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FILED
Date 4/2/13 By Susan Saylor

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

In the Matter of the Accusation Against: **JAYCO TERMITE SERVICES;** **JOHN SYDNEY MURRAY, JR.** **OWNER AND QUALIFYING MANAGER** 6726 Vigo Drive La Mesa, CA 91942 Company Registration Certificate No. PR6011, Branch 3 and **JOHN SYDNEY MURRAY, JR.** 6726 Vigo Drive La Mesa, CA 91942 Operator's License No. OPR 11943, Branch 3 Respondents.	Case No. 2013-42 **ACCUSATION**

Susan Saylor ("Complainant") alleges:

PARTIES

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

Company Registration Certificate No. PR 6011

2. On or about March 4, 2010, the Structural Pest Control Board issued Company Registration Certificate Number PR 6011, in Branch 3, to Jayco Termite Services, with John Sydney Murray, Jr., as Owner and Qualifying Manager ("Respondent Jayco"), and an address of 6726 Vigo Drive, La Mesa, California 91942.

3. On March 1, 2011, the registration certificate was suspended for failure to maintain a surety bond in the amount of $4,000 as required by section 8697 of the Business and Professions Code.

4. On March 14, 2011, the registration certificate was reinstated after posting the required surety bond.

Operator's License No. OPR 11943

5. On November 30, 2009, the Board issued Operator's License No. OPR 11943, in Branch 3, to John Sydney Murray, Jr. ("Respondent Murray"), employee of XTermite, Inc., with a mailing address of 6726 Vigo Drive, La Mesa, California 91941 and a business address of 6328 Riverdale Street, Suite A, San Diego, California 92120.

6. On February 9, 2010, the license reflected a change of business address to 747 West Main Street, El Cajon, California 92020.

7. On March 4, 2010, Operator's License No. OPR 11943 became the Owner and Qualifying Manager of Jayco Termite Services, with an address of 6726 Vigo Drive, La Mesa, California 91942.

8. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

Field Representative License No. FR 34502

9. On April 15, 2002, the Board issued Field Representative's License No. FR 34502, in Branch 3, to John Sydney Murray. On May 19, 2003, the license was upgraded to include Branches 2 and 3. On November 30, 2009, the license was downgraded to Branch 2 only, due to the issuance of a Branch 3 Operator's License. Field Representative License No. FR 34502 was cancelled on June 30, 2010.

Field Representative License No. FR 24401

10. On March 2, 1995, the Board issued Field Representative's License No. FR 24401, in Branch 3, to John Sydney Murray. Field Representative License No. FR 24401 was cancelled on June 30, 1997.

Applicator License No. RA 16134

11. On September 22, 2000, the Board issued Applicator License No. RA 16134, in Branch 2, to John Sydney Murray, Jr. On January 30, 2002, the license was upgraded to include Branches 2 and 3. On April 15, 2002, the license was downgraded to Branch 2 only, due to the issuance of a Branch 3 Field Representative's License. Applicator License No. RA 16134 was cancelled on September 22, 2003.

Applicator License No. RA 35068

12. On April 1, 1994, the Board issued Applicator License No. RA 35068, in Branch 3, to John Sydney Murray, Jr. Applicator License No. RA 35068 was cancelled on April 1, 1997.

JURISDICTION

13. This Accusation is brought before the Structural Pest Control Board, Department of Pesticide Regulation, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

14. Code section 118, subdivision (b), provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

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16. Code section 8624 states:

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

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

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

17. Code section 8625 states:

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

18. 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.

19. Section 8654 of the Code states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

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STATUTORY PROVISIONS

20. Code section 8516 states, in pertinent part:

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

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

Every property inspected pursuant to subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

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

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

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

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

(4) The address or location of the property.

(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.

(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.

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(10) Recommendations for corrective measures.

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21. Code section 8518 states:

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

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

Every property upon which work is completed shall be assessed a filing fee pursuant to Section 8674.

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

The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

Notices of work completed and not completed 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 notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

22. Code section 8519 states, in pertinent part:

. . . .

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:

. . . .

(b) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that all recommendations to remove that infestation or infection and to repair damage caused by that infestation or infection have been completed: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas."

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: ____ (describing infestations, infections, damage or evidence thereof, excepted).

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23. Code section 8612 states:

The licenses of qualifying managers and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

When a registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

24. Code section 8622 states:

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

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

25. 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."

26. Code section 8650 states:

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

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

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

REGULATORY PROVISIONS

27. California Code of Regulations, title 16, section 1912 states:

A registered company that opens a branch office shall notify the board of that fact within 30 days on a written form provided by the board (see form No. 43L-15 at the end of this section) accompanied by the required registration fee.

28. 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:

(1) Structural pest control license number of the person making the inspection.
(2) Signature of the Branch 3 licensee who made the inspection.
(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.
(3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.
(4) Earth-wood contacts.
(5) Commonly controllable moisture conditions which would foster the growth of a fungus infection materially damaging to woodwork.

. . . .

(d) Even though the licensee may consider the following areas inaccessible for purposes of inspection, the licensee must state specifically which of these areas or any other areas were not inspected and why the inspection of these areas is not practical: furnished interiors; inaccessible attics or portions thereof; the interior of hollow walls; spaces between a floor or porch deck and the ceiling or soffit below; stall showers over finished ceilings; such structural segments as porte cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without defacing or tearing out lumber, masonry or finished work; built-in cabinet work; floors beneath coverings, areas where storage conditions or locks make inspection impracticable.
(e) Information regarding all accessible areas of the structure including but not limited to the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents, abutments, stucco walls, columns, attached structures or other parts of a structure normally subject to attack by wood-destroying pests or organisms.

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

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

. . . .

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural members which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

. . . .

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

. . . .

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

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

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

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

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

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

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

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COST RECOVERY/RESTITUTION

31. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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

675 MARIN ROAD, BIG BEAR LAKE, CA

33. On or about April 6, 2010, at the request of Janet Evans, Respondents performed a wood destroying organisms inspection ("WDO inspection") at 675 Marin Road, Big Bear Lake, California ("Marin Road property" or "the property"), for escrow purposes. That same day, Respondents issued an unsigned Wood Destroying Pests and Organisms Report No. W8025, using the company name Jayco Termite Services, with a business address of 6726 Vigo Drive, La Mesa, California. Respondent Jayco and Respondent Murray performed the WDO inspection and prepared the inspection report, containing eight findings and recommendations, as follows:

a. The Section I findings identified fungus damage (decay fungi damage) at the patio cover and substructure framing and surface fungus (decay fungi) and termite damaged wood at the substructure framing. However, the decay fungi and decay fungi damage findings failed to identify the excessive moisture conditions responsible for the infections. Furthermore, the inspection report failed to identify, and make a recommendation to correct, the infestation that resulted in the reported termite damaged wood in the substructure.

b. The Section I recommendations stated to remove and replace the decay fungi damaged wood members and to correct the moisture issue, to scrape and chemically treat the decay fungi and to patch any minor surface damage found during treatment, and to replace the termite damaged wood members as necessary.

c. The Section II findings identified an excessive moisture condition in the substructure; water stains at the living room ceiling and earth-to-wood contacts at the substructure framing and plumbing supports.

d. The Section II recommendations stated to contact a licensed contractor to address the excessive moisture condition, to contact the proper tradesman to address the water stains, to break the earth-to-wood contacts at the substructure framing and/or heavily treat the wood members, and to remove and replace the plumbing supports with a material other than wood.

34. On or about April 7, 2010, Respondents issued a Standard Notice of Work Completed and Not Completed (hereinafter "completion notice"). The completion notice certified that Section I recommendations, 3A and 3C, on the April 6, 2010 "complete," "separated" inspection report had been completed, for a total cost of $900. The completion notice also certified that Section I recommendations, 3B and 4A, and Section II recommendations, 4B, 4C, 4D, and 4E, had not been completed. The completion notice failed to include an estimated cost of work not completed. The certification statement indicates that all recommendations on the April 6, 2010 "completed," "separated" inspection report have been completed. The completion notice failed to contain the proper certification statement. Certification B was used, instead of certification C. Respondents were required to issue a "reinspection" inspection report because Respondents did not complete recommendations 3B, 4A, 4B, 4C, 4D, and 4E. Respondents failed to issue a "reinspection" inspection report. Respondent's company address on the completion notice, 5638 Lake Murray Boulevard, #331, La Mesa, California, is not, and has never been, an address of record registered with the Board.

35. On or about September 7, 2010, escrow closed on the property.

36. On or about December 9, 2011, at the request of Bill Lemke with Realty Executives, C and D Termite and Pest Control ("C and D") performed a WDO inspection and issued a "completed," "separated" inspection report on the property, which consisted of ten (10) findings and eleven (11) recommendations, including: identified cellulose debris; evidence of subterranean termites; decay fungi; earth-to-wood contact and damage in the substructure; evidence of subterranean termites, decay fungi and decay fungi damage at the exposed bathroom framing;

water stains at the eaves, ceiling, attic, water heater closet, and the wall adjacent to the washer/dryer. Along with the inspection report, C and D included a Work Order Agreement, which indicated the cost of the recommended work, not including the recommendations that recommended a contractor, would be $3,115.

37. On or about January 13, 2012, at the request of Bill Lemke with Realty Executives, C and D performed a WDO inspection and issued a "reinspection" inspection report on the property. The inspection report contained no findings or recommendations. The inspection report indicated that all of the work performed by others, with respect to its December 9, 2011 "complete," "separated" inspection report, had not been completed.

38. On or about April 5, 2012, the Board received a complaint from property owner Nick Sebok, alleging that Respondents failed to report needed work and failed to complete work on the property.

39. On or about May 3, 2012, Respondents were given notice of the complaint and given ten (10) days to respond to the Board.

40. On or about May 29, 2012, a specialist from the Board inspected the property. The Board specialist inspected the property's substructure and portions of the exterior. The Board inspector documented and photographed, in part, the following: cellulose debris in the substructure; form stakes and form board in the substructure; evidence of excessive moisture conditions in the substructure; decay fungi in the substructure; decay fungi damage in the substructure; substandard, unreported repair work completed by Respondents in the substructure; earth-to-wood contact at plumbing supports in the substructure; earth-to-wood contact at the substructure access vent; insufficient substructure ventilation; inaccessible portions of the substructure; repair work completed by the complainant in the substructure; inaccessible area at the front porch; evidence of an excessive moisture condition (water stains) at the carport framing; and inaccessible areas due to boxed eaves.

41. On or about May 31, 2012, Respondent Murray confirmed that he had failed to verify if any building permits were required for the work he performed on the property.

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42. On or about June 4, 2012, the Board specialist issued a Report of Findings directing Respondents to bring the property into compliance by correcting the items described in the Report of Findings and to submit a corrected inspection report and notice of work completed and not completed to the Board within thirty (30) calendar days from receipt of the notice.

43. Between about June 4, 2012 and September 6, 2012, Respondents failed to complete the work on the property, as per the Board's Report of Findings.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with the Code – Improper Inspection)

44. Respondent Jayco's company registration and Respondent Murray's operator license are subject to disciplinary action under Code section 8641 in that as to the Marin Road property, Respondents failed to comply with Code section 8516 and California Code of Regulations, title 16, sections 1990, 1991, and/or 1993 in the following respects:

a. **Code sections 8516(b)(6), 8516(b)(7), and 8516(b(10)**: Respondents failed to make a proper finding and/or recommendation, regarding the reported decay fungi and/or decay fungi damage on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(b)(5) and 1991(a)(5). The findings failed to identify the excessive moisture conditions responsible for the infections, and the decay fungi recommendation failed to include a recommendation to correct the excessive moisture condition responsible for the infection.

b. **Code sections 8516(b)(6), 8516(b)(7), and 8516(b(10)**: Respondents failed to identify and make a recommendation to correct the infestation that resulted in the reported termite damage wood in the substructure on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, section 1990(a)(3).

c. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the form stakes and form boards in the substructure on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(b)(3) and 1990(e).

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d. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the full extent of the fungus damage (decay fungi damage) in the substructure on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(a)(4) and 1990(e).

e. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the full extent of the evidence of an excessive moisture condition in the substructure on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(b)(5), 1990(e), and 1991(a)(11).

f. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the inaccessible portion of the substructure at the front of the house and to make a recommendation for further inspection and the issuance of a "supplemental" inspection report on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(b)(2) and 1993(d).

g. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the earth-to-wood contact at the substructure access vent on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(b)(4) and 1990(e).

h. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the evidence of an excessive moisture condition (water stains) at the attached carport on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, sections 1990(b)(5) and 1990(e).

i. **Code sections 8516(b)(6) and 8516(b)(7)**: Respondents failed to report the inaccessible area at the front porch, wood installed over concrete on Respondent's April 6, 2010 "complete," "separated" inspection report, as required by California Code of Regulations, title 16, section 1990(d).

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SECOND CAUSE FOR DISCIPLINE

(Violation of Law)

45. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 in that as to the Marin Road property, Respondents failed to issue an inspection report and completion notice for the repair work completed in the substructure after April 7, 2010, in violation of Business and Professions Code sections 8516 and 8518.

THIRD CAUSE FOR DISCIPLINE

(Disregard and Violation of Building Laws)

46. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 in that Respondents failed to comply with Code section 8636, by failing to obtain a building permit which was required for the work completed at the Marin Road property.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Law)

47. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 in that as to the Marin Road property, Respondents failed to include an estimate cost of work not completed on the April 7, 2010 completion notice, in violation of Business and Professions Code section 8518.

FIFTH CAUSE FOR DISCIPLINE

(Violation of Law)

48. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 in that as to the Marin Road property, Respondents failed to include the proper certification statement on the April 7, 2010 completion notice, to wit, Certification B was used, instead of Certification C, in violation of Business and Professions Code section 8519, subdivisions (b) and (c).

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SIXTH CAUSE FOR DISCIPLINE

(Violation of Law)

49. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641, in conjunction with California Code of Regulations, title 16, section 1993(e), in that as to the Marin Road property, Respondents failed to issue a "reinspection" inspection report for the work completed by others, indicated on the April 7, 2010 completion notice, in violation of Business and Professions Code section 8516.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Register Branch Office)

50. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 for violating Code section 8612, in conjunction with California Code of Regulations, title 16, section 1912, as follows:

a. Respondents prepared a completion notice on the Marin Road property dated April 7, 2010 with the address on the report as 5638 Lake Murray Boulevard, #331, La Mesa, California 91942. This address is not, and has never been, an address of record registered with the Board.

EIGHT CAUSE FOR DISCIPLINE

(Operating an Unregistered Office)

51. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 for violating Code section 8650, subdivision (b), in that Respondents are operating an unregistered office, as more fully set forth in paragraph 50.

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NINTH CAUSE FOR DISCIPLINE

(Violation of Law)

52. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 in that Respondents failed to issue an inspection report and completion notice for the subsequent WDO inspection and work Respondents performed at the Marin Road property, after the close of escrow, in violation of Business and Professions Code sections 8516 and 8518.

TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Code – Noncompliance with Notice Issued by the Board)

53. Respondent Jayco's company registration, with Respondent Murray as owner and qualifying manager, are subject to disciplinary action under Code section 8641 in that Respondents failed to comply with Code section 8622 by failing to bring the Marin Road property into compliance with the Board's Report of Findings, dated June 4, 2012, within thirty (30) days of Respondent's receipt of the report. Respondents have failed to submit a new original report or completion notice.

OTHER MATTERS

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

55. Pursuant to Code section 8624, if Operator License Number OPR 11943, issued to Respondent Murray is suspended or revoked, the Board may suspend or revoke Company Registration Certificate Number PR 6011, issued to Respondent Jayco with John Sydney Murray, Jr., as Owner and Qualifying Manager.

56. Pursuant to Code section 8654, if discipline is imposed on Operator's License Number OPR 11943, issued to Respondent Murray, then John Sydney Murray, Jr. shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or

responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates John Sydney Murray, Jr. shall be subject to disciplinary action.

57. Code section 8622 provides, in pertinent part, that Respondents shall submit an inspection fee of not more than $125. If a reinspection is necessary, a commensurate reinspection fee shall be charged.

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 PR6011, issued to Jayco Termite Services, with John Sydney Murray, Jr. as Owner and Qualifying Manager;

2. Revoking or suspending Operator's License Number OPR 11943, issued to John Sydney Murray, Jr.;

3. Prohibiting John Sydney Murray, Jr. 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 Operator's License Number OPR 11943, issued to John Sydney Murray, Jr.;

4. Ordering Jayco Termite Services and John Sydney Murray, Jr. to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3;

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

DATED: 4/2/13

SUSAN SAYLOR
Interim Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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