, title 16, section 1990, subdivision (b)(5), and section 1990, subdivision (e).
- h. Respondent failed to report evidence of drywood termites and drywood termite damage in the attic, as defined by California Code of Regulations, title 16, section 1990, subdivisions (a)(3) and (4).
- i. Respondent failed to report the decay fungi and decay fungi damage at the carport framing, as defined in California Code of Regulations, title 16, section 1990, subdivisions (a)(3) and (4).
- j. Respondent failed to report the inaccessible area below the detached storeroom, as defined in California Code of Regulations, title 16, section 1990, subdivision (b)(2).

1 k. Respondent failed to report the earth-to-wood contact at the detached storeroom, as
2 defined in California Code of Regulations, title 16, section 1990, subdivision (b)(4).

3 l. Respondent failed to report the drywood termite damage at the door jamb, as defined
4 in California Code of Regulations, section 1990, subdivision (b)(4).

5 m. Respondent failed to report the decay fungi damage at the door jamb, as defined in
6 California Code of Regulations, title 16, section 1990, subdivision (a)(4).

7 n. Respondent failed to report the decay fungi damage at the balustrade, above the front
8 porch, as defined in California Code of Regulations, title 16, section 1990, subdivision (a)(4).

9 o. Respondent failed to report the decay fungi damage at the corbel, above the front
10 porch, as defined in California Code of Regulations, title 16, section 1990, subdivision (a)(4).

11 **June 17, 2010, Inspection**

12 **Section 8516, subdivisions (b)(6) and (7):**

13 p. Respondent failed to issue a proper "supplemental" inspection report (Report No.
14 W8038). The "supplemental", "separated" inspection report failed to contain a statement that
15 referred to the original inspection report (Report No. W8034) explaining why Supplemental
16 Report No. W8038 was issued, in violation of California Code of Regulations, title 16, section
17 1993, subdivision (d).

18 **Section 8516, subdivisions (b)(2) and (3):**

19 q. Respondent failed to prepare and deliver an inspection report (Report No. W8038)
20 that contained the proper name and address of the person or firm ordering the report and of the
21 property owner or any person who is a party in interest, in that the June 17, 2010 "supplemental,"
22 "separated" inspection report (Report No. W8038) contained the same "ordered by" and
23 "property owner/party in interest" information as stated on the April 30, 2010, "complete"
24 "separated" inspection report (Report No. W8034); however, on June 10, 2010, the escrow closed
25 and the Iowa Property had changed hands.

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October 13, 2010, Inspection

Section 8516, subdivisions (b)(2) and (3):

r. Respondent failed to make proper findings and recommendations regarding the loose pier posts and poor ventilation noted on Report No. W8047, as defined in California Code of Regulations, title 16, section 1990, subdivision (b)(5).

s. Respondent failed to identify the source of infections of the decay fungi damage and failed to include recommendations to correct the excessive moisture conditions responsible for the infections, as defined in California Code of Regulations, title 16, section 1991, subdivision (a)(5).

t. Respondent failed to report the decay fungi in the substructure, as defined in California Code of Regulations, title 16, section 1990, subdivision (a)(3).

u. Respondent failed to report the full extent of the earth-to-wood contacts in the substructure, as defined in California Code of Regulations, title 16, section 1990, subdivision (a)(4).

v. Respondent failed to report the full extent of the evidence of drywood termites and the drywood termite damage in the attic, as defined in California Code of Regulations, section 1990, subdivisions (a)(3) and (4).

w. Respondent failed to report the full extent of the decay fungi damage at the carport, as defined in California Code of Regulations, section 1990, subdivision (a)(4).

x. Respondent failed to report the inaccessible area and the earth-to-wood contacts at the detached storeroom, as defined in California Code of Regulations, title 16, section 1990, subdivisions (b)(2) and (4).

Section 8516, Subdivision (b)(1):

y. Respondent failed to issue an inspection report that contained the correct date of inspection. The subject performed the wood destroying pests and organisms inspection on September 24, 2010; however, the inspection report (Report No. W8047) was dated October 13, 2010.

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1 gg. Respondent failed to report the decay fungi and decay fungi damage, where the
2 carport attaches to the house eaves, in Report No. 8064, as defined in California Code of
3 Regulations, title 16, section 1990, subdivision (a)(4).

4 **Section 8516, Subdivisions (b)(5):**

5 hh. Respondent failed to include a proper general description of the property in Report
6 No. 8064.

7 **Section 8516:**

8 ii. Respondent failed to include a "supplemental" report statement on Report No. 8064,
9 as defined in California Code of Regulations, title 16, section 1993, subdivision (d).

10 **Section 8516, Subdivision (b):**

11 jj. Respondent failed to prepare and deliver an inspection report to the person requesting
12 the inspection, prior to commencement of the work.

13 **Section 8516, Subdivisions (b)(2) and (3):**

14 kk. Respondent failed to include the address of the person or firm ordering the inspection
15 report and of the property owner and/or party in interest, on Report No. 8064.

16 **Section 8516, Subdivisions (b) (10)**

17 ll. Respondent failed to make proper recommendation, regarding the reported earth-to-
18 wood contact at the form boards, as reported in Report No. W8064, as defined in California Code
19 of Regulations, title 16, section 1991, subdivision (a)(2).

20 mm. Respondent failed to make a proper finding and recommendation regarding the
21 reported white pocket rot in the substructure on Report No. 8064, as defined in California Code of
22 Regulations, title 16, section 1990, subdivision (a)(3) and section 1991, subdivision (a)(5).

23 nn. Respondent failed to make proper recommendation, regarding the reported drywood
24 termite damage in the attic, as defined in California Code of Regulations, title 16, section 1991,
25 subdivision (a)(5).

26 oo. Respondent failed to make a proper finding and recommendations regarding the
27 reported white pocket rot in the substructure and the decay fungi at the carport in Report No.
28 W8064, as defined in California Code of Regulations, title 16, section 1991, subdivision (a)(5).

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SECOND CAUSE FOR DISCIPLINE

(Failure to Comply with Code – Completion Notices)

32. Respondent's registration and license are subject to discipline pursuant to Code section 8641, in that as to the Iowa Property:

a. Respondent failed to comply with Code section 8518 by failing to issue a reinspection report for the work regarding the excessive moisture conditions at the fence/gate and window trimming as noted on the completion notice (Report No. W8034), which was reported as being completed by others.

b. Respondent failed to comply with Code section 8518 by failing to issue a proper completion notice. Completion Notice No. W8064 reports that specific recommendations were completed even though Report No. W8064 does not contain findings and recommendations for those items.

c. Respondent failed to comply with Code section 8518 by failing to issue a proper completion notice. Completion Notice No. W8064 indicates that recommendation 7B was completed even though Report No. W8064 does not recommend for any work to be performed.

d. Respondent failed to comply with Code section 8518 because Completion Notice No. W8064 fails to contain an estimated cost of the work not completed.

e. Respondent failed to comply with Code section 8518, in conjunction with California Code of Regulations title 16, section 1993, subdivision (e), because Respondent improperly referred to and failed to issue a "reinspection" inspection report for the repair work completed by others at the balustrade.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Notice Issued by the Board)

33. Respondent's registration and license are subject to discipline pursuant to Code section 8641, in that Respondent failed to comply with Code section 8622. Respondent failed to bring the Iowa Property into compliance by failing to correct all of the items described in the Report of Findings and submit a corrected inspection report to the Board within thirty (30) calendar days from receipt of the Board's notice dated September 8, 2010.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Regulations – Proper Secondary Recommendations)

3 34. Respondent's registration and license are subject to discipline pursuant to Code
4 section 8641, in that Respondent failed to comply with California Code of Regulations, title 16,
5 section 1992. Respondent failed to make proper secondary recommendations on Inspection
6 Report No. W8034. The secondary recommendations failed to include a full explanation as to
7 why they were made, and failed to indicate that they were below standard measures.

8 FIFTH CAUSE FOR DISCIPLINE

9 (Violation of Contract)

10 35. Respondent's registration and license are subject to discipline pursuant to Code
11 section 8638, in that concerning the Iowa Property in that Respondent failed to chemically treat
12 the drywood termites at the doorjamb, as stated in the Standard Notice of Work Completed and
13 Not Completed, dated May 28, 2010 ("Completion Notice No. W8034").

14 a. Respondent's registration and license are subject to discipline pursuant to Code
15 section 8638 in that Respondent failed to remove the cellulose debris from the substructure, as
16 stated in Completion Notice No. W8064, dated June 1, 2011.

17 b. Respondent's registration and license are subject to discipline pursuant to Code
18 section 8638 in that Respondent failed to complete the work regarding the white pocket rot, as
19 stated in Completion Notice No. W8064, dated June 1, 2011.

20 c. Respondent's registration and license are subject to discipline pursuant to Code
21 section 8638 in that Respondent failed to complete the work regarding the replacement of the
22 reported loose and unsecured pier posts and girders in the substructure, as stated in Completion
23 Notice No. W8064.

24 d. Respondent's registration and license are subject to discipline pursuant to Code
25 section 8638, in conjunction with California Code of Regulations title 16, section 1937.14,
26 because Respondent failed to properly install vents to allow for cross ventilation, as stated in
27 Completion Notice No. W8064.

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1 e. Respondent's registration and license are subject to discipline pursuant to Code
2 section 8638 in that Respondent failed to remove or cover the reported evidence of drywood
3 termites in the attic spaces, as stated in Completion Notice No. W8064.

4 f. Respondent's registration and license are subject to discipline pursuant to Code
5 section 8638, in conjunction with California Code of Regulations title 16, section 1937.14,
6 because Respondent failed to repair the reported decay fungi and decay fungi damage at the
7 carport, as stated in Completion Notice No. W8064.

8 g. Respondent's registration and license are subject to discipline pursuant to Code
9 section 8638, in conjunction with California Code of Regulations title 16, section 1937.14,
10 because Respondent failed to repair the reported drywood termite and decay fungi damage at the
11 back door doorjamb, as stated in Completion Notice No. W8064.

12 h. Respondent's registration and license are subject to discipline pursuant to Code
13 section 8638, because Respondent was required to complete the inaccessible area and earth-to-
14 wood contacts and informed the investigator that the homeowner did not want the work
15 performed but failed to provide the investigator with a copy of the waiver.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Gross Negligence or Fraud)**

18 36. Respondent's registration and license are subject to discipline pursuant to Code
19 section 8642, in that on the Iowa Property, Respondent committed grossly negligent or fraudulent
20 acts, as follows:

21 a. Respondent falsified the completion notice dated May 28, 2010 (Report No. W8034)
22 by stating that the buyer had requested the secondary recommendation performed when, in fact,
23 he did not.

24 b. Respondent failed to document the primary recommendation for fumigation on the
25 completion notice dated May 28, 2010 (Report No. W8034).

26 c. Respondent failed to include an estimated cost for the work not completed on the
27 completion notice dated May 28, 2010 (Report No. W8034).

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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 5623, issued to Raiden Exterminating Company;
2. Revoking or suspending Operator's License Number OPR. 11678, issued to Kam Lun Sito;
3. Revoking or suspending any other license for which Kam Lun Sito is furnishing the qualifying experience or appearance;
4. Ordering restitution of all damages according to proof suffered by David Fitzgerald as a condition of probation in the event probation is ordered;
5. Prohibiting Kam Lun Sito 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 5623, issued to Raiden Exterminating Company;
6. Ordering Kam Lun Sito and Raiden Exterminating Company 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: 8/9/11

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

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