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

In the Matter of the Accusation Against: **STEVE HIATT TERMITE & PEST CONTROL INC.; STEVEN JAMES HIATT; AND ROBERT E. MCDONALD,** **and** **BOB MCDONALD PEST CONTROL** Respondents.	Case No. 2010-6 OAH No. 2009110155

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

The Decision shall become effective on August 25, 2010.

IT IS SO ORDERED July 26, 2010.

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

STEVE HIATT TERMITE & PEST CONTROL, INC.
Steven J. Hiatt, President/Branch 3 Qualifying Manager
Robert Eugene McDonald, Branch 2 Qualifying Manager
Brian Edward Brown, Secretary
Pamela Nash Hiatt, Vice President
12515 Floral Drive
Whittier, California 90601
Mailing Address:
10820 Beverly Boulevard, Suite A5, PMB #287
Whittier, California 90601

Company Registration No. PR 3295,

STEVEN J. HIATT
12515 Floral Drive
Whittier, California 90601
Mailing Address:
10820 Beverly Boulevard, Suite A5, PMB #287
Whittier, California 90601

Operator's License No. OPR 9534

ROBERT EUGENE McDONALD
12515 Floral Drive
Whittier, California 90601
Mailing Address:
10820 Beverly Boulevard, Suite A5, PMB #287
Whittier, California 90601

Operator's License No. OPR 8066,

BOB McDONALD PEST CONTROL
Robert Eugene McDonald, Partner/Qualifying Manager
Steven J. Hiatt, Partner
56341 Marina View Court
Bass Lake, California 93604

Case No. 2010-6

OAH No. 2009110155

Mailing Address:
P.O. Box 171
Bass Lake, California 93604

Company Registration Certificate No. PR 3092,

Respondents.

PROPOSED DECISION

Nancy Beezy Micon, Administrative Law Judge, Office of Administrative Hearings, heard this matter on May 25, 2010, in Los Angeles, California.

Gillian E. Friedman, Deputy Attorney General, represented complainant Kelli Okuma, Registrar/Executive Officer, Structural Pest Control Board, Department of Consumer Affairs, State of California ("Board").

Steven J. Hiatt represented himself, individually (respondent Hiatt) and as president of Steve Hiatt Termite & Pest Control, Inc. (respondent Hiatt Pest Control). Robert Eugene McDonald represented himself, individually (respondent McDonald) and as partner/qualifying manager of respondent Bob McDonald Pest Control (respondent McDonald Pest Control). Respondent Hiatt, respondent Hiatt Pest Control, respondent McDonald, and respondent McDonald Pest Control will collectively be referred to as "respondents."

At the hearing, complainant brought a motion to amend the Accusation, at page 12, paragraph 31, line 9, to correct the paragraph number from "24" to number "23," and at page 12, paragraph 32, line 16, to correct the paragraph number from "23" to number "22." The motion, which was unopposed, was granted.

Oral and documentary evidence was presented at the hearing and the matter was submitted for decision on the day of the hearing, May 25, 2010.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.

2. On June 11, 1998, the Board issued Company Registration Certificate Number PR 3295, Branch 2 and Branch 3, to respondent Hiatt Pest Control, with respondent Hiatt as president and Branch 3 qualifying manager, and respondent McDonald as Branch 2 qualifying manager. The company registration certificate was suspended on October 29, 2001, November 30, 2001, January 2, 2002, September 14, 2007, and May 9, 2008 for failure to maintain general

liability insurance. The Board reinstated the registration on November 5, 2001, December 4, 2001, January 10, 2002, November 5, 2007, and August 13, 2008, after the company posted the general liability insurance. On September 28, 2007, the company registration certificate was suspended for its failure to maintain a $4,000 surety bond. The Board reinstated the registration on November 5, 2007, after the company posted the $4,000 surety bond. On December 2, 2009, respondent McDonald disassociated from respondent Hiatt Pest Control as its Branch 2 qualifying manager. The company registration certificate was suspended on February 18, 2010 for not having a branch 2 qualifying manager.

3. On May 14, 1996, the Board issued Operator's License Number OPR 9534, Branch 3, to respondent Hiatt, qualifying manager of respondent Hiatt Pest Control. On June 11, 1998, respondent Hiatt became the Branch 3 qualifying manager for respondent Hiatt Pest Control. The operator's license was suspended on October 29, 2001, November 30, 2001, January 2, 2002, September 14, 2007, and May 9, 2008, for failure to maintain general liability insurance. The Board reinstated respondent Hiatt's license on November 5, 2001, December 4, 2001, January 10, 2002, October 12, 2007, and August 13, 2008, after posting of the general liability insurance. Respondent Hiatt's operator license expires June 30, 2010.

4. On March 18, 1988, the Board issued Operator's License Number OPR 8066, Branch 2 and 3, to respondent McDonald, owner and qualifying manager of McDonald Termite & Pest Control. On November 21, 1988, respondent McDonald's operator's license was downgraded to include Branch 2 only. On January 31, 1990, respondent McDonald disassociated as qualifying manager of McDonald Termite & Pest Control. On May 23, 1997, respondent McDonald became partner and Branch 2 qualifying manager for respondent McDonald Pest Control in Bass Lake, California. On June 11, 1998, respondent McDonald became the Branch 2 qualifying manager for respondent Hiatt Pest Control. The Board suspended respondent McDonald's operator's license on May 22, 2000, October 29, 2001, November 30, 2001, January 2, 2002, September 14, 2007, and May 9, 2008, for failure to maintain general liability insurance. The Board reinstated his license on May 25, 2000, November 5, 2001, December 4, 2001, January 10, 2002, October 12, 20007, and August 13, 2008, after posting of the general liability insurance. On December 2, 2009, as stated in factual finding number 2, respondent McDonald disassociated as Branch 2 qualifying manager of respondent Hiatt Pest Control. Respondent McDonald's operator license expires on June 30, 2011.

5. On May 23, 1997, the Board issued Company Registration Certificate Number PR 3092, Branch 2, to respondent McDonald Pest Control with respondent McDonald as partner and qualifying manager and respondent Hiatt as partner. The Board suspended the company registration certificate on May 22, 2000 for failure to maintain general liability insurance. The registration was reinstated on May 25, 2000, after posting of the general liability insurance. The Board's license history states that the registration was suspended on November 29, 2007 for failure to replace qualifying manager, and reinstated on October 15,

2007. [The dates appear to be inverted.] On June 25, 2008, the Board suspended the registration for failure to replace qualifying manager. On August 13, 2008, the Board reinstated the registration with respondent McDonald as the qualifying manager.

6. On November 15, 2006, pursuant to a notice of decision and order in file number 06072015, the Los Angeles County Agricultural Commissioner's Office levied a $151 fine against respondent Hiatt Pest Control, for violations of Business and Professions Code[1] section 8505.17, subdivision (c), for its failure to submit monthly pesticide use reports from February through July 2006. As of the date of the May 25, 2010 hearing, the fine had not been paid.

7. On October 9, 2007, the Board conducted a service records check at the office of respondent Hiatt Pest Control. As a result of the inspection, on December 6, 2007, the Board issued citation number CF 08-103 against respondent Hiatt Pest Control and respondent Hiatt for violations of sections 8516 and 8518 for failure to file 858 property inspection reports and 623 notices of completion for properties upon which pest control work was completed by respondent Hiatt Pest Control between the dates of August 27, 2005, and October 5, 2007. The Board ordered respondent Hiatt Pest Control and Hiatt to pay a fine of $4,943 within 30 days of the receipt of the citation. The citation was not contested by either respondent Hiatt Pest Control or respondent Hiatt. On January 10, 2008, the Board sent a formal demand letter to respondent Hiatt and respondent Hiatt Pest Control for payment of the $4,943 fine. As of the date of the May 25, 2010 hearing, the fine had not been paid.

8. Respondent Hiatt Pest Control had a lapse in liability insurance coverage for 105 days between April 29, 2008, and August 12, 2008.

9. On October 27, 2008, the Board conducted a records check at the office of respondent Hiatt Pest Control to determine whether respondent Hiatt Pest Control was in compliance, after its December 6, 2007 citation, and whether it had performed any structural pest control work activities between April 29 and August 12, 2008, the period of its insurance lapse. The Board investigation found that respondent Hiatt Pest Control had performed an additional 115 Wood Destroying Pests and Organisms (WDO) activities between October 9, 2007 (the date of the Board's initial inspection) and October 27, 2008, without filing required activity statements and remitting required fees to the Board. In addition, respondent Hiatt Pest Control completed approximately 162 branch 2 general pest control services between April 29 and August 12, 2008, while it was uninsured.

10. The Board issued a Notice of Violation to respondent Hiatt Pest Control on October 27, 2008, for violations of sections 8516 and 8518 (failure to file reports with the

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[1] All further statutory references are to the Business and Professions Code, unless otherwise stated.

Board for 924 inspections and 672 notices of work completions between August 27, 2005, and October 27, 2008), and for violations of sections 8690, 8691, and 8695 (engaging in the business of structural pest control while uninsured).

11. Sandra Guinto (Guinto), the office manager for respondent Hiatt Pest Control at the time of the October 2008 inspection, provided the Board with a declaration acknowledging that respondent Hiatt Pest Control was aware that it had not filed the required reports for approximately 1,596 WDO activities between August 27, 2005, and October 27, 2008, and that it had not paid the Board's $4,943 fine. Guinto explained that respondent Hiatt Pest Control was unable to pay due to "economic difficulty." According to Guinto, respondent Hiatt Pest Control intended to pay the Board in monthly installments, beginning October 31, 2008.

12. On October 28, 2008, the Board issued citation number CF 09-23 to respondent Hiatt and respondent Hiatt Pest Control for violations of sections 8648 (false statement or representation concerning registered company's business) and 8651 (deviation from operations authorized by license or registration) and California Code of Regulations, title 16 (CCR), section 1999.5, subdivisions (a) and (f)(13) (false and misleading advertising). The Board ordered respondent Hiatt Pest Control to pay a fine of $1,000 within 30 days of the receipt of the citation. Respondent Hiatt Pest Control and respondent Hiatt did not contest the citation. As of the May 25, 2010 hearing date, the fine had not been paid.

Matters Alleged in Aggravation against Respondent Hiatt Pest Control

13. On October 30, 2003, respondent Hiatt Pest Control paid a $50 fine levied by the Office of the Orange County Agricultural Commissioner for its violations of section 8505.17, subdivision (c), for failure to submit monthly pesticide use reports for the months of June and July 2003. The notice of decision and order notes that respondent Hiatt Pest Control, on January 22, 2003, was given a letter of warning for not submitting a pesticide use report for the month of December 2002, and a notice of violation was issued, on May 21, 2003, for not submitting a pesticide use report for March 2003.

14. On January 6, 2004, respondent Hiatt Pest Control paid a $100 fine levied by the Orange County Agricultural Commissioner for its violation of section 8505.17, subdivision (c), for failure to submit monthly pesticide use reports for the months of September, October, and November 2003.

15. On November 8, 2006, respondent Hiatt Pest Control paid a $100 fine levied by the Los Angeles County Agricultural Commissioner for its violations of section 8505.17, subdivision (c), for failure to submit monthly pesticide use reports for June through December 2005, and for violation of Food and Agricultural Code section 15204, subdivision (a), for failure to register with Los Angeles County before performing work in the county.

Matters Alleged in Aggravation against Both Respondents Hiatt and Hiatt Pest Control

16. On November 15, 2006, as set forth in factual finding number 6, above, the Office of the Los Angeles County Agricultural Commissioner fined respondent Hiatt Pest Control $151 for violation of Code section 8505.17, subdivision (c), for failure to submit monthly pesticide use reports for the months of February through July 2006. The evidence does not support the allegation that respondent Hiatt was also ordered by the Los Angeles County Agricultural Commissioner to pay the fine. As of the date of the hearing, respondent Hiatt Pest Control has not paid the $151 fine.

17. On December 6, 2007, as set forth in factual finding number 7, above, the Board fined respondent Hiatt Pest Control $4,943 for violation of Code sections 8516 and 8518. Respondent Hiatt was also named in the citation and ordered to pay the fine. As of the date of the hearing, the $4,943 fine had not been paid by either respondent Hiatt Pest Control or respondent Hiatt.

18. On October 28, 2008, as set forth in factual finding number 12, above, the Board fined respondent Hiatt Pest Control $1,000 for its violation of Code section 8648 and 8651 and CCR 1999.5, subdivisions (a) and (f)(13). Respondent Hiatt was also named in the citation and ordered to pay the fine. As of the date of the hearing, the $1,00 fine had not been paid by either respondent Hiatt Pest Control or respondent Hiatt.

Matters Alleged in Aggravation against Respondent McDonald

19. Effective June 26, 1987, the license of McDonald Termite and Pest Control, a pest control business formerly operated by respondent McDonald, was revoked with the revocation stayed and the license placed on probation for two years following the Board's adoption of a proposed decision by an administrative law judge in case number 86-28. The allegations at issue in the case involved inspections and structural pest control work performed by the McDonald Termite and Pest Control business in 1985 and 1986 at a single residential property in Huntington Beach, California. Probation was successfully completed. Respondent McDonald credibly testified that his inexperience caused the action to be filed, that he learned from the experience, and that it was an isolated incident. Given the length of time that has transpired since the action, it is not considered a factor in aggravation in this case.

20. The Board alleged that respondent McDonald was ordered to pay a $151 fine, as previously discussed in factual finding number 6, above. The notice of decision and order shows that the citation was issued to only respondent Hiatt Pest Control. The Board does not dispute respondent McDonald's assertion that he did not receive notice of the fine at the address he has on file with the Board. The evidence does not support the allegation that respondent McDonald was issued the citation and ordered to pay the $151 fine. The nonpayment of the fine by respondent McDonald is therefore not a factor in aggravation against him in this case.

Respondents Hiatt and McDonald

21. Respondent McDonald credibly testified that he was not aware, before his receipt of the Accusation in this case, that respondent Hiatt Pest Control and respondent Hiatt had been cited for violations. The Board investigator corroborated that notices are sent to the address of record for the pest control company in violation, even when the qualifying operator has a different address on file with the Board. In this case, the citations, fines, and notices of violation were sent to the address of record for respondent Hiatt Pest Control. After learning of the violations alleged in this case, respondent McDonald immediately disassociated from respondent Hiatt Pest Control. Respondent McDonald has fully cooperated with complainant and acknowledges that he did not fulfill his responsibility as a Branch 2 qualifying manager of respondent Hiatt Pest Control to supervise the daily general pest control business of the company.

22. Respondent McDonald is 80 years old. He asserts that he retired from the pest control business in November 2009. According to Board records, however, his operator license does not expire until June 2011. Respondent McDonald has resided in Bass Lake, California, since 1991. He has known respondent Hiatt and his family for many years. The Hiatt family purchased the pest control business from McDonald. Respondent McDonald is upset about the violations that occurred in this case. He believes the case can be summarized as the result of economic difficulties experienced by respondent Hiatt while he was going through a divorce.

23. Respondent McDonald did not know that respondent Hiatt Pest Control was engaging in the structural pest control business without filing required inspection reports and notices of work completed between August 27, 2005, and October 27, 2008. He also did not know that respondent Hiatt Pest Control was operating its business during a 105-day period when its liability insurance coverage had lapsed between April 29, 2008, and August 12, 2008. However, as the Branch 2 qualifying manager of respondent Hiatt Pest Control, it was respondent McDonald's responsibility, pursuant to section 8610, subdivision (2)(c), to supervise the daily general pest control business of the company and "be available to supervise and assist all employees of the company" in accordance with the Board's regulations. Respondent McDonald did not fulfill his obligations as a qualifying manager of respondent Hiatt Pest Control. A 30-day suspension is sufficient discipline to impress upon respondent McDonald the importance of fulfilling his role as a qualifying manager. Should respondent McDonald choose to continue working in the structural pest control business after serving a 30-day suspension, there is no doubt that he will fulfill his obligations and that the public will be protected.

24. Respondent Hiatt has been working in the pest control business for approximately 25 years. He has fully cooperated with complainant concerning the allegations in this case. Respondent Hiatt asserts that he intends to pay the fines levied against him but

does not have the financial ability to do so. According to respondent Hiatt, his ex-wife, who was his office manager through the end of 2008, was responsible for filing reports with the Board. She did not make him aware that fines were owed, and that required reports and notices had not been filed with the Board. Respondent Hiatt contends that he was not aware that his insurance had lapsed when he performed pest control work between April and August 2008. Respondent Hiatt's testimony was credible concerning his lack of knowledge of the lapse in insurance coverage during the time respondent Hiatt Pest Control performed structural pest control work between April and August 2008. Respondent Hiatt's claim of lack of knowledge of the $4,493 fine and the reason for it, however, is not supported by other reliable evidence. The office manager for respondent Hiatt informed the Board that respondent Hiatt, in October 2008, was aware of the violations and the imposition of the fine for the company's failure to file required inspection reports and work completion notices. Also, as the president and Branch 3 qualifying manager for respondent Hiatt Pest Control, respondent Hiatt was required to be aware and responsible for the daily business operations of the company. Respondent Hiatt would like to be able to continue in business. The pest control business is the only work he knows. He asks for an opportunity to "make things right."

25. No evidence was presented concerning any consumer complaints made against either respondent McDonald or respondent Hiatt.

26. There were no factual allegations made concerning the acts or omissions of respondent McDonald Pest Control.

Costs

27. The following are the reasonable costs of investigation and enforcement of this matter: Attorney General's charges in the amount of $5,170.25 and Board Specialist costs in the amount of $326.88, or a total of $5,497.13.

28. Except as set forth in this Decision, all other allegations in the Accusation lack merit or constitute surplusage.

LEGAL CONCLUSIONS

Causes of Action Alleged against Respondent Hiatt Pest Control and Respondent Hiatt

1. Cause exists pursuant to Business and Professions Code sections 8516 and 8518 to discipline respondent Hiatt Pest Control's and respondent Hiatt's licenses because respondent Hiatt Pest Control and respondent Hiatt performed 115 Wood Destroying Pests and Organisms (WDO) activities between October 9, 2007, and October 27, 2008 without filing required activity statements and remitting required fees to the Board, as set forth in factual finding numbers 2 through 11.

2. Cause exists pursuant to Business and Professions Code section 8641 to discipline respondent Hiatt Pest Control's and respondent Hiatt's licenses because respondent Hiatt Pest Control and respondent Hiatt failed to comply with California Code of Regulations, title 16, section 1920, subdivision (d), by failing to comply with citations issued by the Board, as set forth in factual finding numbers 7, 12, 17, 18, and 24.

Causes of Action Alleged against Respondents Hiatt Pest Control, Hiatt, and McDonald

3. Cause exists pursuant to Business and Professions Code section 8695 to discipline respondent Hiatt Pest Control's, respondent Hiatt's, and respondent McDonald's licenses because respondents Hiatt Pest Control, Hiatt, and McDonald engaged in the business of structural pest control while there was a lapse in their liability insurance coverage between April 29, 2008, and August 12, 2008, as set forth in factual finding numbers 2 through 11.

4. Cause exists pursuant to Business and Professions Code section 8641 to discipline respondent Hiatt Pest Control's license because respondent Hiatt Pest Control failed to comply with Code section 8617, subdivision (f), which required the payment of a $151 fine issued by the Los Angeles County Agricultural Commissioner, as set forth in factual finding number 6 and 16.

5. Cause does not exist pursuant to Code section 8641 to discipline respondents Hiatt's and McDonald's licenses for failure to comply with Code section 8617, subdivision (f), which required the payment of a $151 fine issued by the Los Angeles County Agricultural Commissioner, because the citation was issued to respondent Hiatt Pest Control but not to respondents Hiatt or McDonald, individually, as set forth in factual finding numbers 6, 16, and 20.

Aggravating Factors Exist Only against Respondent Hiatt Pest Control and Respondent Hiatt

6. In aggravation, respondent Hiatt Pest Control and respondent Hiatt have been subject to multiple citations by the Orange County Agricultural Commissioner's Office, the Office of the Los Angeles County Agricultural Commissioner, and/or the Board, involving repeated failure to properly discharge the duties of a Board licensee, by reason of factual finding numbers 2 through 20.

Discipline under Code Sections 8624 and 8654

7. Cause exists pursuant to section 8654 to prohibit respondent Hiatt from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company, by reason of factual finding numbers 2 through 18, and legal conclusion numbers 1 through 6. Hiatt demonstrated over a significant period of time that

he is either unable or unwilling to comply with the business practices required under the Code. The record, however, did not establish that respondent Hiatt should be barred from working in the structural pest control trade. He did not lack good business practices in connection with his structural pest control activities, as set forth in factual finding number 25. Given the length of time that respondent Hiatt has responsibly served customers in the pest control trade, a 30-day suspension of his operator's license is sufficient discipline to protect the public. Respondent Hiatt should be permitted, after serving a 30-day suspension, to continue to practice his occupation as a pest control operator.

8. Cause exists pursuant to section 8624 to discipline the license of respondent McDonald, regardless of whether respondent McDonald had knowledge of or participated in the acts or omissions which constitute cause for discipline against respondent Hiatt Pest Control, by reason of factual finding numbers 2 through 23, and legal conclusion numbers 1 through 4. Given the length of time respondent McDonald has responsibly performed the duties of a structural pest control operator, and other factors previously stated, a 30-day suspension is sufficient discipline to protect the public and impress upon respondent McDonald his obligations as a Board licensee.

9. Cause exists pursuant to section 8654 to prohibit respondent McDonald from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company, during the time of any suspension imposed against him, by reason of legal conclusion numbers 1 through 4, and 8.

10. Cause exists pursuant to section 8624 to discipline respondent McDonald Pest Control's license during the time of any discipline imposed against respondent McDonald, by reason of legal conclusion number 1 through 4, 8, and 9.

Costs

11. Cause exists, pursuant to Business and Professions Code section 125.3, to order respondents to pay the Board's reasonable costs of investigation and adjudication in this matter, by reason of factual finding number 27 and legal conclusion numbers 1 through 9.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court rejected a constitutional challenge to a cost regulation similar to Business and Professions Code section 125.3. In so doing, however, the Court directed the administrative law judge and the agency to evaluate several factors to ensure that the cost provision did not deter individuals from exercising their right to a hearing. Thus, an agency must not assess the full costs where it would unfairly penalize the respondent who has committed some misconduct, but who has used the hearing process to obtain the dismissal of some charges or a reduction in the severity of the penalty; the agency must consider a respondent's subjective good faith belief in the merits of his or her position and whether the respondent has raised a

colorable challenge; the agency must consider a respondent's ability to pay; and the agency may not assess disproportionately large investigation and prosecution costs when it has conducted a disproportionately large investigation to prove that a respondent engaged in relatively innocuous misconduct. (*Zuckerman v. State Board of Chiropractic Examiners, supra* at p. 45).

In this case, respondent Hiatt's license provided him with his sole source of livelihood. He had a subjective good faith belief in the merits of his position, used the hearing process in an effort to obtain a reduction in the severity of the discipline requested, and established that he currently has no financial ability to pay the costs. Complainant did not sustain one of the four causes of action alleged against respondent Hiatt.

Respondent McDonald is currently retired. He too had a subjective good faith belief in the merits of his position, and used the hearing process in an effort to obtain a reduction in the severity of the discipline requested. In addition, complainant did not sustain one of the two causes of action it alleged against respondent McDonald.

Therefore, though complainant's costs were reasonable, in light of the orders below, requiring respondents Hiatt and McDonald to pay complainant's costs would be unduly punitive.

12. Respondent Hiatt argued that by revoking his license and the license of respondent Hiatt Pest Control, the Board would be taking away his livelihood and harming his family, but this argument distorts the reality that it is the acts and omissions of respondents that have led to the circumstances in this matter, not the Board's actions.

13. All evidence presented in mitigation and rehabilitation has been considered. Despite this evidence, the order that follows is necessary for the protection of the public.

ORDER

1. Company Registration Certificate number PR 3295, issued to respondent Steven Hiatt Termite & Pest Control, Inc., is revoked.

2. Operator's License number OPR 9534, Branch 3, issued to respondent Steven J. Hiatt, is suspended for thirty days.

3. Respondent Steven J. Hiatt is prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company, unless and until he files a petition for reinstatement and the Board has approved the petition.

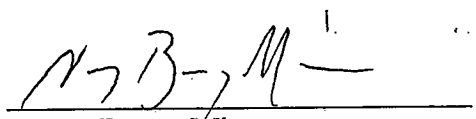
4. In the event respondent Steven J. Hiatt seeks to establish a company license or act as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company, he shall pay the Board the sum of $5,497.13 in reimbursement for its costs of investigation and enforcement of this matter, or a lesser sum if the Board elects to reduce the amount of costs, at such time and in such manner as the Board, in its discretion, may direct.

5. Operator's License number OPR 8066, Branch 2, issued to respondent Robert Eugene McDonald, is suspended for thirty days, effective thirty days after the Board's adoption of this Decision.

6. Company Registration Certificate number PR 3092, issued to respondent Bob McDonald Pest Control, is suspended for thirty days, to be served concurrently with the thirty day suspension imposed upon respondent McDonald. Respondent Hiatt is to be removed as a partner from respondent Bob McDonald Pest Control.

7. Respondent Robert Eugene McDonald is prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the period of the thirty day suspension of his license.

DATED: June 24, 2010



Nancy Beezy Micon
Administrative Law Judge
Office of Administrative Hearings

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FILED

Date 8/12/09 By Kelli Okuma

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **STEVE HIATT TERMITE & PEST CONTROL, INC.** Steven J. Hiatt, President/Branch 3 Qualifying Manager Robert Eugene McDonald, Branch 2 Qualifying Manager Brian Edward Brown, Secretary Pamela Nash Hiatt, Vice President 12515 Floral Drive Whittier, California 90601 Mailing Address: 10820 Beverly Boulevard, Suite A5, PMB #287 Whittier, California 90601 Company Registration Certificate No. PR 3295, **STEVEN J. HIATT** 12515 Floral Drive Whittier, California 90601 Mailing Address: 10820 Beverly Boulevard, Suite A5, PMB #287 Whittier, California 90601 Operator's License No. OPR 9534, **ROBERT EUGENE McDONALD** 12515 Floral Drive Whittier, California 90601 Mailing Address: 10820 Beverly Boulevard, Suite A5, PMB #287 Whittier, California 90601 Operator's License No. OPR 8066,	Case No. 2010-6 **ACCUSATION**

BOB McDONALD PEST CONTROL
Robert Eugene McDonald, Partner/Qualifying Manager
Steven J. Hiatt, Partner
56341 Marina View Court
Bass Lake, California 93604
Mailing Address:
P.O. Box 171
Bass Lake, California 93604

Company Registration Certificate No. PR 3092,

Respondents.

Complainant alleges:

PARTIES

1. Kelli Okuma ("Complainant") brings this Accusation solely in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of Consumer Affairs.

Company Registration Certificate No. PR 3295

2. On or about June 11, 1998, the Board issued Company Registration Certificate Number PR 3295 in Branches 2 (general pest) and 3 (termite) to Steve Hiatt Termite & Pest Control, Inc. ("Respondent Steve Hiatt Termite & Pest Control, Inc."), with Steven J. Hiatt ("Respondent Hiatt") as president and Branch 3 qualifying manager, Robert Eugene McDonald ("Respondent McDonald") as Branch 2 qualifying manager, Brian Edward Brown as secretary, and Pamela Nash Hiatt as vice president. The company registration certificate was suspended on the dates indicated below and was reinstated on August 13, 2008.

Date	Basis for Suspension	Status
10/29/2001	Failure to maintain general liability insurance as required by Business and Professions Code ("Code") section 8690	Company registration certificate reinstated 11/05/2001 after posting general liability insurance
Date	**Basis for Suspension**	**Status**
11/30/2001	See above.	Company registration certificate reinstated 12/04/2001 after posting general liability insurance
01/02/2002	See above.	Company registration certificate reinstated 01/10/2002 after posting

		general liability insurance
09/14/2007	See above.	Company registration certificate reinstated 11/05/2007 after posting general liability insurance
09/28/2007	Failure to maintain a surety bond in the amount of $4,000 as required by Code section 8697	Company registration certificate reinstated 11/05/2007 after posting a $4,000 surety bond
05/09/2008	Failure to maintain general liability insurance as required by Code section 8690	Company registration certificate reinstated 08/13/2008 after posting general liability insurance

Operator's License No. OPR 9534

3. On or about May 14, 1996, the Board issued Operator's License Number OPR 9534 in Branch 3 to Respondent Hiatt, qualifying manager of Steve Hiatt Termite & Pest Control. On June 11, 1998, Respondent Hiatt became the Branch 3 qualifying manager for Respondent Steve Hiatt Termite & Pest Control, Inc. Respondent Hiatt's operator's license was suspended on the dates indicated below and will be expire on June 30, 2010, unless renewed.

Date	Basis for Suspension	Status
10/29/2001	Failure to maintain general liability insurance as required by Code section 8690	Operator's license reinstated 11/05/2001 after posting general liability insurance
11/30/2001	See above.	Operator's license reinstated 12/04/2001 after posting general liability insurance
01/02/2002	See above.	Operator's license reinstated 01/10/2002 after posting general liability insurance
09/14/2007	See above.	Operator's license reinstated 10/12/2007 after posting general liability insurance
05/09/2008	See above.	Operator's license reinstated 08/13/2008 after posting general liability insurance

Operator's License No. OPR 8066

4. On or about March 18, 1988, the Board issued Operator's License Number OPR 8066 in Branches 2 and 3 to Respondent McDonald, owner and qualifying manager of McDonald Termite & Pest Control. On November 21, 1988, Respondent's operator's license

was downgraded to include Branch 2 only. On January 31, 1990, Respondent disassociated as qualifying manager of McDonald Pest Control. On May 23, 1997, Respondent became partner and Branch 2 qualifying manager for Bob McDonald Pest Control. On June 11, 1998, Respondent became the Branch 2 qualifying manager for Respondent Steve Hiatt Termite & Pest Control, Inc. Respondent McDonald's operator's license was suspended on the dates indicated below and will expire on June 30, 2011, unless renewed.

Date	Basis for Suspension	Status
05/22/2000	Failure to maintain general liability insurance as required by Code section 8690	Operator's license reinstated 05/25/2000 after posting general liability insurance
10/29/2001	See above.	Operator's license reinstated 11/05/2001 after posting general liability insurance
11/30/2001	See above.	Operator's license reinstated 12/04/2001 after posting general liability insurance
01/02/2002	See above.	Operator's license reinstated 01/10/2002 after posting general liability insurance
09/14/2007	See above.	Operator's license reinstated 10/12/2007 after posting general liability insurance
05/09/2008	See above.	Operator's license reinstated 08/13/2008 after posting general liability insurance

Company Registration Certificate No. PR 3092

5. On or about May 23, 1997, the Board issued Company Registration Certificate Number PR 3092 in Branch 2 to Bob McDonald Pest Control with Respondent McDonald as partner and qualifying manager and Respondent Hiatt as Partner. The company registration certificate was suspended on the dates indicated below and was reinstated on August 13, 2008. .

Date	Basis for Suspension	Status
05/22/2000	Failure to maintain general liability insurance as required by Code section 8690	Company registration certificate reinstated 05/25/2000 after posting general liability insurance

11/29/2007	Failure to replace qualifying manager	Company registration certificate reinstated 10/15/2007
06/25/2008	See above.	Company registration certificate reinstated 08/13/2008 with Respondent McDonald as qualifying manager

JURISDICTION

6. 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 118, subdivision (b), states:

> The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

9. 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.

10. 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

11. Code section 8505.17, subdivision (c), states:

Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide, the amount used, and the number of applications made. The report shall be submitted to the commissioner by the 10th day of the month following the month of application. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. No pesticide use stamp is required on negative use reports.

12. Code section 8617 states, in pertinent part:

(a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or, for a licensee, registered company, or an unlicensed individual acting as a licensee, may levy an administrative fine up to one thousand dollars ($1,000) or direct the licensee to attend and pass a board-approved course of instruction at a cost not to exceed the administrative fine, or both, for each violation of this chapter or Chapter 14.5 (commencing with Section 8698), or any regulations adopted pursuant to these chapters, or Chapter 2 (commencing with Section

12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to pesticides. However, any violation determined by the board or the commissioner to be a serious violation as defined in Section 1922 of Title 16 of the California Code of Regulations shall be subject to a fine of not more than five thousand dollars ($5,000) for each violation. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

. . . .

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action.

. . . .

. . . If a hearing is not requested within the prescribed time, the commissioner may take the action proposed without a hearing.

. . . .

(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of assessment or to comply with the order of suspension, unless the citation is being appealed, may result in disciplinary action being taken by the board.

. . . .

(g) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation . . .

13. Code section 8516 states, in pertinent part:

. . . .

(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 this 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) . . .

14. Code section 8518 states, in pertinent part:

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 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) . . .

15. 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.

16. Code section 8690 states:

The board shall not issue any company registration under this chapter unless the applicant shall have filed with the board on a form prescribed by the board written evidence of an insurance policy approved by the board or a bond as specified in this article, being in effect at the time of the issuance of the company

registration. This written evidence shall include a provision that the board shall be given a 10-day notice by the insurance company or bonding company should the policy or bond be canceled or changed during the policy or bond period in a manner as to affect the written evidence.

17. Code section 8691 states that "[n]o registered company shall engage in any of the practices for which it is required to be registered by this chapter unless it maintains such insurance policy or bond as specified in this article."

18. Code section 8692 states, in pertinent part:

> An "insurance policy" as used in this article means a contract of liability insurance issued by an insurance company authorized to transact business in this state or one issued by a nonadmitted carrier whose activities in this state are controlled by the Surplus Line Association, which insures the policyholder against loss from legal liability for damages on property upon which work is being performed or has been completed, including third party losses, as a result of an accident or occurrence due to participation in any control, prevention, or repair activities which require a license under this chapter. The insurance policy shall provide minimum limits of twenty-five thousand dollars ($25,000) for any one loss due to bodily injury, sickness or disease, including death at any time resulting therefrom, sustained by any person or persons, and twenty-five thousand dollars ($25,000) minimum for any one loss due to injury or destruction of property, including the loss of use thereof . . .

19. Code section 8695 states that "[t]he violation of any provision of this article is a misdemeanor and shall be grounds for the suspension or revocation by the board of the operator's license of the owner or qualifying manager or managers of the registered company and of the company registration."

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

> (a) Authority to Issue Citations and Fines:
>
> (1) The Registrar or Deputy Registrar of the Board is authorized to issue citations which may contain an order of abatement or an administrative fine ("fine") for violations of the statutes contained in the Structural Pest Control Act (commencing with Business and Professions Code Section 8500) or the regulations adopted by the Board.
>
> (2) Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes(s) or regulation(s) alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.
>
> . . . .

(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

21. 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.

STATEMENT OF FACTS

22. On or about November 15, 2006, pursuant to the Notice of Decision and Order in Case/File No. 06072015, the Los Angeles County Agricultural Commissioner ordered Respondents Steve Hiatt Termite & Pest Control, Inc., Hiatt, and McDonald to pay a fine of $151 for violations of Code section 8505.17, subdivision (c), for failing to submit Monthly Pesticide Use Reports from February 2006, through July 2006. Respondents failed to pay the fine.

23. On or about December 6, 2007, the Board issued Citation No. CF 08-103 against Respondents Hiatt and Steve Hiatt Termite & Pest Control, Inc. for violations of Code sections 8516 and 8518 for failing to report and file with the Board the addresses of approximately 858 properties inspected and approximately 623 properties upon which structural pest control work was completed between the dates of August 27, 2005, and October 5, 2007. The Board ordered Respondents to pay a fine of $4,943 for the violations within 30 days after receipt of the citation. Respondents failed to contest the citation or pay the $4,943 fine.

24. On October 27, 2008, the Board conducted a records check at Respondent Steve Hiatt Termite & Pest Control, Inc.'s office located in Whittier, California. The purpose of the inspection was to determine whether Respondent was complying with the requisite reporting and filing requirements under Code sections 8516 and 8518, since the Board's last inspection.

The inspection revealed that Respondent continued to be out of compliance. Respondent failed to submit an additional 115 Wood Destroying Pests and Organisms (WDO) activity statements and remit the required fees to the Board between October 9, 2007 and October 27, 2008.

26. Between April 29, 2008, and August 12, 2008, Respondent Steve Hiatt Termite & Pest Control, Inc.'s insurance had lapsed (a total of 105 days).

27. Between April 2008, and August 12, 2008, while uninsured, Respondent completed approximately 162 branch 2 general pest control applications.

28. On or about October 28, 2008, the Board issued Citation No. CF 09-23 against Respondents Hiatt and Steve Hiatt Termite & Pest Control, Inc. for violations of Code sections 8648 (false statement or representation concerning registered company's business) and 8651 (deviation from operations authorized by license or registration) and Regulation 1999.5, subdivisions (a) and (f)(13) (false and misleading advertising). The Board ordered Respondents to pay a fine of $1,000 for the violations within 30 days after receipt of the citation. Respondents failed to contest the citation or pay the $1,000 fine.

FIRST CAUSE FOR DISCIPLINE

(Failure to Report Addresses of Properties Inspected or Upon Which Structural Pest Control Work is Completed)

29. Respondents Steve Hiatt Termite & Pest Control, Inc. and Hiatt are subject to disciplinary action pursuant to Code section 8641 in that on and between October 9, 2007, and October 27, 2008, Respondents failed to comply with Code sections 8516 and 8518, in that

Respondents failed to report and file with the Board the addresses of approximately 115 properties inspected and/or upon which structural pest control work was completed, as set forth in paragraph 25 above.

SECOND CAUSE FOR DISCIPLINE

(Engaging in the Business of Structural Pest Control While Uninsured)

30. Respondents Steve Hiatt Termite & Pest Control, Inc., Hiatt, and McDonald are subject to disciplinary action pursuant to Code section 8695 in that on and

between April 29, 2008, and August 12, 2008, Respondents engaged in the business of structural pest control while their liability insurance policy had lapsed, as set forth in paragraphs 26 and 27 above.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Citations Issued by Board)

31. Respondents Steve Hiatt Termite & Pest Control, Inc. and Hiatt are subject to disciplinary action pursuant to Code section 8641 in that Respondents failed to comply with Regulation 1920, subdivision (d), by failing to comply with citations issued by the Board, as set forth in paragraphs 24 and 28 above.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Pay Fine Issued by the Los Angeles County Agricultural Commissioner)

32. Respondents Steve Hiatt Termite & Pest Control, Inc., Hiatt, and McDonald are subject to disciplinary action pursuant to Code section 8641 in that Respondents failed to comply with Code section 8617, subdivision (f), as follows: Respondents failed to pay the $151 fine ordered or issued by the Los Angeles County Agricultural Commissioner, as set forth in paragraph 23 above.

MATTERS IN AGGRAVATION

33. To determine the degree of penalty, if any, to be imposed on Respondents Steve Hiatt Termite & Pest Control, Inc., Hiatt, and McDonald, Complainant alleges as follows:

Respondent Steve Hiatt Termite & Pest Control, Inc.

a. On October 30, 2003, Respondent paid a $50 fine levied by the Orange County Agricultural Commissioner for Respondent's violation of Code section 8505.17.

b. On January 6, 2004, Respondent paid a $100 fine issued by the Orange County Agricultural Commissioner for Respondent's violation of Code section 8505.17.

c. On or about November 15, 2006, pursuant to the Notice of Decision and Order in Case/File No. 06072015, the Los Angeles County Agricultural Commissioner ordered Respondent Steve Hiatt Termite & Pest Control, Inc. to pay a fine of $151 for violating Code section 8505.17, subdivision (c) (failure to submit Monthly Pesticide Use Reports). Respondent

failed to pay the fine, as set forth above.

d. On November 8, 2006, Respondent paid a $100 fine levied by the Los Angeles County Agricultural Commissioner for Respondent's violation of Code section 8505.17 and Food and Agriculture Code section 15204.

e. On December 5, 2007, Respondent was issued a $4,943 fine by the Board for Respondent's violation of Code sections 8516 and 8518. Respondent has failed to pay the fine, as set forth above.

f. On October 28, 2008, Respondent was issued a $1,000 fine by the Board for Respondent's violation of Code sections 8648 and 8651 and Regulation 1999.5, subdivisions (a) and (f)(13). Respondent has failed to pay the fine, as set forth above.

Respondent Hiatt

g. On or about November 15, 2006, pursuant to the Notice of Decision and Order in Case/File No. 06072015, the Los Angeles County Agricultural Commissioner ordered Respondent to pay a fine of $151 for violating Code section 8505.17, subdivision (c). Respondent failed to pay the fine, as set forth above.

h. On December 5, 2007, Respondent was issued a $4,943 fine by the Board for Respondent's violation of Code sections 8516 and 8518. Respondent has failed to pay the fine, as set forth above.

i. On October 28, 2008, Respondent was issued a $1,000 fine by the Board for Respondent's violation of Code sections 8648 and 8651 and Regulation 1999.5, subdivisions (a) and (f)(13). Respondent failed to pay the fine, as set forth above.

Respondent McDonald

j. On or about May 26, 1987, pursuant to the Proposed Decision of the Administrative Law Judge adopted by the Board as its Decision in the disciplinary proceeding titled *In the Matter of the Accusation Against: McDonald Termite and Pest Control,* Case No.

86-28, Operator's License No. OC 5246[1], issued to McDonald Termite and Pest Control, a partnership, with Respondent McDonald as qualifying partner and Sally Ann McDonald as partner, was revoked effective June 26, 1987. The revocation was stayed and McDonald Termite and Pest Control was placed on probation for a period of two (2) years subject to certain conditions.

k. On or about November 15, 2006, pursuant to the Notice of Decision and Order in Case/File No. 06072015, the Los Angeles County Agricultural Commissioner ordered Respondent to pay a fine of $151 for violating Code section 8505.17, subdivision (c) (failure to submit Monthly Pesticide Use Reports). Respondent failed to pay the fine, as set forth above.

OTHER MATTERS

34. 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.

35. Pursuant to Code section 8624, if Operator's License Number OPR 9534, issued to Respondent Steven J. Hiatt, is suspended or revoked, the Board may suspend or revoke Company Registration Certificate Number PR 3295, issued to Steve Hiatt Termite & Pest Control, Inc., with Steven J. Hiatt as president and Branch 3 qualifying manager; and Company Registration Certificate Number PR 3092, issued to Bob McDonald Pest Control, with Steven J. Hiatt as partner.

36. Pursuant to Code section 8624, the causes for discipline established as to Respondent Steve Hiatt Termite & Pest Control, Inc. likewise constitute causes for discipline against Steven J. Hiatt regardless of whether Steven J. Hiatt had knowledge of or participated in the acts or omissions which constitute causes for discipline against Respondent Steve Hiatt

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1. On or about July 1, 1976, Operator's License No. OC 5246 was issued in Branches 1 (fumigation), 2, and 3 to McDonald Termite and Pest Control, with Respondent McDonald as Branch 2 and 3 qualifying partner, Sally Ann McDonald as co-partner, and DeForest McDonald as Branch 1 responsible natural person. The operator's license was canceled on March 18, 1988.

Termite & Pest Control, Inc.

37. Pursuant to Code section 8654, if discipline is imposed on Operator's License Number OPR 9534, issued to Respondent Steven J. Hiatt, Steven J. Hiatt 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 Steven J. Hiatt shall be subject to disciplinary action.

38. Pursuant to Code section 8624, if Operator's License Number OPR 8066, issued to Respondent Robert Eugene McDonald, is suspended or revoked, the Board may suspend or revoke Company Registration Certificate Number PR 3295, issued to Steve Hiatt Termite & Pest Control, Inc., with Robert Eugene McDonald as Branch 2 qualifying manager; and Company Registration Certificate Number PR 3092, issued to Bob McDonald Pest Control, with Robert Eugene McDonald as partner and qualifying manager.

39. Pursuant to Code section 8624, the causes for discipline established as to Respondent Steve Hiatt Termite & Pest Control, Inc. likewise constitute causes for discipline against Robert Eugene McDonald regardless of whether Robert Eugene McDonald had knowledge of or participated in the acts or omissions which constitute causes for discipline against Respondent Steve Hiatt Termite & Pest Control, Inc.

40. Pursuant to Code section 8654, if discipline is imposed on Operator's License Number OPR 8066, issued to Respondent Robert Eugene McDonald, Robert Eugene McDonald 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 Robert Eugene McDonald shall be subject to disciplinary action.

41. 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 fee.

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 3295, issued to Steve Hiatt Termite & Pest Control, Inc.;

2. Revoking or suspending Operator's License Number OPR 9534, issued to Steven J. Hiatt;

3. Prohibiting Steven J. Hiatt 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 9534, issued to Steven J. Hiatt;

4. Revoking or suspending Operator's License Number OPR 8066, issued to Robert Eugene McDonald;

5. Prohibiting Robert Eugene McDonald 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 8066, issued to Robert Eugene McDonald;

6. Revoking or suspending Company Registration Certificate Number PR 3092, issued to Bob McDonald Pest Control;

7. Ordering Respondents Steve Hiatt Termite & Pest Control, Inc., Steven J. Hiatt, Robert Eugene McDonald, and Bob McDonald Pest Control to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 8-12-09

Kelli Okuma

KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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