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

In the Matter of the Accusation Against: **BLACK J EXTERMINATING CORP; RICHARD GASKILL, QUALIFYING MANAGER, HERNANDO BARRIOS, PRESIDENT AND QUALIFYING MANAGER, JULIE GUZMAN BARRIOS, TREASURER** **402 East La Habra Blvd.** **La Habra, California 90631** **Company Registration Certificate No. PR 2651, Br. 2 and 3** **RICHARD EUGENE GASKILL** **402 East La Habra Blvd.** **La Habra, California 90631** **Operator's License No. OPR 6406, Br. 3,** **HERNANDO BARRIOS** **402 East La Habra Blvd.** **La Habra, California 90631** **Operator's License No. OPR 10090, Br. 2, 3** **JULIE GUZMAN BARRIOS** **402 East La Habra Blvd.** **La Habra, California 90631** **Field Representative License No. FR 33083, Br. 3** Respondents.	Case No. 2012-59 **ACCUSATION**

Complainant alleges:

PARTIES

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

Black J. Exterminating Corp.

2. On or about November 23, 1994, the Board issued Company Registration Certificate Number PR 2651 in Branch 3 to Black J. Exterminating Corp. ("Respondent Black J. or Respondents") with Irene Guzman as President and Secretary, Julie Ann Guzman as Chief Financial Officer and Edward Count Lincoln as Qualifying Manager. On or about July 16, 1998, Company Registration Certificate Number PR 2651 reflected a change of Branch 3 Qualifying Manager to Richard Eugene Gaskill ("Respondents or Respondent Gaskill"). On or about September 15, 1999, Company Registration Certificate Number PR 2651 was upgraded to include Branches 2 and 3 with Hernando Barrios ("Respondents or Respondent Hernando Barrios") as Branch 2 Qualifying Manager. On or about November 29, 2010, Company Registration Certificate Number PR 2651 reflected the disassociation of Respondent Gaskill as Branch 3 Qualifying Manager due to cancellation of Operator's License No. OPR 6406 and Company Registration Certificate Number PR 2651 was downgraded to include Branch 2 only. On or about December 31, 2010, Company Registration Certificate Number PR 2651 was upgraded to include Branches 2 and 3 with Respondent Hernando Barrios as Branch 2 and 3 Qualifying Manager. On or about June 27, 2011, Company Registration Certificate Number PR 2651 reflected a change of corporate officers to Julie Guzman Barrios ("Respondents or Respondent Guzman Barrios") as Chief Financial Officer and Hernando Barrios as Chief Executive Officer. On or about November 1, 2011, Company Registration Certificate Number PR 2651 reflected the disassociation of Hernando Barrios as Branch 2 and 3 Qualifying Manager due to the cancellation of Operator's License No. OPR 10090. On or about April 5, 2012, Company Registration No. PR 2651 was suspended for failure to maintain a surety bond in the amount of $4000 as required by section

8697 of the Business and Professions Code. The registration is currently suspended for lack of a qualifying manager and/or failure to maintain a surety bond.

Richard Eugene Gaskill

3. On or about April 10, 1981, the Board issued Operator's License Number OPR 6406 in Branch 3 to Respondent Gaskill, qualifying manager of Black J. Exterminating Corp. On or about November 29, 2010, Respondent's operator's license was cancelled due to the failure to renew the license and the failure to reimburse the Board payment of $911.00.

Hernando Barrios

4. On or about September 15, 1999, the Board issued Operator's License Number OPR 10090 in Branch 2 to Respondent Barrios, qualifying manager of Black J. Exterminating Corp. On or about October 28, 2002, Operator's license No. OPR 10090 was upgraded to include Branches 2 and 3. On or about December 31, 2010, Operator's license No. OPR 10090 became the Branch 3 Qualifying Manager of Black J. Exterminating Corp. On or about June 27, 2011, Operator's license No. OPR 10090 became the Chief Executive Officer of Black J. Exterminating Corp. Operator's license No. OPR 10090 expired on June 30, 2011 and has not been renewed.

Julie Guzman Barrios

5. On or about January 29, 2001, the Board issued Field Representative License No. 33083 in Branch 3 to Respondent Guzman Barrios. Field Representative License No. 33083 is currently in effect and renewed through June 30, 2012.

JURISDICTION

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

7. Code section 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.

8. Code section 8624 states, in pertinent part:

. . . .

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.

9. Code section 8654 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.

STATUTORY AND REGULATORY PROVISIONS

(Statutory Provisions)

10. Code section 125.9 states, in pertinent part:

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, any board, bureau, or commission within the department, the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

. . . .

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

. . . .

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

11. Code section 8641 states:

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

Regulatory Provisions

12. California Code of Regulations, title 16, section ("Regulation") 1920 states, in pertinent part:

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

COST RECOVERY

13. Code section 125.3 states, in pertinent part, that a 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.

FACTUAL SUMMARY

14. On or about June 30, 1993, Respondent Guzman-Barrios was a 49% shareholder of Respondent Black J. On or about July 16, 1998, Respondent Gaskill associated as the Branch 3 Qualifying Manager of Respondent Black J. On or about September 15, 1999, Respondent Barrios associated as the Branch 2 Qualifying Manager of Respondent Black J. On or

about June 10, 2006, Respondent Guzman Barrios signed a stock certificate which was issued to her in the amount of 10,200 common shares which listed her as President and Secretary of the corporation. Respondent Guzman Barrios was now the owner and hundred percent shareholder.

15. On or about August 9, 2005, Respondent Gaskill was issued Citation CF 06-25 for a number of violations of the Structural Pest Control Act. The Citation included a fine of $1886 which was to be paid within 30 days after receipt of the Citation Order. On or about February 14, 2007, the Board sent Respondent Gaskill a letter notifying him that the fine of $1886 remains unpaid and that this letter constitutes a formal and final demand for payment of the fine. It also warned him that failure to pay the fine within ten days would result in a denial of services and that his operator license would not be renewed until the fine has been paid. On or about July 13, 2009, the Board sent Respondent Gaskill a letter notifying him that the Board received his operator license renewal application and that he has not complied with paying the fine of $1886 nor 3 hours of continuing education in technical Branch 3. It also warned him that failure to pay the amount of $1886 and submit proof of attendance of the required course by September 30, 2009, would result in cancellation of his license.

16. On or about October 6, 2009, the Board received payment of $1000 by check toward Citation No. CF 06-25 and proof of Respondent Gaskill's attendance of the required course. On or about October 26, 2009, the Board received payment by check of $886 toward Citation No. CF 06-25. On or about December 2, 2009, the Board sent Respondent Gaskill a letter notifying him that the $886 check was returned to the Board as unpaid-"Not Sufficient Funds". On or about November 5, 2010, the Board sent Respondent Gaskill a letter notifying him that the Board had made several attempts to collect the $886 and that if the funds were not received within fifteen days from the date of this letter, his license would be cancelled.

17. On or about November 15, 2010, Respondent Gaskill was issued a citation CF 11-29 for failure to file WDO[1] activities (inspections and/or completions) in the amount of $3652.

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

It contained an order to pay the fine to the Board within thirty days after receipt of the citation and contained an order of abatement directing Respondent Black J. to file all remaining unreported WDO activities within thirty days of receipt of the order.

18. On or about November 29, 2010, Respondent Gaskill's license was cancelled for failing to pay the fine from CF 06-25 in full.

19. On or about December 30, 2010, the Board received an Application for Registration of Company form from Respondent Black J. The form listed Respondent Barrios as the Branch 3 Qualifying Manager of Respondent Black J. and Respondent Guzman-Barrios as the owner, general manager and 100% shareholder. On or about December 31, 2010, Respondent Barrios became the Branch 2 and 3 Qualifying Manager of Respondent Black J. In January 2011, Respondent Barrios became the Chief Executive Officer and 51% shareholder (owner) and Respondent Guzman-Barrios became the Chief Financial Officer and 49% shareholder (owner).

20. On or about April 26, 2011, the Board sent Respondent Barrios a letter notifying him that the fine in the amount of $3652 remains unpaid and his license will not be renewed until this fine is paid and that failure to do so would result in cancellation of his license. On or about June 27, 2011, the Board received a Request for Change of Registered Company Officers form which documented Respondent Barrios as the Chief Executive Officer and 51% shareholder and Respondent Barrios-Guzman as the Chief Financial Officer and 49% shareholder.

21. On or about November 1, 2011, Respondent Barrios' license was cancelled for failing to pay the fine from Citation No. CF 11-29 in full.

22. On or about November 30, 2011, Respondent Barrios was issued Citation No. CF 12-56 for failure to file a Change of Bond or Insurance form and return it to the Board with a $25.00 processing fee. The Citation included a fine of $50 and ordered Respondent Barrios to pay the fine within 30 days after receipt of the Citation.

23. As of April 6, 2012, Respondent Gaskill has failed to pay the fine contained within Citation No. CF 06-25 nor pay the fine or comply with the order of abatement contained within Citation No. CF 11-29. As of April 6, 2012, Respondents' Barrios and Guzman Barrios

have failed to pay the fine contained within Citation No. CF 06-25 or pay the fine and comply with the order of abatement contained within Citation Nos. 11-29 and CF 12-56.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Citation and Order of Abatement)

24. Respondents are all subject to disciplinary action pursuant to Code sections 125.9, subsection (5), and 8641 and California Code of Regulations, regulation 1920 subsection (d) in that Respondents have failed to comply with Citation Nos. CF 06-25, CF 11-29, and CF 12-56 as further set forth in paragraphs 14 through 23 which are incorporated herein by reference.

MATTERS IN AGGRAVATION

Company Registration Certificate No. PR 2651

25. By way of aggravation, the Board alleges the following against Respondent's Company Registration Certificate No. PR 2651:

a. On or about April 9, 2002, Company Registration Certificate No. PR 2651 paid a $50 fine levied by the Orange County Agricultural Commissioner for violation of section 8505.17(c) of the Business and Professions Code.

b. On or about October 3, 2002, Company Registration Certificate No. PR 2651 paid a $50 fine levied by the Orange County Agricultural Commissioner for violation of section 8505.17(c) of the Business and Professions Code.

c. On or about January 15, 2003, Company Registration Certificate No. PR 2651 paid a $100 fine levied by the Orange County Agricultural Commissioner for violation of section 8505.17(c) of the Business and Professions Code.

d. On or about July 15, 2003, Company Registration Certificate No. PR 2651 paid a $150 fine levied by the Orange County Agricultural Commissioner for violation of section 8505.17(c) of the Business and Professions Code.

e. On or about October 21, 2004, Company Registration Certificate No. PR 2651 paid a $50 fine levied by the Los Angeles County Agricultural Commissioner for violation of section 8505.17(c) of the Business and Professions Code.

f. On or about December 13, 2004, Company Registration Certificate No. PR 2651 paid a $300 fine levied by the Board for violation of section 8638 of the Business and Professions Code.

g. On or about October 6, 2009, Company Registration Certificate No. PR 2651 paid a $1886 fine levied by the Board for violation of sections 8622, 8516, 8518, 8644, and 8638 of the Business and Professions Code and for violation of section 1937.14 of the California Code of Regulations. An $886 check from Respondent was returned to the Board marked insufficient funds and $886 of the fine has not been paid.

h. On or about November 15, 2010, Company Registration Certificate No. PR 2651 was issued a $3652 fine levied by the Board for violation of sections 8516(b) and 8518 of the Business and Professions Code. The fine has not been paid.

i. On or about November 30, 2011, Company Registration Certificate No. PR 2651 was issued a $25 fine levied by the Board for violation of section 1948(a)(16) of the California Code of Regulations. The fine has not been paid.

Operator License No. OPR 6406

26. By way of aggravation, the Board alleges the following against Respondent's Operator License No. OPR 6406:

a. On or about December 13, 2004, Respondent's Operator License No. OPR 6406 paid a $75 fine levied by the Board for violation of section 8516(b)(6)(7) of the Business and Professions Code and sections 1990 and 1990(a)(4) of the California Code of Regulations.

b. On or about February 3, 2006, Respondent's Operator License No. OPR 6406 paid a $744 fine levied by the Board for violation of section 8593 of the Business and Professions Code and sections 1950 of the California Code of Regulations.

c. On or about June 13, 2007, Respondent's Operator License No. OPR 6406 paid a $250 fine levied by the Board for violation of section 8516(b)(6)(7)(10) of the

Business and Professions Code and sections 1990 and 1990(a)(3)(4) of the California Code of Regulations.

d. On or about February 28, 2008, Respondent's Operator License No. OPR 6406 paid a $150 fine levied by the Board for violation of section 8593 of the Business and Professions Code and section 1950 of the California Code of Regulations.

e. On or about October 6, 2009, Operator License No. OPR 6406 paid a $1886 fine levied by the Board for violation of sections 8622, 8516, 8518, 8644, and 8638 of the Business and Professions Code and for violation of section 1937.14 of the California Code of Regulations. An $886 check from Respondent was returned to the Board marked insufficient funds and $886 of the fine has not been paid.

f. On or about November 15, 2010, Operator License No. OPR 6406 was issued a $3652 fine levied by the Board for violation of sections 8516(b) and 8518 of the Business and Professions Code. The fine has not been paid.

Operator License No. 10090

27. By way of aggravation, the Board alleges the following against Respondent's Operator License No. OPR 10090:

a. On or about November 15, 2010, Operator License No. OPR 10090 was issued a $3652 fine levied by the Board for violation of sections 8516(b) and 8518 of the Business and Professions Code. The fine has not been paid.

b. On or about November 30, 2011, Operator License No. OPR 10090 was issued a fine in the amount of $25 levied by the Board for violation of section 1948(a)(16) of the California Code of Regulations. The fine has not been paid.

OTHER MATTERS

28. 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.

29. Pursuant to Code section 8624, the causes for discipline established as to Respondent Black J. Exterminating Corp. likewise constitute causes for discipline against Respondents Richard Eugene Gaskill and/or Hernando Barrios regardless of whether they had knowledge of or participated in the acts or omissions which constitute causes for discipline against Respondent Black J. Exterminating Corp.

30. Pursuant to Code section 8624, if Operator's License Number OPR 6406, issued to Respondent Richard Eugene Gaskill and/or OPR 10090 issued to Respondent Hernando Barrios, is suspended or revoked, the Board may suspend or revoke Company Registration Certificate Number PR 2651, issued to Respondent Black J. Exterminating Corp.

31. Respondents Richard Eugene Gaskill and/or Hernando Barrios, the owner(s) and qualifying manager(s) for Respondent Black J. Exterminating Corp., had knowledge of and participated in, the acts or omissions which constitute causes for discipline against Respondent Black J. Exterminating Corp.

32. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 2651, issued to Respondent Black J. Exterminating Corp., Respondents Richard Eugene Gaskill and/or Hernando Barrios 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 Richard Eugene Gaskill and/or Hernando Barrios shall be subject to disciplinary action.

33. 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 PR 2651, issued to Black J. Exterminating Corp.;

2. Revoking or suspending Operator's License Number OPR 6406, issued to Richard Eugene Gaskill;

3. Revoking or suspending Operator's License Number OPR 10090 issued to Hernando Barrios;

4. Revoking or suspending Field Representative License No. 33083 issued to Julie Guzman Barrios;

5. Prohibiting Richard Eugene Gaskill and/or Hernando Barrios from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration Certificate Number PR 2651, issued to Black J. Exterminating Corp.;

6. Ordering Black J. Exterminating Corp., Richard Eugene Gaskill, Hernando Barrios and Julie Guzman Barrios to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/19/12

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

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