FILED

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

In the Matter of the Accusation Against: **N SERVICE PEST MANAGEMENT; DONALD HANSBERGER, Owner and QM** **3120 Oakview Lane** **Chino Hills, CA 91709** **Company Registration Certificate No. PR 4097, Br. 2 and 3** **Operator's License No. OPR 8475, Br. 2 and 3** **and** **TODD ELLIOT HANSBERGER** **3120 Oakview Lane** **Chino Hills, CA91709** **Field Representative's License No. FR 19237, Br. 2 and 3** Respondents.	Case No. 2013-1 **ACCUSATION**

William H. Douglas ("Complainant") alleges:

PARTIES

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

Company Registration Certificate No. 4097

2. On or about March 4, 2002, the Structural Pest Control Board issued Company Registration Certificate Number PR 4097 to N Service Pest Management ("Respondent N Service") in Branches 2 and 3, with Donald Hansberger as Owner and Qualifying Manager. The Company Registration Certificate was in full force and effect at all times relevant to the charges brought herein.

Operator's License No. OPR 8475

3. On or about December 14, 1989, the Structural Pest Control Board issued Operator's License Number OPR 8475 in Branch 2 to Donald Hansberger ("Respondent D. Hansberger"). On or about September 1, 1993, Operator's License Number OPR 8475 was upgraded to Branches 2 and 3. The Operator's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

Field Representative's License No. 19237

4. On or about February 6, 1991, the Structural Pest Control Board issued Field Representative's License Number FR 19237 in Branch 2 to Todd Elliot Hansberger ("Respondent T. Hansberger"). On or about October 6, 1997, Filed Representative's License Number FR 19237 was upgraded to Branches 2 and 3. The Field Representative's License expired on June 30, 2011 and has not been renewed.

JURISDICTION

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

6. Section 8620 of the Code 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. Section 8624 of the Code states:

If the board suspends or revokes an operator's license and one or more branch

offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.

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

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

8. Section 8625 of the Code 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.

9. Section 8622 of the Code states:

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

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

STATUTORY PROVISIONS

10. Section 8516 of the Code 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 subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

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

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

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

(2) The name and address of the person or firm ordering the report.

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

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(10) Recommendations for corrective measures.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

11. Section 8518 of the Code states:

When a registered company completes work under a contract, it shall prepare, on a

form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 working days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

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

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

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

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

Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

12. Section 8619 of the Code states:

(a) An inspection tag shall be posted whenever an inspection for wood destroying pests or organisms is made.

(b) If the registered company completes any work with respect to wood destroying pests or organisms, it shall post a completion tag next to the inspection tag.

13. Section 8638 of the Code states that "[f]ailure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action."

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.

REGULATORY PROVISIONS

15. California Code of Regulations, title 16, section 1920, subdivision (d) states:

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.

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

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

(3) Infestations, infections or evidence thereof.

(f) The following language shall appear just prior to the first finding/recommendation on each separated report:

'This is a separated report which is defined as Section I/Section II conditions evident on the date of the inspection. Section I contains items where there is visible evidence of active infestation, infection or conditions that have resulted in or from infestation of infection. Section II items are conditions deemed likely to lead to infestation or infection but where no visible evidence of such was found. Further inspection items are defined as recommendations to inspect area(s) which during the original inspection did not allow the inspector access to complete the inspection and cannot be defined as Section I or Section II.'

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

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

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

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

(A) enclose the structure for an all encompassing treatment utilizing materials listed in Section 8505.1 of the code, or

(B) use another all encompassing method of treatment which exterminates the infestation of the structure, or

(C) locally treat by any or all of the following:

1. exposing the infested area(s) for local treatment,

2. removing the infested wood,

3. using another method of treatment which exterminates the infestation. (If any recommendation is made for local treatment, the report must contain the following statement: "Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated.")

When a complete inspection is performed, a recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the inspection is limited to the area(s) described and diagrammed. A recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests in the limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

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

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

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

19. California Code of Regulations, title 16, section 1996.1, subdivision (c) states:

The inspection report shall indicate the location of the inspection tag. The inspection report must also indicate the presence of any other inspection or fumigation tag that is less than two years old and any similar completion tag. A registered company shall not remove any tag.

20. California Code of Regulations, title 16, section 1996.3 states in pertinent part:

(a) The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

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

COST RECOVERY/RESTITUTION

21. Business and Professions Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a

violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case/

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

DRISKILL PROPERTY

The May 2010 Inspection

23. On or about May 18, 2010, at the request of Nancy Klawitter, Respondent N Service performed a wood-destroying organisms inspection ("WDO inspection") for property located at 6061 Calle Cortez, Yorba Linda, CA 92886 ("Subject Property") for escrow purposes. Respondent T. Hansberger performed the WDO inspection and issued a "complete," "separated" Wood Destroying Pests and Organisms Inspection Report containing six findings and recommendations ("inspection report"). The Section I findings identified evidence of drywood termites in the garage that did not appear to extend into inaccessible areas (item 2A) and evidence of drywood termites and wood-destroying fungus ("decay fungi") at the attached patio (items 2B and 3A). The Section I recommendations stated to locally treat for the control of drywood termites and to remove or cover the accessible evidence of infestation, to repair the drywood termite damage to the patio, to remove the decay fungi from the patio, to treat the patio with an approved fungicide, and to seal and prime the patio to prevent future infections.

24. The Section II findings identified old evidence of drywood termites in the garage (item 2C), decay fungi damage at the attached patio (item 4A) and separation along the grain of the trim board on the back of the garage (item 4B). The Section II recommendation stated to remove the old evidence of drywood termites in the garage and to have the area periodically inspected. There was no recommendation regarding the decay fungi damage at the patio. There was no recommendation regarding the separation of the grain of the trim board on the back of the garage, only a suggestion to seal and paint the area to prevent future infestation or infection.

25. The inspection report was not on a form prescribed by the Board because the address for the Board was incorrect. Additionally, the report failed to contain the address of the person or

firm ordering the inspection report and failed to contain any information in the Other Tags Posted box.

26. On May 20, 2010, Respondent N Service issued a Standard Notice of Work Completed and Not Completed ("completion notice") at the Subject Property. The completion notice was not on a form prescribed by the Board because the address for the Board was incorrect. The completion notice certified that Section I recommendations 2A, 2B, and 3A and Section II recommendation 4B had been completed. The completion notice also reported that Section II recommendations 2C and 4A were not completed. It indicated that the recommendations for 2C and 4A were informational only.

27. In June 2010, escrow closed on the Subject Property and Bryan and Jackie Driskill ("the Driskills") became the owners of the Subject Property. In December 2010, the Driskills discovered evidence of termites. At this time, the Subject Property was under a warranty with Respondent N Service. From December 2010 through March 2011, the Driskills made multiple attempts to schedule an inspection with N Service but they were unsuccessful in doing so.

28. On April 16, 2011, the Driskills hired "The Bugman" and "Truly Nolan" to inspect the Subject Property. Both companies indicated that there was extensive termite damage which could not have occurred during the 10 months that the Driskills owned the Subject Property.

29. Because the Subject Property was under warranty with Respondent N Service, the Driskills again contacted Respondent N Service. Respondent T. Hansberger inspected the Subject Property on April 22, 2011. T. Hansberger did not issue an inspection report for the April 22, 2011 inspection. T. Hansberger returned to the Subject Property on April 25, 2011 to perform work on the property. T. Hansberger did not issue a completion notice for the April 25, 2011 work performed.

30. After Respondent T. Hansberger performed work on April 25, 2011, the Driskills again contacted The Bugman and that company performed a follow up inspection. The Bugman informed the Driskills that Respondent N Service has not completed the work.

31. On May 25, 2011, Respondent T. Hansberger performed work on the Subject Property. However he did not complete the work because he did not have all the necessary

equipment. T. Hansberger did not issue a completion notice for the May 25, 2011 work performed.

32. Despite multiple attempts by the Driskills to have Respondent N Service complete the work, it never did. On July 13, 2011, the Board received a complaint from the Driskills alleging that Respondent N Service failed to complete the work and failed to resolve their complaint.

33. On September 15, 2011, the Board performed several Wood Destroying Organism Activity Searches to ascertain what wood destroying organism activities ("WDO activities") had been performed at the Subject Property and filed with the Board and to determine what WDO activities Respondent N Service had filed with the Board in general. The searches revealed that Respondent N Service had not filed with the Board any of the WDO activities it performed at the Subject Property. In fact, Respondent N Service had not filed any WDO activities with the Board since November 16, 2009.

34. On or about October 26, 2011, Board Specialist Charles Alsky ("Mr. Alsky") travelled to the Subject Property to perform an inspection. Mr. Alsky inspected the Subject Property and found evidence of active, swarming infestations of drywood termites in the attic, garage, patio covering, exterior framing, and eaves as well as damage to those areas. The cost to complete all of the necessary work was approximately $17,250.00. Mr. Alsky took photographs and prepared a Report of Findings. The report was mailed to Respondents D. Hansberger and T. Hansberger.

35. On or about November 4, 2011, Mr. Alsky travelled to Respondent N Service and performed a limited Compliance Inspection which addressed the company's failure to file WDO activities with the Board. Respondent D. Hansberger admitted that the company had failed to file approximately 100 WDO activities with the Board.

36. On December 28, 2011, the Board issued Respondents N Service and D. Hansberger a Citation and Fine, CF 12-82, in the amount of $2,750.00 for failing to file 100 WDO activities with the Board. The fine was required to be paid within 30 days. The Citation and Fine also included an Order of Abatement that required Respondent N Service to file the 100 WDO activities with the Board within 30 days.

The March 2012 Inspection

37. On or about March 12, 2012, Board Specialist Steven Smith ("Mr. Smith") contacted Respondent D. Hansberger and informed him that Report of Findings had not yet been complied with. Mr. Smith further informed Respondent D. Hansberger that he needed to inspect the Subject Property.

38. On or about March 22, 2012, Respondent D. Hansberger performed the WDO inspection at the Subject Property and prepared a "complete," "limited" inspection report. The findings identified evidence of drywood termites at the garage, patio, header plate, posts, and slats, all extending into inaccessible areas. The finding also identified drywood termite damage at the garage joist, top plate, rafters, headers, trim, jamb, and rail and decay fungi damage at the garage door trim, the house fascia board and trim and at the patio plate, post, slates, and rafters. The findings further identified earth to wood contact at the door jamb.

39. The recommendations stated to fumigate the structure to control the drywood termites, to remove or cover the accessible evidence of infestation, for others to remove/repair the drywood termite damage, for others to repair the decay fungi damage and to correct the moisture condition responsible for the infection, and for the others to correct the earth to wood contact.

40. The inspection report failed to contain a "limited" inspection report statement, but it did indicate that the stall shower, attic, and interior were not inspected. Additionally, the inspection report was not on a form prescribed by the Board because the address for the Board was incorrect. Furthermore, the report failed to contain the addresses of the person or firm ordering the inspection report and of any person who is a party in interest.

FIRST CAUSE FOR DISCIPLINE

(Failure to Prepare and Deliver Inspection Report and Completion Notice on Form Prescribed by Board)

41. Respondents N Service and D. Hansberger are subject to disciplinary action under Code sections 8516 and 8641 and Section 1993 of title 16 of the California Code of Regulations in that Board's address at the bottom of the May 18, 2010 inspection report, the May 20, 2010 completion notice, and the March 22, 2012 inspection report is wrong. The address listed on

these forms is 1418 Howe Avenue, Suite 18, Sacramento, CA 95825. The Board moved to its current address at 2005 Evergreen Street, Suite 1500, Sacramento, CA 95815 in March 2008.

SECOND CAUSE FOR DISCIPLINE

(Failure to Properly Name Property Owner on Inspection Report)

42. Respondents N Service and D. Hansberger are subject to disciplinary action under Code sections 8516, subdivision (b)(2)-(3) and 8641 in that Respondents failed to include the address of the person or firm who ordered the May 18, 2010 inspection report and the addresses of the person or firm who ordered the March 22, 2012 inspection report and any person who is a party of interest.

THIRD CAUSE FOR DISCIPLINE

(Failure to Issue Proper Completion Notice)

43. Respondents N Service and D. Hansberger are subject to disciplinary action under Code sections 8518 and 8641 in that Respondents did not issue a proper completion notice. The Subject Property was certified as being free of evidence of active infestation, even though old evidence of drywood termites, decay fungi and decay fungi damage were not completed and were incorrectly identified as informational items only.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Issue Inspection Report and Completion Notice for Work Performed)

44. Respondents N Service and D. Hansberger are subject to disciplinary action under Code sections 8516, 8518, and 8641 in that Respondents failed to issue an inspection report for the inspection on April 22, 2011 and Respondents failed to issue a completion notice for work performed on April 25, 2011 and May 25, 2011.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Complete Work)

45. Respondents N Service and D. Hansberger are subject to disciplinary action under Code section 8638 in that Respondents failed to complete the work on the Subject Property. Specifically, Respondents failed to exterminate the drywood termites through the use of a local chemical treatment. The evidence of drywood termites and drywood termite damage, as reported

in the May 18, 2010 inspection report, was certified as having been completed in the May 20, 2010 completion notice. However drywood termites and drywood terminate damage are present in the exterior roof eaves, decorative trim, damage, and patio. Extermination and repairs are necessary. Additionally, the drywood terminate damage in the patio cover was reported in the May 18, 2010 report and was certified as completed on the May 20, 2010 completion report. However drywood terminate damage is still present. Minor repairs as well as wood replacements are necessary.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Make Proper Recommendations)

46. Respondents N Service and D. Hansberger are subject to disciplinary action under Code sections 8516 and 8641 and Section 1991, subdivision (a)(8) of title 16 of the California Code of Regulations in that Respondents failed to make a proper recommendation regarding the local treatment of drywood termites. Respondents concluded that infestations did not appear to extend to inaccessible areas. However the infestations did appear to extend to inaccessible areas and in fact, infestations are active and swarming has occurred. Therefore, the recommendation for local treatment failed to address infestations that appear to extend to inaccessible areas.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Report of Findings)

47. Respondents N Service and D. Hansberger are subject to disciplinary action under Code sections 8622 and 8641 in that Respondents failed to comply with the Report of Findings within 30 days. Respondents received the Report of Findings on December 12, 2011 but as of the date of the Accusation, have failed to comply.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to File WDO Activities)

48. Respondents N Service and D. Hansberger are subject to disciplinary action under Code section 8615, subdivision (b) and Section 1996.3, subdivision (a) of title 16 of the California Code of Regulations in that Respondents failed to file the May 18, 2010 inspection report, the May 20, 2010 completion notice, and the March 22, 2012 inspection report with the

Board. Furthermore, Respondents failed to file approximately 100 WDO activities from November 19, 2009 to the date of this Accusation.

NINTH CAUSE FOR DISCIPLINE

(Failure to Comply with Citation and Fine and Order of Abatement)

49. Respondents N Service and D. Hansberger are subject to disciplinary action under Section 1920, subdivision (d) of title 16 of the California Code of Regulations in that Respondents failed to comply with the Citation and Fine issued on December 28, 2011 and the Order of Abatement. Respondent N Service was given 30 days from the date of the Citation to pay the fine and to file its unfiled WDO activities. As of the date of this Accusation, the fine remains unpaid and the WDO activities have not been filed.

TENTH CAUSE FOR DISCIPLINE

(Failure to Include "Limited" Inspection Report Statement)

50. Respondent D. Hansberger is subject to disciplinary action under Code sections 8516 and 8641 and Section 1993, subsection (c) of title 16 of the California Code of Regulations in that Respondent failed to include a "limited" inspection report statement on the March 22, 2012 "complete," "limited" inspection report.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Make Proper Findings and Recommendations)

51. Respondent T. Hansberger is subject to disciplinary action under Code sections 8516, subdivision (b)(10) and 8641 and Section 1991(a) of title 16 of the California Code of Regulations in that Respondent failed to make a proper finding and recommendation regarding the reported decay fungi and decay fungi damage on the May 18, 2010 inspection report. Specifically, Respondent's finding failed to identify the excessive moisture condition that was responsible for the infection. Respondent also failed to make a recommendation to correct the execessive moisture condition that was responsible for the inspection. Additionally, Respondent failed to make a recommendation for either the reported decay fungi damage at the patio (item 4A) or the separation along the grain of the trim board on the back of the garage (item 4B).

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TWELFTH CAUSE FOR DISCIPLINE

(Failure to Make Damage Finding)

52. Respondent T. Hansberger is subject to disciplinary action under Code sections 8616, subdivision (b)(7) and 8641 and Section 1990, subdivision (a)(3) of title 16 of the California Code of Regulations in that Respondent failed to make a drywood termite damage finding to correspond with the drywood termite recommendation at the attached patio (item 2B).

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Prepare and Deliver Proper Inspection Report)

53. Respondent T. Hansberger is subject to disciplinary action under Code sections 8516, subdivision (c) and 8641 and Section 1990, subdivision (f) of title 16 of the California Code of Regulations in that Respondent's May 18, 2010 inspection report incorrectly identified the old evidence of drywood termites (item 2C) and decay fungi damage at the patio (item 4A) as Section II findings. Respondent should have identified them as Section I findings because they are conditions that have resulted in or from infestation or inspection.

FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to Indicate Other Tags)

54. Respondent T. Hansberger is subject to disciplinary action under Code sections 8619 and 8641 and Section 1996.1(c) of title 16 of the California Code of Regulations in that Respondent failed to indicate whether any other tags, less than 2 years old, were noted on May 18, 2010 inspection report.

DISCIPLINE CONSIDERATIONS

55. To determine the degree of discipline, if any, to be imposed on Respondent N Service, Complainant alleges that on or about November 7, 2011, the San Bernardino County Agricultural Commission levied a $100.00 fine against Respondent N Service for violating Code section 8505.17, subdivision (c).

56. To determine the degree of discipline, if any, to be imposed on Respondents N Service and D. Hansberger, Complainant alleges that on or about December 28, 2011, the Structural Pest Control Board issued Citation Number CF 12-82 to Respondents N Service and D.

Hansberger. The Citation ordered Respondents N Service and D. Hansberger to pay a $2,750.00 fine for violating Business and Professions Code section 8516, subdivision (b). The Citation also included an Order of Abatement that required Respondents N Service and D. Hansberger to file 100 unfiled WDO activities with the Board. As of the date of this Accusation, the fine has not been paid and the Order of Abatement has not been complied with.

OTHER MATTERS

57. Notice is hereby given that 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.

58. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 4097 issued to N Service, likewise constitute cause for discipline against Operator's License Number OPR 8475 issued to D. Hansberger, who serves as the Owner and Qualifying Manager of N Service, regardless of whether D. Hansberger had knowledge of or participated in the acts or omissions which constitute cause for discipline against N Service.

59. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 4097 issued to N Service, then D. Hansberger, who serves as the Owner and Qualifying Manager of N Service, 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 him shall be subject to disciplinary action.

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 4097, issued to N Service Pest Management with Donald Hansberger as Owner and Qualifying Manager;

2. Revoking or suspending Operator's License Number OPR 8475, issued to Donald Hansberger;

3. Revoking or suspending any other license for which Donald Hansberger is furnishing the qualifying experience or appearance;

4. Revoking or suspending Field Representative's License Number FR 19237, issued to Todd Elliot Hansberger;

5. Prohibiting Donald Hansberger 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 4097, issued to N Service Management;

6. Ordering restitution of all damages according to proof suffered by Bryan and Jackie Driskill as a condition of probation in the event probation is ordered;

7. Ordering N Service Pest Management, Donald Hansberger, and Todd Elliot Hansberger 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

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

DATED: 7/2/12

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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