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FILED

Date 3/23/16 By Susan Saylor

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

12 In the Matter of the Accusation Against:

13 **DYNASTY EXTERMINATORS, INC.**
14 **DBA DYNASTY TERMITE**
15 **DOUGLAS M. FIERRO, QM/PRS**
16 **5900 Eastern Avenue, Suite 141**
17 **Commerce, California 90040**
18 **And**
19 **P.O. Box 40898**
20 **Downey, California 90239**

21 **Company Registration Certificate No. PR**
22 **6106, Br. 3**
23 **Operator's License No. OPR 11797**

24 Respondents.

Case No. 2015-69

SECOND AMENDED
ACCUSATION

25 Susan Saylor ("Complainant") alleges:

26 **PARTIES**

27 1. Complainant brings this Second Amended Accusation solely in her official capacity
28 as the Registrar and Executive Officer of the Structural Pest Control Board ("Board"),
Department of Consumer Affairs.

Company Registration Certificate No. PR 6106

2. On or about August 11, 2010, the Board issued Company Registration Certificate
Number PR 6106 ("registration") in Branch 3 to Dynasty Exterminators, Inc., doing business as

1 Dynasty Termite (“Respondent Dynasty”) with L. Joyce Fierro as the President and 90%
2 shareholder, Douglas M. Fierro as the Qualifying Manager and Vice President and 10%
3 shareholder. On or about August 5, 2013, the registration was suspended for failure to maintain a
4 surety bond in the amount of \$4,000.00, as required by Business and Professions Code (“Code”)
5 section 8697. On or about August 15, 2013, the registration was reinstated after posting a surety
6 bond in the amount of \$4,000.00. On or about October 18, 2013, Lupita J. Blazer became the
7 President and 100% shareholder. On or about November 18, 2013, Douglas M. Fierro became
8 the President and an 80% shareholder, and Lupita J. Blazer became the Vice President and 20%
9 shareholder. On or about December 9, 2013, Douglas M. Fierro became the President and 100%
10 shareholder.

11 **Operator’s License No. OPR 11797**

12 3. On or about January 15, 2009, the Board issued Operator’s License Number OPR
13 11797 in Branch 3 to Douglas M. Fierro (“Respondent Fierro”) as the Qualifying Manager of
14 Gallatin Holdings, Inc., doing business as Dynasty Termite. On or about August 11, 2010, Fierro
15 disassociated as the Qualifying Manager of Gallatin Holdings, Inc., doing business as Dynasty
16 Termite, due to the cancelation of the company registration. On that same day, Fierro became the
17 Qualifying Manager, Vice President, and 10% shareholder of Dynasty Exterminators, Inc., doing
18 business as Dynasty Termite. On or about November 18, 2013, Fierro became the President and
19 an 80% shareholder of Dynasty Exterminators, Inc., doing business as Dynasty Termite. On or
20 about December 9, 2013, Fierro became the President and 100% shareholder of Dynasty
21 Exterminators, Inc., doing business as Dynasty Termite. The operator’s license will expire on or
22 about June 30, 2017, unless renewed.

23 4. At all times alleged herein, Respondent Fierro was the only licensee of Respondent
24 Dynasty and was in charge of Respondent Dynasty’s daily operations, operating from Commerce,
25 California, located in Los Angeles County, California.

26 **JURISDICTION**

27 5. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a
28 license when it finds that the holder, while a licensee or applicant, has committed any acts or

1 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
2 penalty.

3 6. Code section 8625 states:

4 The lapsing or suspension of a license or company registration by operation of
5 law or by order or decision of the board or a court of law, or the voluntary surrender
6 of a license or company registration shall not deprive the board of jurisdiction to
7 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.

8 7. Code section 8624 states:

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

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

13 The performance by any partnership, corporation, firm, association, or
14 registered company of any act or omission constituting a cause for disciplinary
15 action, likewise constitutes a cause for disciplinary action against any licensee who,
16 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.

17 8. Code section 8622 states:

18 When a complaint is accepted for investigation of a registered company, the
19 board, through an authorized representative, may inspect any or all properties on
20 which a report has been issued pursuant to Section 8516 or a notice of completion
21 has been issued pursuant to Section 8518 by the registered company to determine
22 compliance with the provisions of this chapter and the rules and regulations issued
23 thereunder. If the board determines the property or properties are not in compliance,
24 a notice shall be sent to the registered company so stating. The registered company
25 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.

26 The notice sent to the registered company shall inform the registered company
27 that if it desires a hearing to contest the finding of noncompliance, the hearing shall
28 be requested by written notice to the board within 20 days of receipt of the notice of

1 noncompliance from the board. Where a hearing is not requested pursuant to this
2 section, payment of any assessment shall not constitute an admission of any
3 noncompliance charged.

3 STATUTORY PROVISIONS

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

5 (a) This section, and Section 8519, apply only to wood destroying pests or
6 Organisms.

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

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

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

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

- 22 (1) The date of the inspection and the name of the licensed field
23 representative or operator making the inspection.
- 24 (2) The name and address of the person or firm ordering the report.
- 25 (3) The name and address of any person who is a party in interest.
- 26 (4) The address or location of the property.
- 27 (5) A general description of the building or premises inspected.

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(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. Code section 8551.5 states:

Except as provide in this chapter, an unlicensed individual in the employ of a registered company shall not apply any pesticides included in Branch 2 or Branch 3. However, an individual may, for 90 days from the date of employment, apply pesticides for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 90-day time period my not be extended.

11. Code section 8636 states:

Disregard and violation of the buildings laws of the state, or of any of its political subdivisions, or of the safety laws, labor laws, health laws, or compensation insurance laws of the state relating to the practice of structural pest control is a ground for disciplinary action.

12. 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.

13. 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.

1 14. Code section 8642 states:

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

5 15. Code section 8644 states:

6 Fraud or misrepresentation, after inspection, by any licensee or registered
7 company engaged in pest control work of any infestation or infection of wood-
8 destroying pests or organisms found in property or structures, or respecting any
9 conditions of the structure that would ordinarily subject structures to attack by wood-
10 destroying pests or organisms, whether or not a report was made pursuant to Sections
11 8516 and 8517 of this code, is a ground for disciplinary action.

12 16. Code section 8650 states:

13 Acting in the capacity of a licensee or registered company under any of the
14 licenses or registrations issued hereunder except:

15 (a) In the name of the licensee or registered company as set forth upon the
16 license or registration, or

17 **REGULATORY PROVISIONS**

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

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

24 ...

25 (3) Infestations, infections or evidence thereof.

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

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

...

(4) Earth-wood contacts.

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

...

(g) Information must be reported regarding any wooden deck, wooden stairs or
wooden landing in exterior exposure attached to or touching the structure being
inspected. Portions of such structure that are not available for visual inspection must
be designated as inaccessible.

1 18. California Code of Regulations, title 16, section 1970, states, in pertinent part:

2 For the purpose of maintaining proper standards of safety and the establish-
3 ment of responsibility in handling the dangerous gases used in fumigation and the
4 pesticides used in other pest control operations, a registered company shall compile
5 and retain for a period of at least three years, a log for each fumigation job and for
6 each pesticide control operation in which a pesticide is used by the registered
7 company or the registered company's employee. . . .

8 (b) The report for each pest control operation, other than fumigation, in which
9 a pesticide is used shall contain the following information:

- 10 Date of treatment.
- 11 Name of owner or his or her agent.
- 12 Address of property.
- 13 Description of area treated.
- 14 Target pest(s).
- 15 Pesticide and amount used.
- 16 Identity of person or persons who applied the pesticide.

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

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

23 . . .
24 (9) For the extermination of subterranean termite infestations, treat an
25 infested area under the structure when subterranean termite tubes are found
26 connected to the ground or when active infestations are found in the ground.
27 Subterranean termite tubes shall be removed where accessible, except where a
28 licensee is using an above ground termite bait station that requires the use of the
termite tubes to be effective. Where a licensee is using an above ground termite bait
station that requires the use of termite tubes to be effective, subterranean termite
tubes can remain in place for the duration of the licensee's use of the termite bait
stations. At the conclusion of the treatment, the subterranean termite tubes shall be
covered.

29 . . .
30 (11) Correct any excessive moisture condition that is commonly controll-
31 able. When there is reasonable evidence to believe a fungus infection exists in a
32 concealed wall or area, recommendations shall be made to open the wall or area.

33 20. California Code of Regulations, title 16, section 1993, states, in pertinent part:

34 All of the following reports must be in compliance with the requirements of
35 Section 8516 of the code. All reports must be on the form prescribed by the board.

1 (a) An original inspection report is the report of the first inspection conducted
2 on a structure at the request of a specified party or for a specified purpose.
3 Subsequent inspections conducted on a structure at the request of a different party, for
4 a different purpose than a previous inspection, or a different transaction relating to the
5 same structure shall be deemed to be new inspections for which an original inspection
6 report shall be required. An original inspection report may be either a complete or
7 limited inspection.

8 (b) A complete report is the report of an inspection of all visible and accessible
9 portions of a structure.

10 (c) A limited report is the report on only part of a structure. Such a report shall
11 have a diagram of the area inspected and shall specifically indicate which portions of
12 the structure were inspected with recommendation for further inspection of the entire
13 structure and the name of the person or agency requesting a limited report.

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

20 (e) A reinspection report is the report on the inspections of item(s) completed
21 as recommended on an original report or subsequent report(s). The areas reinspected
22 can be limited to the items requested by the person ordering the original inspection
23 report. A licensed operator or field representative shall refer to the original report in
24 such a manner to identify it clearly.

25 21. California Code of Regulations, title 16, section 1999.5, states, in pertinent part:

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

29 22. California Code of Regulations, title 16, section 1937.14, states, in pertinent part:

All work completed by licensees or registered companies shall be done within
the specific requirements of any plans or specifications and shall meet accepted trade
standards for good and workmanlike construction in any material respect, and shall
comply with provisions of Section 2516(c)(1), (2), (4) and (6) of Title 24, California
Code of Regulations.

COST RECOVERY/RESTITUTION

30 23. Code section 125.3 provides, in pertinent part, that the Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

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

6 VIA DE ROBLES PROJECT

7 25. In or about December 2013, Jerome Oddo, also known as Jarrett Oddo, ("Oddo")
8 made an offer through his realtor to purchase a single family resident located at 6621 Via De
9 Robles, in Rancho Murieta, California. The property was listed for sale by a real estate firm
10 called Maxim Properties.

11 26. On or about December 27, 2013, Respondent Fierro inspected the property located at
12 6621 Via De Robles, in Rancho Murieta, California, ("Via De Robles project"), for wood
13 destroying pests and organisms ("WDO inspection") and thereafter issued a "Complete" WDO
14 Inspection Report No. W13273 ("Inspection Report No. W13273") containing certain findings,
15 including evidence of drywood termite infestations at the attic space; evidence of drywood
16 termite infestations at the garage; dry rot wood members found at the decking; water stains; dry
17 rot wood members at the trim, siding, shiplap starter, and French door. Respondent Fierro
18 recommended chemically treating the area of drywood termite infestation, repairing, reinforcing
19 or replacing the dry rot damaged wood members, and to repair or reinforce water damaged wood
20 members to correct the moisture condition. Respondent Fierro submitted an estimate in the
21 amount of \$2,175.00 to perform the recommended work.

22 27. On or about January 27, 2014, Oscar Fregoso ("Fregoso") of Homeguard Incor-
23 porated performed a complete home inspection of the Via De Robles property and issued a
24 "Complete" WDO Inspection Report No. 119450, containing certain findings, including siding
25 and trim damaged by fungus and subterranean termites; subterranean termites noted throughout
26 the structure; wooden window sash damaged by fungus at various areas; French door jamb and
27 trim damaged by fungus and subterranean termites; second story siding and trim damaged by
28 fungus; rear entry doors, jambs, and trim damaged by fungus; French door and jamb damaged by

1 fungus at second story deck; abutments and deck wood members damaged by fungus and
2 subterranean termites; in-law side entry door damaged by fungus; shelf under the kitchen sink is
3 damaged by fungus; exterior caulking at various areas is missing; siding delaminated and/or
4 weathered at various areas; exterior siding is loose and/or warped at various areas; sheetrock
5 damaged by excessive moisture at the kitchen sink; and water stains to the ceiling. Fregoso made
6 recommendations, including but not limited to, chemically treating the entire structure at probable
7 termite entry points for the control of subterranean termites; remove and replace damaged wood
8 members; remove and omit the entire abutments and decks to eliminate structural deficiencies;
9 install new doors and jambs; apply new exterior grade caulking; secure siding; and a further
10 inspection when the water is turned on to test areas that are normally tested during a termite
11 inspection. Fregoso submitted an estimate in the amount of \$22,345.00 to perform the
12 recommended work.

13 28. On or about February 7, 2014, Fregoso performed a supplemental inspection of the
14 Via De Robles property for the purpose of further inspecting the property with the water turned
15 on. Fregoso issued "Supplemental" WDO Inspection Report No. 119450, containing certain
16 findings, including a leak at the in-law bathroom stall shower and master bathroom stall shower; a
17 plumbing leak at the breezeway hose bib, main structure water heater; master bathroom sink
18 supply, and hall bathroom sink faucet. Fregoso made recommendations to repair the leaks, and
19 for a supplemental report if additional damage was found during repairs. Fregoso also noted the
20 possibility of additional charges should the local building department require additional changes.
21 Fregoso submitted an estimate in the amount of \$14,885.00 to perform the recommended repairs.

22 29. On or about May 3, 2014, Respondent Fierro performed a complete inspection of the
23 Via De Robles property and issued a "Complete" WDO Inspection Report No. W13709
24 ("Inspection Report No. W13709") containing certain findings, including evidence of drywood
25 termite infestations at the attic space and garage; dry rot wood members found at the decking;
26 water stains; dry rot wood members at the trim, siding, shiplap starter, and French door.
27 Respondent Fierro recommended chemically treating the area of drywood termite infestation,
28 repairing, reinforcing or replacing the dry rot damaged wood members, and to repair or reinforce

1 water damaged wood members to correct the moisture condition. Respondent Fierro submitted
2 an estimate in the amount of \$2,175.00 to perform the recommended work.

3 30. On or about May 12, 2014, Respondent Fierro performed a complete reinspection of
4 the Via De Robles property and issued a "Complete" "Reinspection" WDO Inspection Report No.
5 W13719 ("Inspection Report No. W13719"). The report noted the substructure was dry with
6 good access, the stall shower had no leaks, the ventilation was adequate above grade, the attic had
7 good access, no abutments, the decks were wood, the interior and exterior were inspected, and
8 there was evidence of drywood termite infestations at the attic space and garage. Furthermore, it
9 noted that dry rot wood members were found at the trim, siding, and shiplap starter. Respondent
10 Fierro recommended chemically treating the area of drywood termite infestation, repairing,
11 reinforcing or replacing the dry rot damaged wood members, and to repair or reinforce water
12 damaged wood members to correct the moisture condition. Respondent Fierro submitted an
13 estimate in the amount of \$985.00 to perform the recommended work.

14 31. On or about June 4, 2014, Fregoso performed a reinspection of the Via De Robles
15 property and issued "Reinspection" WDO Inspection Report addressing the items listed in the
16 "Complete" Inspection Report No. 119450, dated January 27, 2014. Fregoso noted that the
17 following work was not completed: damaged siding, trim, window sash, French door jamb and
18 trim, second story siding and trim, rear entry doors, jambs, and trim, second story French door
19 and jamb; subterranean termites throughout the structure; and damage to the abutments and deck
20 wood members.

21 32. On or about June 13, 2014, Respondent Fierro performed a reinspection of the Via De
22 Robles property and issued a "Reinspection" WDO Inspection Report No. W13809 ("Inspection
23 Report No. W13809"). The report noted the stall shower had no leaks, the attic had good access,
24 and no abutments. The report contained some new findings, including fungus damage under the
25 kitchen sink, siding, trim, exterior window sash, second story siding and trim, back door trim and
26 jamb, and at the second story French door and jamb; water stains on the ceiling; evidence of
27 subterranean termite damaged wood members at the siding and trim; evidence of subterranean
28 termite infestation at the exterior; evidence of subterranean termite and fungus damaged wood at

1 the French door jamb and trim; evidence of subterranean termite and fungus damaged wood at the
2 deck areas and abutments; fungus damaged wood members at the door and jamb at the guest
3 house; fungus damaged wood members at the door jamb and second story French door; damage
4 to exterior siding; loose siding; and warped siding at different areas.¹ Respondent Fierro
5 recommended chemically treating the area of subterranean termite infestation and fungus damage;
6 repair, reinforce, or replace the termite and dry rot damaged wood members; and other tradesman
7 to remove and replace damaged or loose wood members to correct siding issues. Respondent
8 Fierro submitted an estimate in the amount of \$3,975.00 to perform the recommended work.

9 33. On or about June 24, 2014, Respondent Fierro issued two separate inspection reports.
10 One of the reports is marked as a "Complete" "Reinspection" and the other report is marked as a
11 "Supplemental" "Reinspection" report. Both reports are identical to Respondent Fierro's report
12 dated June 13, 2014, and bear the same Report No. W13809.

13 34. On or about June 25, 2014, Respondent Fierro issued a Standard Notice of Work
14 Completed and Not Completed ("Completion Notice"), certifying the property was free of
15 evidence of active infestation or infection in the visible and accessible areas, and that the
16 following recommendations had been completed, as set forth in Inspection Report No. W13809
17 dated June 13, 2014²:

- 18 a. Fungus damage under the kitchen sink.
19 b. Evidence of subterranean termite damaged wood members at the siding and
20 trim.
21 c. Fungus damage at the siding and trim.

22
23 ¹ During a records inspection, a second inspection report was found bearing the same date
24 and report number (W13809). However, the difference in the two reports is that a change was
25 made at the top of the "Findings and Recommendations" section to read: "Note: There was (sic)
no water to test appropriate testings (sic) for termite purpose. Stall Shower: No water service at
time of the inspection."

26 ² During a records inspection, a second Standard Notice of Work Completed and Not
27 Completed was found bearing the same date and report number. However, under the
28 "Recommendations not completed by this firm:" section, it was changed to read: "10B was not
repaired by this company. The work visibly appears completed in a workmanlike manner. This
company was not present at the time of repairs and has no knowledge of materials or quality of
work performed, nor issues any warranty."

- 1 d. Evidence of subterranean termite infestations at the exterior.
- 2 e. Fungus damage at the exterior window sash.
- 3 f. Evidence of subterranean termite damage and fungus damaged wood members
4 at the door jamb and trim at the French door.
- 5 g. Fungus damage at the second story trim and siding.
- 6 h. Fungus damage at the back door trim and jamb.
- 7 i. Fungus damage at the second story deck French door and jamb.
- 8 j. Evidence of subterranean termite damage and fungus damaged wood members
9 at the deck areas and abutments.
- 10 k. Fungus damaged wood members found at the door and jamb at the guest house.
- 11 l. Fungus damaged wood members found at the door jamb and French door at the
12 second story deck.

13 (The following recommendations were not completed: Water stains at the ceiling; exterior
14 siding damage; and loose and warped siding.)

15 35. On or about June 27, 2014, the homeowner, Oddo, filed a complaint with the Board
16 alleging that Respondent failed to perform a proper inspection, and failed to test or properly
17 report that the shower pans were leaking in the bathrooms.

18 36. On or about July 4, 2014, Scott Whitten ("Whitten") a Construction Consultant-
19 Forensic Investigator performed a home inspection of the Via De Robles property at the request
20 of Oddo. On or about July 15, 2014, Whitten issued a 23 page home inspection report wherein he
21 addressed the following concerns and made recommendations: extensive deterioration to the
22 exterior siding and trim; deteriorated wood trim at the driveway; damaged HVAC unit in the attic
23 is leaking into the bedroom below damaging the sheetrock ceiling; and many of the French doors
24 need to be replaced.

25 37. On or about July 12, 2014, Shawn Castle ("Castle") of Elk Grove Termite Control
26 performed a complete inspection of the Via De Robles property and issued a "Complete" WDO
27 Inspection Report No. 8485, at the request of Respondent Fierro. The report contained certain
28 findings, including active subterranean termites along the front and left side of the structure;

1 wood decay fungi (dry rot) damage at the siding and window trim; dry rot at the rear door jamb;
2 wood decay fungi (dry rot) damage at the corner trim; dry rot at the side door jamb and stucco
3 molding; wood decay fungi (dry rot) damage at the lower siding; dry rot at the wood sash
4 windows and trim; dry rot at the front door jambs; wood decay fungi (dry rot) damage at the
5 siding and corner trim; dry rot at the upper areas of the siding along with all trim on chimney; dry
6 rot found at the attached wood planter box; the sunken tub/shower is leaking in the MIL quarters
7 with damage extending into the furnace closet sheetrocked wall area; dry rot at the upstairs porch
8 column top caps; and soil and/or rock build up along the lower exterior siding. (The rear and side
9 decks were not inspected nor was the fencing). Castle recommended chemically treating the
10 structure, around all the interior and exterior perimeter of the foundation to control the
11 subterranean termites, to remove the fungus damaged wood and replace it with new material, and
12 to make some areas accessible for further inspection.

13 38. On or about July 16, 2014, escrow closed on the Via De Robles property.

14 39. On or about August 6, 2014, Respondent Fierro performed an inspection of the Via
15 De Robles property and issued a "Complete" WDO Inspection Report No. W13967 ("Inspection
16 Report No. W13967"). The report noted that there were no leaks at the stall shower at the time of
17 inspection, there was a crooked deck board, a cracked tile at the shower floor, trim gap, and
18 evidence of termite damaged wood members at the window sill. Respondent Fierro made
19 corrective recommendations and indicated that if additional adverse conditions were found during
20 repairs, a further inspection will be recommended and a supplemental report will be issued
21 indicating any infection, or additional repairs.

22 40. On or about August 6, 2014, Respondent Fierro issued a second inspection report
23 bearing the same date and report number, that is Inspection Report No. W13967. However,
24 Respondent Fierro changed three of his findings and recommendations, as follows: subterranean
25 termite tubes not fully removed; soft edge at deck; and a possible leak at the stall shower
26 (homeowner to allow Respondent to open up for further inspection). Respondent Fierro
27 recommended removal of the subterranean termite tubes and to retreat the area, and to install a
28 support to correct the soft edge at the deck.

1 41. On or about August 22, 2014, Respondent Fierro issued a Standard Notice of Work
2 Completed and Not Completed (“Completion Notice”), reporting that the following
3 recommendations had been completed, as set forth in Inspection Report No. W13967 dated
4 August 6, 2014:

- 5 a. Subterranean termite tubes removed and the area retreated;
- 6 b. Deck board re-nailed and secured correctly;
- 7 c. Support installed to correct the soft edge at the deck;
- 8 d. Repaired cracked floor tile, sealed, and water tested;
- 9 e. Repaired trim gap; and
- 10 f. Repaired, reinforced, or replaced dry rot damaged wood members at the
11 window sill.

12 42. On or about September 11, 2014, a specialist from the Board inspected the Via De
13 Robles property, and made the following findings:

- 14 a. Fungus infection and damage to the window frames, sill, and trim of the
15 windows at the front of the structure, at the garage in the courtyard area, and right rear of the
16 structure at the master bathroom/bedroom windows.
- 17 b. Respondent applied wood putty or bondo over the fungus damaged window
18 sashes/framing. The fungus damage remains present.
- 19 c. Respondent failed to perform or complete the treatment for subterranean termite
20 infestation at areas around the structure.
- 21 d. Fungus infection and damage at the exterior siding and trim.
- 22 e. Fungus damaged treads with earth wood contact present at the deck.
- 23 f. Fungus damage visible at the posts, base, and top surfaces at the deck.
- 24 g. Extensive fungus damage to the base of the front door of the guest house.
- 25 h. Fungus damage to the base of the kitchen cabinet under the sink area was not
26 corrected and extended under the adjacent areas.
- 27 i. Fungus damage to the subfloor and base of the walls adjacent to the second
28 story balcony doors.

1 j. Fungus damage to some of the trim at the outside wall of the upper balcony.
2 The damage leads into an inaccessible area.

3 k. Extensive fungus damage with heavy water stains to the floor and platform of
4 the heating and air conditioning unit was present in the attic.

5 43. On or about March 30, 2015, a Board specialist received a telephone call from Oddo,
6 who stated that he found evidence of termites in the guest bathroom.

7 44. On or about April 7, 2015, a Board specialist returned to the Via De Robles property
8 to inspect the areas that Oddo suspected were termites. The Board specialist found active termite
9 swarmer tubes coming from the top of the tub shower dam/wall with heavy evidence of a full
10 swarm on the slab floor, indicating a long-term infestation coming from under the slab.

11 45. On or about April 7, 2015, a Board specialist issued a Report of Findings along with a
12 Notice ordering Respondent Dynasty to bring the property into compliance by correcting the
13 items described in the Report of Findings and to submit a corrected inspection report and Notice
14 of Work Completed and Not Completed to the Board within thirty (30) days with respect to the
15 inspections performed on the following dates: December 27, 2013; May 3, 2014; May 12, 2014;
16 June 13, 2014; June 24, 2014; and August 6, 2014; as set forth in paragraphs 26, 29, 30, 32, 33,
17 and 39, above, incorporated herein by reference.

18 46. On or about April 15, 2015, Respondent Dynasty received the Report of Findings.

19 47. On or about May 27, 2015, the Board specialist met with Respondent Fierro and
20 Oddo at the Via De Robles property to review the violations outlined in the Report of Findings.
21 The Board specialist went over all of the findings and conditions with Respondent Fierro and
22 pointed out all the damage in the property. Respondent Fierro did not disagree with any of the
23 findings.

24 48. Respondents failed to bring the Via De Robles property into compliance within the
25 thirty (30) days required by the Report of Findings mentioned in paragraph 45, above,
26 incorporated herein by reference.

27 49. On or about February 11, 2016, at Oddo's request, a Board specialist returned to the
28 Via De Robles property to view areas of the home that had recently been opened up due to

1 construction. The inspector found extensive termite and dry rot damage extending into areas of
2 the property which Respondents had allegedly repaired. The inspector's observations of the
3 damage included, but was not limited to: extensive, long-term fungus and dry rot damage to the
4 beams below the balcony and framing boards around the sliding door; extensive damage to floor
5 and walls at the sliding door; fungus and dry rot in a shower, extending up the wall for four to
6 five feet; termite and dry rot damage around a large window; long term fungus and leaks in the
7 attic; new siding had been installed over older siding hiding fungus and water leak damage on the
8 older siding; and, fungus and termite damage at the wall posts for the deck. All of the damage
9 observed by the inspector on February 11, 2016, clearly shows hidden damage that would have
10 been discovered by Respondents if they had actually performed the repairs as represented by
11 Respondents. Respondents' unprofessional conduct resulted in Oddo closing escrow on July 16,
12 2014, prior to Respondents bringing the home into compliance, limited Oddo's options for legal
13 recourse relating to the extensive damage to the property, and requiring a substantial sum of
14 money to be expended to repair the home for occupancy.

15 **MULTIPLE INSPECTIONS ON SAME DATE –**

16 **DIVERSE GEOGRAPHIC LOCATIONS**

17 50. A review of the Board's computerized WDO³ System for Respondents' inspections/
18 activity reports filed during the period from on or about January 1, 2013, through on or about
19 November 2, 2015, discloses that Respondents reported they had performed multiple inspections
20 and/or treatments on properties on the same dates for properties located in diverse geographic
21 areas in California and, in many instances, there was a substantial distance between the
22 properties.

23 51. For the period of January 1, 2013 through January 1, 2014, Respondents reported they
24 had performed more than six property inspections in one day (up to as many as 14 inspections) on
25 several days during that period and that treatments had also been performed on those dates.

26 ³ Code section 8516, subdivision (b), requires, among other things, for licensees to file their
27 WDO treatment/work activity reports with the Board. Those reports are summarized and entered
28 into the Board's computerized Wood Destroying Organism System ("WDO System").

1 Respondents reported they had performed a total of 1096 property inspections and 410 treatments
2 during the period of December 1, 2013, through December 1, 2014, including, but not limited to,
3 the following:

4 a. On or about December 19, 2013, Respondents reported they had performed
5 inspections and/or completed treatments on eight separate properties located in Kern, Los
6 Angeles, Sacramento, and Yuba Counties.

7 b. On or about March 24, 2014, Respondents reported they had performed
8 inspections and/or completed treatments on nine separate properties located in Los Angeles, Santa
9 Barbara, San Joaquin, and Sonoma Counties.

10 c. On or about April 29, 2014, Respondents reported they had performed
11 inspections and/or completed treatments on 11 separate properties located in Fresno County and
12 in various parts of Los Angeles County.

13 d. On or about May 28, 2014, Respondents reported they had performed
14 inspections and/or completed treatments on seven separate properties located in Orange County
15 and various parts of Los Angeles County.

16 e. On or about May 29, 2014, Respondents reported they had performed
17 inspections and/or completed treatments on six properties located in various parts of Los Angeles
18 County.

19 f. On or about May 30, 2014, Respondents reported they had performed
20 inspections and/or completed treatments on two properties located in various parts of Los Angeles
21 County.

22 g. On or about June 9, 2014, Respondents reported they had performed 16
23 property inspections and/or completed work on three separate properties located in Fresno, Los
24 Angeles, Monterey, Sacramento, Santa Cruz, and Yolo Counties.

25 h. On or about June 10, 2014, Respondents reported they had performed 11
26 property inspections and completed work on two other properties located in Los Angeles, Santa
27 Barbara, and Ventura Counties.

28

1 i. On or about September 8, 2014, Respondents reported they had performed 14
2 inspections and had completed work on one property located in El Dorado, Los Angeles, Placer,
3 Sacramento, Santa Barbara, Santa Clara, and Yolo Counties.

4 j. On or about September 30, 2014, Respondents reported they had performed
5 inspections and/or completed treatments on eight separate properties located in Fresno, Los
6 Angeles, Orange, and Santa Barbara Counties.

7 52. For the period of January 1, 2013, through on or about October 8, 2015, Respondents
8 treatment/work activity reports disclose that in certain *months* during that period, Respondents
9 had performed as many as 80 to 100, or more, property inspections and had completed work on as
10 many as 30 to 40 properties during that period including, but not limited to:

11 a. During the month of October 2013, Respondents reported they had performed
12 112 original inspections and eight limited inspections, and had issued 41 notices of work
13 completed and not completed.

14 b. During the month of February 2, 2014, Respondents reported they had
15 performed 101 original inspections, five limited inspections, one supplemental inspection, and
16 two reinspections, and had issued 25 notices of work completed and not completed.

17 c. During the month of March 2014, Respondents reported they had performed 85
18 original inspections, 13 limited inspections, one supplemental inspection, and six reinspections,
19 and had issued 48 notices of work completed and not completed.

20 d. During the month of May 2014, Respondents reported they had performed 86
21 original inspections, 12 limited inspections, one supplemental inspection, seven reinspections,
22 and issued 29 notices of work completed and not completed.

23 e. During the month of September 2014, Respondents reported they had
24 performed 79 original inspections, two limited inspections, two reinspections, and had issued 41
25 notices of work completed and not completed and three corrected reports/notices of work
26 completed and not completed.

27

28

1 53. A review of the Board's computerized WDO System for Respondent Fierro's
2 inspections/activity reports filed during the period from on or about May 28 to 29, 2014, disclose
3 that he performed and/or completed inspections during that period including, but not limited:

4 a. On or about May 28, 2014, Respondent performed and completed an inspection
5 on one property located in Los Angeles County, completed an inspection on one property located
6 in Los Angeles County that had started on March 25, 2014, and inspected four separate properties
7 located in Los Angeles and Orange Counties.

8 b. On or about May 29, 2014, Respondent performed and completed inspections
9 on two separate properties located in Los Angeles County, completed an inspection on one
10 property located in Los Angeles County that had been started on May 15, 2014, and inspected one
11 property located in Los Angeles County.

12 c. On or about May 30, 2014, Respondent performed inspections on two separate
13 properties located in Los Angeles County.

14 54. During the Board's investigation of Respondents for the Via De Robles Project, a
15 specialist interviewed Respondent Fierro. Respondent Fierro informed the specialist that he,
16 Respondent Fierro, had performed all of the inspections and/or treatments that Respondents had
17 reported to the Board. Respondent Fierro also confirmed that he had been out of the State of
18 California during the period of on or about May 28 through May 30, 2014. During the same
19 interview, Respondent Fierro failed to produce to the specialist copies of any subcontracts which
20 Respondents had entered into for the performance of any of the inspections and/or treatments
21 alleged in paragraphs 50 through 53, and all their subparts, above, as requested by the specialist.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with the Code - Improper Inspection)**

24 55. Respondent Dynasty's registration and Respondent Fierro's operator's license are
25 subject to discipline under Code section 8641, in that, as to the Via De Robles property,
26 Respondents failed to comply with the following statutes and regulations:

27 a. Respondents failed to report the full extent of fungus infection and damage to
28 the window frames, sills, and trim of the windows at the front of the structure in the courtyard

1 area and right rear of the structure at the master bathroom/bedroom windows in Inspection Report
2 No. W13809, dated June 24, 2014, in violation of Code section 8516, subdivisions (b)(6) and (7),
3 and Regulation 1990, subdivision (a)(3)(4) and 1991, subdivisions (a)(11).

4 b. Respondents failed to report the full extent of fungus infection and damage to
5 the base of the kitchen cabinet under and adjacent to the kitchen sink base in Inspection Report
6 No. W13809, dated June 24, 2014, and before, in violation of Code section 8516, subdivisions
7 (b)(6) and (b)(7), and Regulation 1990, subdivision (a)(3)(4).

8 c. Respondents failed to report fungus infection and damage to the trim and siding
9 at the top of the half wall of the second story balcony at the front left corner with fungus damage
10 leading into the inaccessible areas in Inspection Report No. W13809, dated June 24, 2014, and
11 before, in violation of Code section 8516, subdivisions (b)(6) and (b)(7), and Regulations 1990,
12 subdivision (a)(3)(4) and 1991, subdivision (a)(11).

13 d. Respondents failed to report evidence of leaks and fungus infection and damage
14 to the floor and platform of the heating and air-conditioning unit in the attic in Inspection Report
15 No. W13809, dated June 24, 2014, and before, in violation of Code section 8516, subdivisions
16 (b)(6) and (7), and Regulation 1990, subdivision (a)(3)(4) and (b)(5).

17 e. Respondents failed to report the leak at the roman tub/shower of the guest
18 house bathroom and master bathroom in Inspection Report No. W13809, dated June 24, 2014,
19 and before, in violation of Code section 8516 and Regulation 1991.

20 f. Respondents failed to issue a supplemental inspection report and identify the
21 fungi damage to the subfloor and base of the walls adjacent to the second story balcony door and
22 roof areas when made accessible in Inspection Report No. W13809, dated June 24, 2014, in
23 violation of Code section 8516 and Regulations 1990, 1991, and 1993.

24 g. Respondents failed to include in the inspection reports, a true diagram with the
25 approximate location of the reported conditions of the structure to identify their location, in
26 violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990.

1 h. Respondents failed to make a proper recommendation for the replacement of
2 the roman tub/showers in the guest house bath and master bath in Inspection Report No. 13967
3 dated August 6, 2014, in violation of Code section 8516 and Regulation 1991.

4 i. Respondents failed to make proper recommendations for the treatment of the
5 subterranean termite infestation; failed to perform a proper treatment; failed to comply with the
6 label for the control of the subterranean termite infestations reported around the structure; and
7 failure to identify the portion of the structure to be treated for guarantee and control purposes in
8 Inspection Report No. W13809, dated June 24, 2014, in violation of Code section 8516 and
9 Regulations 1991, subdivision (a)(9).

10 j. Respondents failed to report earth to wood contact at the fence and deck posts
11 at the rear deck, the underside and perimeters of the lower level decks and the inaccessible areas
12 under the decks, with fungus damage visible at the posts, and decking, which leads into
13 inaccessible areas, in violation of Code section 8516, subdivisions (b)(6)(7), and (9), and
14 Regulation 1990, subdivisions (a)(3)(4), (b)(4), and (g).

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Failure to Complete Work)**

17 56. Respondent Dynasty's registration and Respondent Fierro's operator's license are
18 subject to discipline under Code section 8638, in that, as to the Via De Robles property,
19 Respondents failed to complete work they contracted to perform, as follows:

20 a. Respondents failed to perform work outlined in item 11D (damaged window
21 sashes/framing), as set forth in Inspection Report No. W13809, dated June 24, 2014, which was
22 certified as having been completed in Respondent Dynasty's Standard Notice of Work Completed
23 and Not Completed dated June 25, 2014.

24 b. Respondents failed to perform work outlined in item 11B (damaged siding and
25 trim), around the perimeter of the structure at various locations, as set forth in Inspection Report
26 No. W13809, dated June 24, 2014, which was certified as having been completed in Respondent
27 Dynasty's Standard Notice of Work Completed and Not Completed dated June 25, 2014.

28

1 c. Respondents failed to perform work outlined in items 11H and 11I
2 (replacement of decking) at the first story deck, as set forth in Inspection Report No. W13809,
3 dated June 24, 2014, which was certified as having been completed in Respondent Dynasty's
4 Standard Notice of Work Completed and Not Completed dated June 25, 2014.

5 d. Respondents failed to perform work outlined in item 11J (fungus damaged door
6 to the guest house), as set forth in Inspection Report No. W13809, dated June 24, 2014, which
7 was certified as having been completed in Respondent Dynasty's Standard Notice of Work
8 Completed and Not Completed dated June 25, 2014.

9 e. Respondents failed to perform work outlined in item 10A (fungus damaged
10 cabinet base under the kitchen sink), as set forth in Inspection Report No. W13809, dated June
11 24, 2014, which was certified as having been completed in Respondent Dynasty's Standard
12 Notice of Work Completed and Not Completed dated June 25, 2014.

13 f. Respondents failed to perform work outlined in item 11K (fungus damaged
14 second story balcony doors and jamb (framing)), as set forth in Inspection Report No. W13809,
15 dated June 24, 2014, which was certified as having been completed in Respondent Dynasty's
16 Standard Notice of Work Completed and Not Completed dated June 25, 2014.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Fraud or Misrepresentation - Via De Robles Project)**

19 57. Respondent Dynasty's registration and Respondent Fierro's operator's license are
20 subject to discipline under Code sections 8642 and/or 8644 as follows:

21 a. Respondents committed fraud and/or misrepresentation in the Standard Notice
22 of Work Completed and Not Completed, dated June 25, 2014, by certifying that all recommended
23 items for repair contained in Inspection Report No. W13809 (with the exception of items 10B,
24 11L, and 11M), were completed when, in fact, they were not, as confirmed by the Board
25 inspector's February 11, 2016, observations at the Via De Robles property, as set forth in
26 paragraph 49, above, incorporated herein by reference.

27 b. Respondents committed fraud or misrepresentation by certifying that the
28 property was free and clear of all evidence of infestations and infections in the visible and

1 accessible areas, when in fact, it was not, as set forth in paragraph 49, above, incorporated herein
2 by reference. Respondents should have reported and identified the conditions with
3 recommendations to correct the damage in supplemental reports required by California Code of
4 Regulations, title 16, sections 1990 and 1991, subdivision (a)(11).

5 c. Respondents' fraud and misrepresentation resulted in Oddo's closing escrow on
6 the Via Robles property on July 16, 2014, prior to Respondents bringing the home into
7 compliance, limited Oddo's options for legal recourse relating to the extensive damage to the
8 property, and requires the expenditure of a substantial sum of money to repair the home for
9 occupancy.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Fraud or Misrepresentation – Multiple Same Day**

12 **Inspections/Treatments -- Diverse Locations)**

13 58. Respondent Dynasty's registration and Respondent Fierro's operator's license are
14 subject to discipline under Code sections 8642 and/or 8644, in that Respondents committed fraud
15 and/or misrepresentation by submitting and filing numerous WDO reports with the Board
16 claiming to have performed multiple inspections and/or treatments on properties on the same day
17 when the properties were located in diverse geographic locations and when he was out of the
18 country as set forth in paragraphs 50 through 54, and all of their subparts, above, incorporated
19 herein by reference, and as follows:

20 a. Due to the fact that Respondent Fierro was the only licensee in charge of the
21 daily operations for Respondent Dynasty from its licensed location in Commerce, California, and
22 the only licensee authorized to perform inspections and/or treatments, it was impossible for
23 Respondent Fierro to personally perform the inspections and/or treatments as stated in the reports;

24 b. Due to the amount of time required to complete a bona fide inspection of each
25 property reported and/or to complete the work required in compliance with accepted and required
26 industry standards and practices and due to the geographic distances between the properties and
27 Respondent Fierro's absence from this country during all or a portion of May 2014, it was
28

1 impossible for Respondent Fierro to personally perform inspections and/or complete the work
2 required as reported by Respondents to the Board or to consumers as completed work.

3 c. Due to Respondent Fierro's absence from the State of California during all or a
4 portion of May 2014, it was impossible for Respondent Fierro to personally perform inspections
5 and/or complete the work required as reported by Respondents to the Board or to consumers as
6 completed work.

7 d. Due to the volume of the inspections and/or treatments, the diverse geographic
8 locations of the properties, and Respondent Fierro's absence from this country during the time
9 periods alleged in paragraphs 50 through 54, and all of their subparts, incorporated herein by
10 reference, it was impossible for Respondent Fierro to be present for training and directly
11 supervising individuals in the performance of inspections and/or treatments alleged herein, within
12 the meaning of Code section 8551.5.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Failure to Meet Trade Standards)**

15 59. Respondent Dynasty's registration and Respondent Fierro's operator's license are
16 subject to discipline under Code section 8641, in conjunction with Regulation section 1937.14, in
17 that Respondents failed to meet accepted trade standards and complete all work in a good and
18 workmanlike manner, as follows:

19 a. Respondent applied wood putty or bondo over the fungus damaged window
20 sashes/framing.

21 b. Respondents failed to properly repair damaged siding and trim around the
22 perimeter of the structure.

23 c. Respondent failed to properly repair decking at the first story.

24 d. Respondent failed to properly repair fungus damaged second story balcony
25 doors and jamb (framing).

26 ///

27 ///

28 ///

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violation of Building Laws)**

3 60. Respondent Dynasty's registration and Respondent Fierro's operator's license are
4 subject to discipline under Code section 8636, in that Respondents failed to comply with building
5 codes by failing to obtain required building permits for work performed.

6 **SEVENTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Record Requirements)**

8 61. Respondent Dynasty's registration and Respondent Fierro's operator's license are
9 subject to discipline under Code section 8641, in that, concerning the Via De Robles property,
10 Respondents failed to comply with California Code of Regulations, title 16, section 1970,
11 subdivision (b), by failing to record the name of the individual who applied pesticide, the
12 pesticide used, the amount of pesticide used, and where the pesticide was applied. Furthermore,
13 Respondents failed to compile and retain for a period of at least three years, a log for each job
14 wherein pesticide is used.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Failed to Comply with Report of Findings)**

17 62. Respondent Dynasty's registration and Respondent Fierro's operator's license are
18 subject to discipline under Code section 8641, in that, Respondents failed to comply with Code
19 section 8622, by failing to correct the items described in the Report of Findings within thirty (30)
20 calendar days of receipt of the Notice, bringing the Via De Robles property into compliance with
21 the Board's Notice and Report of Findings, dated April 7, 2015.

22 **NINTH CAUSE FOR DISCIPLINE**

23 **(Namestyle Variance)**

24 63. Respondent Dynasty's registration and Respondent Fierro's operator's license are
25 subject to discipline under Code section 8650, subdivision (a), in that Respondents used the
26 namestyle Dynasty Exterminators, Dynasty Exterminators & Construction, and Dynasty Termite
27 and Construction, names that are different from that recorded with the Board as the name of
28

1 record. Furthermore, Respondents registered with the Secretary of State's office using the
2 namestyle Mr. Fumigation, Inc.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(False Advertising or Misleading)**

5 64. Respondent Dynasty's registration and Respondent Fierro's operator's license are
6 subject to discipline under Code sections 8648 and 8641, in that Respondents advertised for work
7 that requires a Branch 2 license when, in fact, Respondents do not hold a license in that Branch, a
8 violation of Regulation section 1999.5.

9 **PRIOR DISCIPLINE**

10 65. Effective May 25, 2012, pursuant to a Stipulated Settlement and Disciplinary Order
11 ("Order") in a disciplinary action titled, *In the Matter of the Accusation Against Dynasty*
12 *Exterminator, Inc., dba Dynasty Termite and Douglas M. Fierro, Case No. 2012-5*, the Structural
13 Pest Control Board revoked Company Registration Certificate Number PR 6106, issued to
14 Dynasty Exterminators, Inc. dba Dynasty Termite and Operator's License Number OPR 11797 in
15 Branch 3, issued to Douglas M. Fierro. However, the revocation was stayed and Respondent was
16 placed on probation for a period of three (3) years with certain terms and conditions. The Order
17 was based on the following: (a) improper inspections; (b) failure to complete work; (c) fraud or
18 misrepresentation; (d) failure to meet trade standards; (e) soliciting business in unlicensed areas;
19 (f) failure to comply with the Board's Report of Findings; (g) disregard/violation of building
20 laws; (h) failure to file inspection reports with the Board; (i) failure to prepare inspection
21 reports; and (j) used an invalid license number.

22 **Company Registration No. PR 6106**

23 66. On or about July 13, 2011, the company registration was issued a \$500 fine by the
24 San Bernardino County Agricultural Commissioner for violating California Code of Regulations,
25 title 16, section 6702, subdivision (b)(3) [employer shall supervise employees to assure that safe
26 work practices, including all applicable regulations and pesticide product labeling requirements
27 are complied with]). The fine was paid on October 6, 2011.

1 67. On or about June 7, 2012, the company registration was issued a \$5,997.50 fine and
2 order of abatement levied by the Structural Pest Control Board for violating Business and
3 Professions Code sections 8516 and 8518 (reporting requirements). The fine was paid in full on
4 March 22, 2013, and the order of abatement was complied with on April 2, 2013.

5 **Operator's License No. OPR 11797**

6 68. On or about May 6, 2010, Respondent was issued a \$350.00 fine by the Riverside
7 County Agricultural Commissioner for violating Business and Professions Code section 8505.17,
8 subdivision (c) [pesticide reporting]. The fine was paid on August 17, 2010.

9 69. On or about July 13, 2011, Respondent was issued a \$500.00 fine by the San
10 Bernardino County Agricultural Commissioner for violating California Code of Regulations, title
11 16, section 6702, subdivision (b)(3) [employer shall supervise employees to assure that safe work
12 practices, including all applicable regulations and pesticide product labeling requirements are
13 complied with]. The fine was paid on October 6, 2011.

14 70. On or about June 7, 2012, Respondent was issued a \$5,997.50 fine and order of
15 abatement levied by the Structural Pest Control Board for violating Business and Professions
16 Code sections 8516 and 8518 [reporting requirements]. The fine was paid in full on March 22,
17 2013, and the order of abatement was complied with on April 2, 2013.

18 **OTHER MATTERS**

19 71. Notice is hereby given that section 8620 of the Code provides, in pertinent part, that a
20 Respondent may request that a civil penalty of not more than \$5,000.00 be assessed in lieu of an
21 actual suspension of one (1) to nineteen (19) days, or not more than \$10,000.00 for an actual
22 suspension of twenty (20) to forty-five (45) days. Such request must be made at the time of the
23 hearing and must be noted in the proposed decision. The proposed decision shall not provide that
24 a civil penalty shall be imposed in lieu of a suspension.

25 72. Pursuant to Code section 8624, the causes for discipline established as to Company
26 Registration Certificate Number PR 6106, issued to Dynasty Exterminators, Inc., doing business
27 as Dynasty Termite, likewise constitute cause for discipline against Operator's License Number
28 OPR 11797, issued to Douglas M. Fierro, who serves as the President and Qualifying Manager of

1 Dynasty Exterminators, Inc., doing business as Dynasty Termite, regardless of whether Douglas
2 M. Fierro had knowledge of or participated in the acts or omissions which constitute cause for
3 discipline against Dynasty Exterminators, Inc., doing business as Dynasty Termite.

4 73. Pursuant to Code section 8654, if discipline is imposed on Company Registration
5 Certificate Number PR 6106, issued to Dynasty Exterminators, Inc., doing business as Dynasty
6 Termite, then Douglas M. Fierro, who serves as the President and Qualifying Manager of Dynasty
7 Exterminators, Inc., doing business as Dynasty Termite, shall be prohibited from serving as an
8 officer, director, associate, partner, qualifying manager, or responsible managing employee for
9 any registered company during the time the discipline is imposed, and any registered company
10 which employs, elects, or associates him, shall be subject to disciplinary action.

11 **PRAYER**

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

14 1. Revoking or suspending Company Registration Certificate Number PR 6106, issued
15 to Dynasty Exterminators, Inc., doing business as Dynasty Termite;

16 2. Revoking or suspending Operator's License Number OPR 11797, issued to Douglas
17 M. Fierro;

18 3. Revoking or suspending any other license for which Douglas M. Fierro is furnishing
19 the qualifying experience or appearance;

20 4. Ordering restitution of all damages according to proof suffered by Jerome Oddo as a
21 condition of probation in the event probation is ordered;

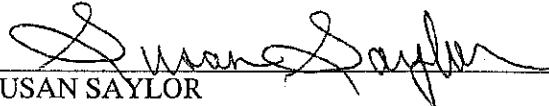
22 5. Prohibiting Douglas M. Fierro from serving as an officer, director, associate, partner,
23 qualifying manager or responsible managing employee of any registered company during the
24 period that discipline is imposed on Company Registration Certificate Number PR 6106, issued to
25 Dynasty Exterminators, Inc., doing business as Dynasty Termite;

26 6. Ordering Douglas M. Fierro and Dynasty Exterminators, Inc., doing business as
27 Dynasty Termite to pay the Structural Pest Control Board the reasonable costs of the investigation
28 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 3/23/14


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

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