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**FILED**

Date 9/25/14 By Susan Saylor

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

12 In the Matter of the Accusation Against:

Case No. 2015-10

13 **COOLEY'S GENERAL PEST &**  
14 **TERMITE CONTROL, INC.; John Cooley,**  
15 **Qualifying Manager Company Registration**  
16 **Certificate No. PR 4027 Branches 2 & 3**

**ACCUSATION**

17 and

18 **JOHN COOLEY Operator License No.**  
19 **OPR 8329 Branches 2 & 3**

20 **P.O. Box 940907, Simi Valley, CA 93094**

Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as  
24 the Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of  
25 Consumer Affairs. (Department).

26 2. On or about September 24, 2001, the Structural Pest Control Board issued Company  
27 Registration Certificate Number PR 4027 Branches 2 & 3 to Cooley's General Pest & Termite  
28

Control, Inc.; with John Cooley (Respondent) as President and Qualifying Manager, Nick Dallas as Vice President and James Kennedy Jackson as corporate officer.

In accordance with the terms and conditions of the Decision rendered in the Statement of Issues Case No. 2001-2, revoked Company Registration Certificate PR 4027, stayed, suspended 40 days and three years probation with terms and conditions.

On August 22, 2002, Company Registration Certificate PR 4027 was suspended for failure to maintain general liability insurance as required per section 8690 of the Business & Professions Code.

On August 27, 2002, Company Registration Certificate PR 4027 was reinstated after posting the general liability insurance.

On March 28, 2003, Company Registration Certificate PR 4027 was issued a \$500 fine for violation of regulations and the fine was paid on May 13, 2003.

On June 1, 2009, Company Registration Certificate PR 4027 was suspended for failure to maintain general liability insurance as required per section 8690 of the Business & Professions Code.

On June 4, 2009, Company Registration Certificate PR 4027 was reinstated after posting general liability insurance.

On October 24, 2011, Company Registration Certificate PR 4027 was suspended for failure to maintain a surety bond in the amount of \$4,000 as required per section 8697 of Business and Professions Code.

On November 7, 2011, Company Registration Certificate PR 4027 was reinstated after posting a surety bond in the amount of \$4,000.

On August 29, 2014, Company Registration Certificate PR 4027 was suspended for failure to maintain the general liability insurance as required per section 8690 of the Business & Professions Code.

On September 18, 2014, Company Registration Certificate PR 4027 was suspended for failure to maintain a surety bond in the amount of \$12,500 as required per section 8697 of the Business & Professions Code.

1       3.    On March 27, 1989, Operator's License No. OPR 8329 was issued in Branch 2 to  
2 John Cooley Qualifying Manager of Cooley's General Pest Control.

3       On October 22, 1990, and September 1, 1991, Operator's License No. OPR 8329 reflected  
4 changes of address.

5       On November 16, 1991, Operator's License No. OPR 8329 was suspended for failure to  
6 maintain the general liability insurance as required per section 8690 of the Business &  
7 Professions Code.

8       On February 20, 1992, Operator's License No. OPR 8329 was reinstated after posting  
9 general liability insurance.

10       On December 1, 1992, Operator's License No. OPR 8329 was upgraded to include  
11 Branches 2 and 3 and became Branch 3 Qualifying Manager of Cooley's General Pest Control.

12       On August 21, 1997, Operator's License No. OPR 8329 was suspended for failure to  
13 maintain the general liability insurance required per section 8690 of the Business & Professions  
14 Code.

15       On August 29, 1997, Operator's License No. OPR 8329 was reinstated after posting general  
16 liability insurance per section 8690 of the Business & Professions Code.

17       On March 12, 1998, Accusation No. 98-20 was filed against Operator's License No. OPR  
18 8329.

19       On November 23, 1998, the Decision rendered in Accusation 98-20 suspended Operator's  
20 License No. OPR 8329 for 30 days, stayed, 5 days actual suspension and three years probation  
21 with terms and conditions.

22       On September 16, 2001, the Decision rendered in Accusation and Petition to Revoke  
23 Probation 2000-6 revoked Operator's License No. OPR 8329, stayed, 40 days suspension and 3  
24 years probation with terms and conditions.

25       On September 24, 2001, Operator's License No. OPR 8329 became the President and  
26 Qualifying Manager of Cooley's General Pest and Termite Control, Inc.

1 On August 22, 2002, Operator's License No. OPR 8329 was suspended for failure to  
2 maintain the general liability insurance as required by section 8690 of the Business & Professions  
3 Code.

4 On August 27, 2002, Operator's License No. OPR 8329 was reinstated after posting the  
5 general liability insurance.

6 On March 28, 2003, Operator's License No. OPR 8329 was issued a \$500 fine for violation  
7 of regulations and the fine was paid on May 13, 2003.

8 On June 1, 2009, Operator's License No. OPR 8329 was suspended for failure to maintain  
9 the general liability insurance as required by section 8690 of the Business & Professions Code.

10 On June 4, 2009, Operator's License No. OPR 8329 was reinstated after posting the general  
11 liability insurance.

12 On August 29, 2014, Operator's License No. OPR 8329 was suspended for failure to  
13 maintain the general liability insurance as required by section 8690 of the Business & Professions  
14 Code.

15 4. On August 24, 1990, Company Registration Certificate No. PR 1622 reflected a  
16 change of name to Cooley's General Pest Control and was upgraded to include Branches 2 and 3.

17 On November 16, 1991, Company Registration Certificate No. PR 1622 was suspended for  
18 failure to maintain the general liability insurance as required per section 8690 of the Business &  
19 Professions Code.

20 On February 20, 1992, Company Registration Certificate No. PR 1622 was reinstated after  
21 posting general liability insurance.

22 On December 1, 1992, Company Registration Certificate No. PR 1622 reflected a change of  
23 Branch 3 qualifying manager to John Cooley.

24 On January 11, 1996, Company Registration Certificate No. PR 1622 was suspended for  
25 failure to maintain a surety bond in the amount of \$4,000 as required by section 8697 of the  
26 Business & Professions Code.

27 On February 20, 1996, Company Registration Certificate No. PR 1622 was reinstated after  
28 posting the surety bond.

1 On August 21, 1997, Company Registration Certificate No. PR 1622 was suspended for  
2 failure to maintain general liability insurance per section 8690 of the Business & Professions  
3 Code.

4 On August 29, 1997, Company Certificate No. PR 1622 was reinstated after posting general  
5 liability insurance.

6 5. On March 12, 1998, an Accusation 98-20 was filed against Company Registration  
7 Certificate No. PR 1622.

8 On November 23, 1998, the Decision rendered in Accusation No. 98-20 suspended  
9 Company Registration Certificate No. PR 1622 for 30 days, stayed, five days actual suspension  
10 and three years probation with terms and conditions.

11 On September 16, 2001, Accusation and Petition to Revoke Probation 2000-6 revoked  
12 Company Registration Certificate No. PR 1622, stayed, 40 days suspension and 3 years probation  
13 with terms and conditions.

14 On September 24, 2001, Company Registration Certificate No. PR 1622 was cancelled due  
15 to re-registration as a corporation.

## 16 JURISDICTION

17 6. This Accusation is brought before the Structural Pest Control Board Department of  
18 Consumer Affairs, under the authority of the following laws. All section references are to the  
19 Business and Professions Code unless otherwise indicated.

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

24 8. Section 8620 of the Code states:

25 "The board may upon its own motion, and shall upon verified complaint in writing of any  
26 person, investigate the actions of any individual acting as a licensee, or making application for a  
27 license.  
28

1 "After a hearing, the board may temporarily suspend or permanently revoke a license issued  
2 under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or  
3 more of the acts or omissions constituting grounds for disciplinary action. In addition to its  
4 authority to suspend or revoke a license, the board may assess a civil penalty as follows:

5 "(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with  
6 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed  
7 decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts  
8 or omissions constituting grounds for disciplinary action, the proposed decision shall provide for  
9 the imposition of a suspension or for the revocation of the license. In this case, the board may  
10 impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil  
11 penalty. The licensee may express a preference for a form of discipline, but the board shall not  
12 be bound by any expression of preference.

13 "If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing,  
14 the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

15 "If a proposed stipulation is rejected by the board, it is null and void and does not constitute  
16 an admission of any violation charged.

17 "(b) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual  
18 suspension of one to 19 days.

19 "(c) The civil penalty shall not be more than ten thousand dollars (\$10,000) for an actual  
20 suspension of 20 to 45 days.

21 "(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty  
22 shall be paid before the effective date of the decision.

23 "(e) If the civil penalty is not paid before the effective date of the suspension, the license  
24 shall be suspended until the penalty is paid or until the actual suspension is served.

25 "No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With  
26 the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section  
27 8617, the proceedings under this article shall be conducted in accordance with Chapter 5  
28

1 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and  
2 the board shall have all the powers granted therein.

3 "In any order of suspension or revocation, the board may authorize the completion of any  
4 contract or work contracted for under terms and conditions set forth in the order."

5 9. Pursuant to section 8624 of the Code, the causes for discipline established as to  
6 Respondent Cooley's General Pest & Termite Control, Inc. likewise constitute cause for discipline  
7 against John Cooley regardless of whether John Cooley had knowledge of or participated in the  
8 acts or omissions which constitute cause for discipline against Respondent Cooley's General Pest  
9 & Termite Control, Inc..

10 10. Pursuant to section 8624 of the Code, if Operator License Number OPR 8329 issued  
11 to Respondent is suspended or revoked, the Board may suspend or revoke Company Registration  
12 Certificate Number PR 4027, issued to Cooley's General Pest & Termite Control, Inc..

13 11. Section 8625 of the Code states:

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

### 19 STATUTORY PROVISIONS

20 12. Section 8593 states, in pertinent part:

21 The board shall require as a condition to the renewal of each operator's and field  
22 representative's license that the holder submit proof satisfactory to the board that he or she has  
23 informed himself or herself of developments in the field of pest control either by completion of  
24 courses of continuing education in pest control approved by the board or equivalent activity  
25 approved by the board. In lieu of submitting that proof, the license holder, if he or she so desires,  
26 may take and successfully complete an examination given by the board, designed to test his or her  
27 knowledge of developments in the field of pest control since the issuance of his or her license.

13. Section 8637 of the Code states, "Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action."

14. Section 8641 of the Code 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.”

15. 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 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.”

## REGULATORY PROVISIONS

16. California Code of Regulations, Title 16, section 1950, states:

(a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

• • • •



1 (d) Field representatives licensed in one branch of pest control shall have completed 16  
2 continuing education hours, field representatives licensed in two branches of pest control shall  
3 have completed 20 continuing education hours, field representatives licensed in three branches of  
4 pest control shall have completed 24 continuing education hours during each three year renewal  
5 period. In each case, a minimum of four continuing education hours in a technical subject directly  
6 related to each branch of pest control held by the licensee must be completed for each branch of  
7 pest control licensed, a minimum of two hours in Integrated Pest Management must be completed  
8 by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours  
9 must be completed from Board approved courses on the Structural Pest Control Act, the Rules  
10 and Regulations, or structural pest control related agencies' rules and regulations.

11 . . . .

## 12 **COST RECOVERY**

13 17. Section 125.3 of the Code states, in pertinent part, that a Board may request the  
14 administrative law judge to direct a licensee found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

## 17 **FIRST CAUSE FOR DISCIPLINE**

### 18 **(Failure to Provide Proof of Continuing Education)**

19 18. Respondent is subject to disciplinary action under Code section 8641 in that he failed  
20 to verify the completion of 20 hours continuing education hours as claimed on his renewal  
21 application dated June 15, 2012, as required by California Code of Regulations, title 16, section  
22 1950, subdivision (a) and (c), and having been requested by the Board to do so in writing on  
23 November 28, 2012, January 9, 2013, and October 23, 2013.

## 24 **SECOND CAUSE FOR DISCIPLINE**

### 25 **(Misrepresentation)**

26 19. Respondent is subject to disciplinary action under section 8637 for misrepresentation  
27 of a material fact on his June 15, 2012 License Renewal Application by certifying under penalty  
28

1 of perjury that he had completed the continuing education required to renew his license, when in  
2 fact he had not done so.

### 3 **OTHER MATTERS**

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

9 21. Pursuant to Code section 8654, if discipline is imposed on Operator's License  
10 Number OPR 8329, issued to Respondent, then Respondent shall be prohibited from serving as an  
11 officer, director, associate, partner, qualifying manager, or responsible managing employee for  
12 any registered company during the time the discipline is imposed, and any registered company  
13 which employs, elects, or associates Respondent shall be subject to disciplinary action.

### 14 **DISCIPLINE CONSIDERATIONS**

15 22. To determine the degree of discipline, if any, to be imposed on Respondent,  
16 Complainant alleges that on or about September 24, 2001, for Company Registration Certificate  
17 No. PR 4027, revoked, stayed suspended 40 days and three year probation.

18 On September 16, 2001, Accusation and Petition to Revoke Probation No. 2000-6 revoked,  
19 stayed, suspended 40 days and three years probation for Operator License No. OPR 8329.

### 20 **PRAYER**

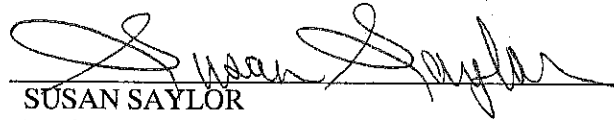
21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the Structural Pest Control Board issue a decision:

- 23 1. Revoking or suspending Company Registration Certificate Number PR 4027 issued to  
24 Cooley's General Pest & Termite Control, Inc.; John Cooley Qualifying Manager;
- 25 2. Revoking or suspending Operator's License No. OPR 8329 issued to John Cooley;
- 26 3. Prohibiting John Cooley from serving as an officer, director, associate, partner,  
27 qualifying manager or responsible managing employee of any registered company during the  
28 period that discipline is imposed on Operator License No. OPR 8329, issued to John Cooley.

1           4.     Ordering John Cooley to pay the Structural Pest Control Board the reasonable costs  
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
3 section 125.3; and,

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

6  
7 DATED: 9/25/14



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

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