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FILED

Date 6/16/11 **By** *William H. Douglas*

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

12 In the Matter of the Accusation Against:
13 **STEVEN GEORGE MAYNE, JR.**
9025 Church Street
14 Gilroy, California 95020,
15 **Operator's License No. OPR 11743**
Branch 3
16 Respondent
17
18 In the Matter of the Statement of Issues Against:
19 **MARY & STEVEN TERMITE CONTROL**
STEVEN GEORGE MAYNE, JR., Owner
9025 Church Street
20 Gilroy, California 95020
21
22 Applicant.

Case No. 2011-65

ACCUSATION

Case No. 2011-66

STATEMENT OF ISSUES

24 Complainant alleges:

25 **PARTIES**

26 1. William H. Douglas (Complainant) brings this Accusation and Statement of Issues
27 solely in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest
28 Control Board, Department of Pesticide Regulation.

1 2. On or about August 6, 1993, the Structural Pest Control Board issued Applicator
2 License No. RA 33439 in Branch 2 to Respondent Steven George Mayne, Jr., as an employee of
3 Servers Pest Control. The license was cancelled on August 6, 1996.

4 3. On or about August 11, 1997, the Structural Pest Control Board, Department of
5 Pesticide Regulation, issued Field Representative's License No. FR 28271 in Branch 3 to Steven
6 G. Mayne, Jr., as an employee of S.G. Mayne Termite Company, Inc. The license was cancelled
7 on February 23, 2000.

8 4. On or about September 17, 1999, the Structural Pest Control Board, Department of
9 Pesticide Regulation, issued Operator's License No. OPR 10094 in Branches 2 and 3 to Steven G.
10 Mayne, Jr., as an employee of Antique Termite, Inc. On or about November 9, 1999, Operator's
11 License No. OPR 10094 became the President and Qualifying Manager of Respectable Termite,
12 Inc. On March 10, 2000, Operator's License No. OPR 10094 became the Owner and Qualifying
13 Manager of Respectable Termite Co. The license was cancelled on June 30, 2002.

14 5. On or about November 9, 1999, the Structural Pest Control Board, Department of
15 Pesticide Regulation, issued Company Registration Certificate No. PR 3552, Branches 2 and 3, to
16 Respectable Termite, Inc., with Steven George Mayne, Jr., as President and Qualifying Manager.
17 The registration was cancelled on February 18, 2000.

18 6. On or about March 10, 2000, the Structural Pest Control Board issued Company
19 Registration Certificate No. PR 3628 in Branches 2 and 3 to Respectable Termite Control with
20 Steven George Mayne, Jr., as the Owner and Qualifying Manager. On or about October 1, 2002,
21 Company Registration Certificate No. PR 3628 was suspended for having no qualifying manager
22 due to failure to renew the operator's license. On or about December 16, 2002, Company
23 Registration Certificate No. PR 3628 was suspended for failure to maintain general liability
24 insurance as required by Business and Professions Code, section 8690. On or about August 20,
25 2003, Company Registration Certificate No. PR 3628 was suspended for failure to maintain a
26 surety bond as required by Business and Professions Code section 8697. The registration was
27 cancelled on March 27, 2006.

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1 12. Section 8639 of the Code states:

2 "Aiding or abetting an unlicensed individual or unregistered company to evade the
3 provisions of this chapter [the Structural Pest Control Act] or knowingly combining or conspiring
4 with an unlicensed individual or unregistered company, or allowing one's license or company
5 registration to be used by an unlicensed individual or unregistered company, or acting as agent or
6 partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade
7 the provisions of this chapter is a ground for disciplinary action."

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

11 14. Section 8648 of the Code states:

12 "Authorizing, directing, conniving at or aiding in the publication, advertisement,
13 distribution or circulation of any material by false statement or representation concerning a
14 registered company's business is a ground for disciplinary action."

15 15. Section 8650 of the Code states:

16 "Acting in the capacity of a licensee or registered company under any of the licenses or
17 registrations issued hereunder except:

18 "(a) In the name of the licensee or registered company as set forth upon the license or
19 registration, or

20 "(b) At the address and location or place or places of business as licensed or registered or
21 as later changed as provided in this chapter is a ground for disciplinary action."

22 16. Section 8610(a) of the Code states in relevant part that "every company that engages
23 in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other
24 organization or any combination thereof, shall be registered with the Structural Pest Control
25 Board. "

26 17. Section 8651 of the Code states:

27 "The performing or soliciting of structural pest control work, the inspecting for structural or
28 household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of

1 eliminating, exterminating, controlling, or preventing structural pests in branches of pest control
2 other than those for which the operator, field representative, or applicator is licensed or the
3 company is registered is a ground for disciplinary action."

4 18. Section 8646 of the Code states:

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

8 19. Section 125.3 of the Code provides, in pertinent part, that the
9 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
10 have committed a violation or violations of the licensing act to pay a sum not to exceed the
11 reasonable costs of the investigation and enforcement of the case.

12 20. Section 8550 of the Code states:

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

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

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

1 "(d) It is also unlawful for any unlicensed individual to offer any opinion, or to make any
2 recommendations, concerning the need for structural pest control work in general, or in
3 connection with a particular structure.

4 "(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or
5 other organization or combination thereof to engage or offer to engage in the practice of structural
6 pest control, unless registered in accordance with Article 6 (commencing with Section 8610)."

7 21. Section 8552 of the Code states:

8 "It is unlawful for any person to advertise or represent in any manner that any pest control
9 work, in whole or in part, has been done upon any structure, unless the work has been performed
10 by a company registered under this chapter."

11 22. Section 8568 of the Business and Professions Code (Code) provides, in pertinent part,
12 that the Board may deny a license or registration if the applicant, while unlicensed or not
13 registered, knowingly committed or aided or abetted the commission of any act for which a
14 license or company registration is required, or has committed any act or omissions constituting
15 grounds for discipline under section 480 of that code.

16 23. Section 480 of the Code states in relevant part that:

17 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
18 one of the following:

19 "..."

20 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
21 benefit himself or herself or another, or substantially injure another.

22 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
23 would be grounds for suspension or revocation of license.

24 "..."

25 "(c) A board may deny a license regulated by this code on the ground that the applicant
26 knowingly made a false statement of fact required to be revealed in the application for the
27 license."

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1 REGULATORY PROVISIONS

2 24. California Code of Regulations, title 16, section 1999.5, provides in relevant part that:

3 "It is the purpose of this regulation to protect the public from false, misleading, deceptive,
4 or unfair representations or claims concerning structural pest control while enabling the public to
5 receive truthful and legitimate information about those structural pest control products and
6 services and the potential of these products and services to reduce impact to health or the
7 environment."

8 "(a) It is unlawful for any licensee, or any employee thereof, directly or indirectly to make
9 disseminate, represent, claim, state, or advertise, or cause to be made, disseminated, represented,
10 claimed, stated or advertised by any manner or means whatever, any statement or representation
11 concerning structural pest control, as defined in Business and Professions Code section 8505,
12 which is unfair, deceptive, untrue or misleading, and which is known, or which by the exercise of
13 reasonable care should be known, to be unfair, deceptive, untrue or misleading."

14 FACTUAL BACKGROUND

15 25. On or about August 16, 2010, during the course of investigating another matter, a
16 Specialist for the Structural Pest Control Board (Board) received a Wood Destroying Pests and
17 Organisms inspection report (WDO), and a supplemental report, prepared for a real estate agent
18 on property located at 13905 Sheila Avenue, in Morgan Hill, California. Both reports were
19 signed by Steven George Mayne, Jr., Operator's License No. OPR 11743, (Respondent), and
20 appeared under the company name M & S Pest Control and Termite, Company Registration
21 Certificate PR 3628, with an address of P. O. Box 2328, in Gilroy, California, 95021. A review
22 of the Board's records for M & S Pest Control and Termite showed that the Company
23 Registration Certificate No. PR 3628 was a cancelled registration belonging to Respectable
24 Termite Control, registered to conduct business as a Branch 2 and Branch 3 company. The
25 Board's records also showed that Respondent, licensed as Operator's License No. OPR 10094,
26 disassociated himself as the qualifying manager for Company Registration Certificate No. PR
27 3628 on June 30, 2002, and allowed Operator's License No. OPR 10094 to expire on that same
28 date. Operator's License No. OPR 11743, used by Respondent on his WDO inspection reports

1 prepared for the property at 13905 Sheila Avenue in Morgan Hill, has been on inactive status
2 since it was issued in August 29, 2008.

3 26. On or about August 16, 2010, the Board's specialist found that Respondent advertised
4 and solicited pest control services under the business name M & S Pest Control and Termite
5 (M&S). The Board's specialist also found that Respondent advertised on a computer website,
6 that M & S Pest Control and Termite could perform structural pest control services in both
7 Branch 2 and 3. The services Respondent advertised and solicited require registration with the
8 State of California, insurance, a bond as well as registration with the County Department of
9 Agriculture. In checking the status of M&S with the Santa Clara County Department of
10 Agriculture and Environmental Management, South County Office, the Board's specialist learned
11 that Respondent's company, M&S, was not registered to practice pest control in that county.

12 27. On or about September 15, 2010, while reviewing the WDO reports Respondent
13 prepared, the Board's specialist noticed a paragraph in the reports indicating that "M & S
14 technicians were state certified and were constantly being upgraded by training." Further, the
15 statement provided a telephone number for inquiries. The Board's specialist called the telephone
16 number provided and found that it was registered to a plumbing company. The Board later found
17 that the telephone number Respondent listed in his WDO reports had been issued to the plumbing
18 company several years ago.

19 28. During the Board's investigation regarding Respondent's activities as M&S, the
20 Board's specialist was advised by two separate real estate agents that Respondent frequently
21 prepared WDO reports on personal as well as real property transactions using the reports from
22 Respondent doing business as M&S.

23 **ACCUSATION**

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Unlicensed Practice)

26 29. Respondent's operator's license is subject to disciplinary action under Business and
27 Professions Code section 8550(e) in that Respondent engaged in the practice of pest control
28

1 without properly registering with the Structural Pest Control Board, as set forth in paragraphs 26-
2 28, above.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Improper Company Registration)

5 30. Respondent's license is subject to disciplinary action under Business and Professions
6 Code section 8610 in that he failed to register his company known as M&S Pest Control with the
7 Structural Pest Control Board as set forth in paragraphs 25, 26 and 28, above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Representing an Unregistered Company)

10 31. Respondent's license is subject to disciplinary action under Business and Professions
11 Code section 8552 in that Respondent represented an unregistered company known as M&S Pest
12 Control in the performance of wood destroying pest and organism inspections as set forth in
13 paragraphs 25-28, above.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 (Grossly Negligent and/or Fraudulent Act)

16 32. Respondent's license is subject to disciplinary action under Business and Professions
17 Code section 8642 of the Business and Professions Code in that Respondent committed a grossly
18 negligent and/or fraudulent act(s) by representing M & S Pest Control and Termite as a
19 legitimately registered pest control company by using a cancelled registration number in the
20 performance and preparation of a wood destroying pests and organisms inspection report as set
21 forth in paragraphs 25-28, above.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 (Aiding and Abetting an Unregistered Company)

24 33. Respondent's license is subject to disciplinary action under Business and Professions
25 Code section 8639 of in that Respondent aided and abetted an unregistered company to avoid the
26 provisions of the Structural Pest Control Act by soliciting and performing structural pest control
27 activities on behalf of the company M & S Pest Control and Termite as set forth in paragraphs 25-
28 28, above.

1 which employs, elects, or associates Steven George Mayne, Jr. shall be subject to disciplinary
2 action.

3 42. Section 8622 of the Code provides, in pertinent part, that respondent shall submit an
4 inspection fee of not more than \$125. If a reinspection is necessary, a commensurate reinspection
5 fee shall be charged.

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

11 **PRAYER**

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

15 1. Revoking or suspending Operator's License Number OPR 11743, issued to Steven
16 George Mayne, Jr.;

17 2. Denying the application of Mary & Steven Termite Control, Steven George Mayne,
18 Jr., owner/operator, for registration of company;

19 3. Prohibiting Steven George Mayne, Jr., from serving as an officer, director, associate,
20 partner, or qualifying individual of any licensee during the period that discipline is imposed on
21 Operator's License Number OPR 11743;

22 4. Revoking or suspending any other license for which Steven George Mayne, Jr., is
23 furnishing the qualifying experience or appearance;

24 5. Ordering Steven George Mayne, Jr., to pay the Board its costs in the investigation and
25 enforcement of the case according to proof at the hearing, pursuant to Business and Professions
26 Code section 125.3;

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

DATED: 6/16/11

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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