

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

In the Matter of the Accusation Against:

MR. TERMITE
PETER KENNETH ENKHORN, Owner/
Qualifying Manager
16823 Lakewood Blvd.
Lakewood, CA 90706
Company Registration Certificate No. PR 1852

and

PETER KENNETH ENKHORN
16823 Lakewood Blvd.
Lakewood, CA 90706
Operator's License No. OPR 8551,

Respondents.

Case No. 2011-9


OAH No. L-2011050490

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on January 12, 2012.

It is so ORDERED December 13, 2011.



FOR THE STRUCTURAL PEST CONTROL
BOARD,
DEPARTMENT OF PESTICIDE REGULATION

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2011-9

12 **MR. TERMITE**
13 **PETER KENNETH ENKHORN, Owner/**
Qualifying Manager
14 16823 Lakewood Blvd.
Lakewood, CA 90706
Company Registration Certificate No. PR 1852

OAH No. L-2011050490

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 and

16 **PETER KENNETH ENKHORN**
17 16823 Lakewood Blvd.
Lakewood, CA 90706
18 Operator's License No. OPR 8551,

19 Respondents.
20

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Kelli Okuma (Complainant) was the Registrar/Executive Officer of the Structural
25 Pest Control Board (Board) and she brought this action solely in her official capacity. The Board
26 is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
27 Terrence M. Mason, Deputy Attorney General.
28

2. Mr. Termite and Peter Kenneth Enkhorn (Respondents) are represented in this proceeding by attorneys Scott J. Harris, whose address is SJ Harris Law, 8383 Wilshire Blvd., Suite 830, Beverly Hills, CA 90211 and Mary E. Work, whose address is 1334 Park View Ave., Suite 100, Manhattan Beach, CA 90266.

3. On or about June 12, 1990, the Structural Pest Control Board issued Company Registration Certificate No. PR 1852 to Mr. Termite with Peter Kenneth Enkhorn as owner and qualifying manager. The Company Registration Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-9.

4. On or about June 12, 1990, the Board also issued Operator's License No. OPR 8551 to Peter Kenneth Enkhorn. The Operator's License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-9 and will expire on June 30, 2013, unless renewed.

JURISDICTION

5. Accusation No. 2011-9 was filed before the Structural Pest Control Board, Department of Pesticide Regulation, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on December 23, 2010. Respondent Peter Kenneth Enkhorn timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-9 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent Enkhorn has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-9. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent Enkhorn is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of

1 subpoenas to compel the attendance of witnesses and the production of documents; the right to
2 reconsideration and court review of an adverse decision; and all other rights accorded by the
3 California Administrative Procedure Act and other applicable laws.

4 8. Respondent Enkhorn voluntarily, knowingly, and intelligently waives and gives up
5 each and every right set forth above.

6 CULPABILITY

7 9. For the purposes of resolving the Accusation without the expense and uncertainty of
8 further proceedings, Respondent, while making no personal admissions, agrees that at a hearing
9 Complainant could establish a prima facie factual basis for each of the charges contained in
10 Accusation.No. 2011-9 and that those charges constitute cause for discipline. Respondent further
11 agrees that he is estopped from denying that cause exists for discipline on his Registration and/
12 or License in any future proceedings before the parties herein and hereby gives up his right to
13 contest that cause for discipline exists based upon those charges.
14

15 10. Respondent further agrees that his Registration and/ or License are subject to
16 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
17 Disciplinary Order below.
18

19 CONTINGENCY

20 11. This stipulation shall be subject to approval by the Structural Pest Control Board.
21 Respondent understands and agrees that counsel for Complainant and the staff of the Structural
22 Pest Control Board may communicate directly with the Board regarding this stipulation and
23 settlement, without notice to or participation by Respondent or his counsel. By signing the
24 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
25 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
26 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
27 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
28

1 action between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 14. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Board may, without further notice or formal proceeding, issue and enter the following
14 Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Company Registration Certificate No. PR 1852 issued to
17 Respondent Mr. Termite with Peter Kenneth Enkhorn as owner and qualifying manager and
18 Operator's License No. OPR 8551 are each revoked. However, the revocations are stayed and
19 Respondents are each placed on probation for three (3) years on the following terms and
20 conditions.

21 **Actual Suspension.** Company Registration Certificate No. PR 1852 issued to Respondent
22 Peter Kenneth Enkhorn d.b.a. Mr. Termite is suspended for eight (8) business days.

23 1. **Obey All Laws.** Respondent shall obey all laws and rules relating to the practice of
24 structural pest control.

25 2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during
26 the period of probation.

27 3. **Tolling of Probation.** Should Respondent leave California to reside outside this
28 state, Respondent must notify the Board in writing of the dates of departure and return. Periods

1 of residency or practice outside the state shall not apply to reduction of the probationary period.

2 4. **Notice to Employees.** Respondent shall, upon or before the effective date of this
3 decision, post or circulate a notice to all employees involved in structural pest control operations
4 which accurately recite the terms and conditions of probation. Respondent shall be responsible
5 for said notice being immediately available to said employees. "Employees" as used in this
6 provision includes all full-time, part-time, temporary and relief employees and independent
7 contractors employed or hired at any time during probation.

8 5. **Posted Notice of Suspension.** Respondent structural pest control company shall
9 prominently post a suspension notice provided by the Board of the Board's order of suspension at
10 its principal office and each of its branch offices in a place conspicuous and readable to the
11 public. Said notice shall remain so posted during the entire period of actual suspension.

12 6. **Completion of Probation.** Upon successful completion of probation, Respondents'
13 license and certificate will be fully restored.

14 7. **Inspection Fees.** Respondent shall pay to the registrar, or designee, an inspection fee
15 of \$50 within thirty (30) days from the effective date of this decision.

16 8. **Random Inspections.** Respondent shall reimburse the Board for no less than four (4)
17 random inspection per year by Board specialists during the period of probation not to exceed
18 \$125 per inspection.

19 9. **Costs Reimbursement.** Respondent shall pay to the Board costs associated with its
20 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
21 amount of \$2,105.

22 Respondent shall be permitted to pay these costs in a payment plan approved by the Board
23 with payments to be completed no later than three months prior to the end of the probation period.
24 The filing of bankruptcy by Respondent shall not relieve respondent of his responsibility to
25 reimburse the Board for its investigation and prosecution costs. Failure to make payments in
26 accordance with any formal agreement entered into with the Board or pursuant to any Decision by
27 the Board shall be considered a violation of probation.

28 If Respondent has not complied with this condition during the probationary period, and

1 Respondent presents sufficient documentation of his good faith effort to comply with this
2 condition, and if no other conditions have been violated, the Board or its representatives may,
3 upon written request from the respondent, extend the probation period up to one year, without
4 further hearing, in order to comply with this condition. During the extension, all original
5 conditions of probation will apply.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorneys, Scott J. Harris and Mary E. Work. I understand the stipulation
9 and the effect it will have on my Company Registration Certificate and on my Operator's
10 License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
11 and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control
12 Board.

13
14 DATED: 10/14/2011

Peter Kenneth Enkhorn
PETER KENNETH ENKHORN, Owner/ Qualif. Mgr.
Mr. Tennite
Respondent

17 I have read and fully discussed with Respondent Peter Kenneth Enkhorn the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20 DATED: _____

21 SCOTT J. HARRIS
22 Attorney for Respondent

23 I have also read and fully discussed with Respondent Peter Kenneth Enkhorn the terms and
24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
25 I approve its form and content.

26 DATED: _____

27 MARY E. WORK
28 Attorney for Respondent

Respondent presents sufficient documentation of his good faith effort to comply with this condition, and if no other conditions have been violated, the Board or its representatives may, upon written request from the respondent, extend the probation period up to one year, without further hearing, in order to comply with this condition. During the extension, all original conditions of probation will apply.

ACCEPTANCE

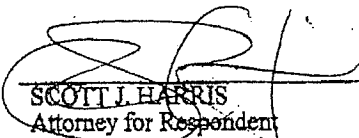
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, Scott J. Harris and Mary E. Work. I understand the stipulation and the effect it will have on my Company Registration Certificate and on my Operator's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

DATED: _____

PETER KENNETH ENKHORN, Owner/ Qualif. Mgr.
Mr. Termite
Respondent

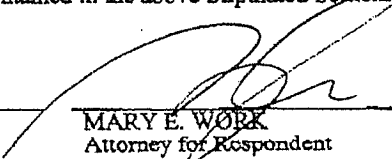
I have read and fully discussed with Respondent Peter Kenneth Enkhorn the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/14/2011


SCOTT J. HARRIS
Attorney for Respondent

I have also read and fully discussed with Respondent Peter Kenneth Enkhorn the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/14/2011


MARY E. WORK
Attorney for Respondent

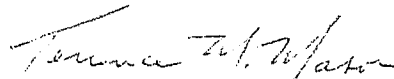
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation.

DATED: October 17, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



TERRENCE M. MASON
Deputy Attorney General
Attorneys for Complainant

LA2010503321
Stipulation.rtf

Exhibit A

Accusation No. 2011-9

FILED

Date 9/2/10 By Kelli Okuma

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BEFORE THE
STRUCTURAL PEST CONTROL BOARD
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STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2011-9

MR. TERMITE
PETER KENNETH ENKHORN,
OWNER/QUALIFYING MANAGER
16823 Lakewood Boulevard
Bellflower, California 90706
Company Registration Certificate No. PR 1852

ACCUSATION

and

PETER KENNETH ENKHORN
16823 Lakewood Boulevard
Bellflower, California 90706
Operator's License No. OPR 8551

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 Pesticide Regulation.

Mr. Termite

2. On or about June 12, 1990, the Board issued Company Registration Certificate Number PR 1852 in Branch 3 (termite) to Local Termite Control with Peter Kenneth Enkhorn

1 ("Respondent Enkhorn" or "Enkhorn"), as owner and qualifying manager. On April 28, 1995, the
2 business name was changed to Mr. Termite ("Respondent Mr. Termite" or "Mr. Termite").

3 Peter Kenneth Enkhorn

4 3. On or about June 12, 1990, the Board issued Operator's License Number OPR 8551
5 in Branch 3 to Respondent Enkhorn, owner and qualifying manager of Mr. Termite, formerly
6 known as Local Termite Control. Respondent's operator's license is currently in effect and
7 renewed through June 30, 2013.

8 JURISDICTION

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

13 5. Code section 8625 states:

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

18 6. Code section 8624 states, in pertinent part:

19
20 If the operator is the qualifying manager, a partner, responsible officer, or
21 owner of a registered structural pest control company, the suspension or revocation
22 may be applied to the company registration.

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

26 7. Code section 8654 states:

27 Any individual who has been denied a license for any of the reasons
28 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

1 suspension, or who has been a member, officer, director, associate, qualifying
2 manager, or responsible managing employee of any partnership, corporation, firm, or
3 association whose application for a company registration has been denied for any of
4 the reasons specified in Section 8568, or whose company registration has been
5 revoked as a result of disciplinary action, or whose company registration is under
6 suspension, and while acting as such member, officer, director, associate, qualifying
7 manager, or responsible managing employee had knowledge of or participated in any
8 of the prohibited acts for which the license or registration was denied, suspended or
9 revoked, shall be prohibited from serving as an officer, director, associate, partner,
10 qualifying manager, or responsible managing employee of a registered company, and
11 the employment, election or association of such person by a registered company is a
12 ground for disciplinary action.

13 STATUTORY AND REGULATORY PROVISIONS

14 (Statutory Provisions)

15 8. Code section 8516 states, in pertinent part:

16

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

25

26 A written inspection report conforming to this section and a form
27 approved by the board shall be prepared and delivered to the person requesting the
28 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:

....

(6) A foundation diagram or sketch of the structure or structures or
portions of the structure or structures inspected, indicating thereon the approximate
location of any infested or infected areas evident, and the parts of the structure where
conditions that would ordinarily subject those parts to attack by wood destroying
pests or organisms exist.

(7) Information regarding the substructure, foundation walls and
footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing

1 that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling
2 joists, and attic walls, or other parts subject to attack by wood destroying pests or
3 organisms. Conditions usually deemed likely to lead to infestation or infection, such
4 as earth-to-wood contacts, excessive cellulose debris, faulty grade levels, excessive
5 moisture conditions, evidence of roof leaks, and insufficient ventilation are to be
6 reported.

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(10) Recommendations for corrective measures . . .

9. 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.

.....
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.

10. Code section 8519 states, in pertinent part:

Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.

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

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

///

///

11. Code section 8622 states, in pertinent part:

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 . . .

12. 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.

13. Code section 8642 states that "[t]he commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action."

14. Code section 8644 states:

Fraud or misrepresentation, after inspection, by any licensee or registered company engaged in pest control work of any infestation or infection of wood destroying pests or organisms found in property or structures, or respecting any conditions of the structure that would ordinarily subject structures to attack by wood-destroying pests or organisms, whether or not a report was made pursuant to Sections 8516 and 8517 of this code, is a ground for disciplinary action.

(Regulatory Provisions)

15. California Code of Regulations, title 16, section ("Regulation") 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.

(4) Wood members found to be damaged by wood destroying pests or organisms.

(b) Conditions usually deemed likely to lead to infestation or infection include, but are not limited to:

....

(2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches clear space between the bottom of the floor joists and the unimproved ground area.

(3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.

(4) Earth-to-wood contacts.

(5) Commonly controllable moisture conditions which would foster the growth of a fungus infection materially damaging to woodwork.

....

(e) Information regarding all accessible areas of the structure including but not limited to the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents, abutments, stucco walls, columns, attached structures or other parts of a structure normally subject to attack by wood-destroying pests or organisms . . .

16. Regulation 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: .

....

(2) Remove from the subarea all excessive cellulose debris in earth contact. This excludes shavings or other cellulose too small to be raked or stored goods not in earth contact. Stumps and wood imbedded in footings in earth contact shall be treated if removal is impractical.

....

(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

1 damage may be chemically treated and/or left as is if, in the opinion of the inspector,
2 the structural member will continue to perform its originally intended function and if
3 correcting the excessive moisture condition will stop the further expansion of the
4 fungus.

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

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

11 (B) use another all encompassing method of treatment which
12 exterminates the infestation of the structure, or (C) locally treat by any or all of the
13 following:

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

15 2. removing the infested wood,

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

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

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

17. Regulation 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.

(d) A supplemental report is the report on the inspection performed on
inaccessible areas that have been made accessible as recommended on a previous
report. Such report shall indicate the absence or presence of wood-destroying pests or
organisms or conditions conducive thereto. This report can also be used to correct,

add, or modify information in a previous report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly . . .

18. Regulation 1937.14 states:

All work completed by licensees or registered companies shall be done within the specific requirements of any plans or specifications and shall meet accepted trade standards for good and workmanlike construction in any material respect, and shall comply with provisions of Section 2516(c)(1), (2), (4) and (6) of Title 24, California Code of Regulations.

COST RECOVERY

19. Code section 125.3 states, in pertinent part, that a Board may request the administrative law judge to direct a licensee 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.

9722 and 9730 PACIFIC AVENUE, BELLFLOWER, CA

20. On June 24, 2009, Enkhorn, the owner and qualifying manager of Mr. Termite, inspected the properties located at 9722 and 9730 Pacific Avenue, Bellflower, California (hereinafter "units 9722 and 9730" or "the properties"), at the request of Jerry Miller of Cogburn/Olivier Realty. Enkhorn issued a complete Wood Destroying Pests and Organisms Inspection Report consisting of 6 findings and recommendations and one note. Enkhorn reported a partially inaccessible substructure at unit 9722 due to a clothes dryer and ladder blocking the access; cellulose debris in the substructure of unit 9730; evidence of drywood termites in the attic of both units; subterranean termite damage at the hardwood flooring in unit 9730; and evidence of drywood termites in the eave area of both units. Enkhorn recommended further inspection of the inaccessible portion of the substructure at unit 9722 once the area was made accessible; removal of the cellulose debris off of the soil; fumigation of both structures for drywood termites; replacement, reinforcement, or fill of the subterranean termite damage; and covering, masking, or removal of the evidence of drywood termites in the eaves. Enkhorn stated in his note that there were dry water stains at unit 9730 and that "No statement of condition or leaks" in the stained area was given "at date of inspection".

21. On October 23, 2009, Enkhorn issued a Standard Notice of Work Completed and Not Completed (hereinafter "completion notice"), certifying that the corrective work recommended in

1 the inspection report, including the further inspection of the inaccessible portion of the.
2 substructure at unit 9722, had been completed in accordance with the Board's rules and
3 Regulations and that the properties were now free and clear of "evidence, infestation, infection or
4 any adverse structural pest condition at date of completion."

5 22. On or about November 9, 2009, Enkhorn sent a letter to Renee Fletcher, the agent for
6 John M. Williams III ("Williams"), the prospective buyer of the properties, informing Ms.
7 Fletcher that the clean up of the rafter tail had been completed and the termite holes in the roof
8 sheathing had been patched or repaired.

9 23. On November 17, 2009, field representative Gary Currier ("Currier"), representing
10 Admiral Pest Control, inspected the properties at Williams' request and issued a "limited" and
11 "separated" inspection report for each unit. Currier reported old termite damage at the exterior
12 framing and rot damage (decay fungi damage) at the exterior door of unit 9722, for which he
13 recommended removal and replacement of the damaged framing and door. As to unit 9730,
14 Currier reported old termite damage at the porch, water heater cabinet, and exterior framing, and
15 decay fungi damage at the water heater cabinet framing, exterior door, and exterior framing.
16 Currier recommended removal, replacement, repair, and/or fill of the old termite damage and
17 removal and replacement of the decay fungi damage.

18 24. On or about November 30, 2009, Williams filed a complaint with the Board, alleging
19 that Mr. Termite failed to list on its inspection report all of the existing damage at units 9722 and
20 9730. Williams also stated that Mr. Termite reinspected the properties on November 4, 2009, that
21 Mr. Termite acknowledged that the existing damage was obvious and had been overlooked during
22 their initial inspection of the units, and that Mr. Termite returned to the properties on November
23 7, 2009, and made repairs which were substandard.

24 25. On December 8, 2009, a representative of the Board sent a letter to Mr. Termite,
25 notifying them of Williams' complaint and requesting that Mr. Termite furnish the Board with a
26 written response within 10 days from receipt of the letter.

27 26. On December 23, 2009, Enkhorn inspected the properties and issued a "limited"
28 inspection report, consisting of 8 findings and recommendations and several notes. Enkhorn

1 reported an inaccessible area at the interior of both units because inspection of these areas was not
2 requested; old evidence of drywood termites at the "poorly repaired eaves by owner" on both
3 units made visible by probing; old evidence of drywood termites at the exposed siding on unit
4 9730; decay fungi damage at the water heater cabinet at unit 9730 and the roof trim and lattice
5 fence frame at unit 9722; old evidence of drywood termites at the laundry room roof sheathing at
6 unit 9722, earth-to-wood contact at the siding on unit 9722; an excessive moisture condition,
7 causing deteriorating paint on the doors of both units; and subterranean termite damage at the
8 lattice trim board on unit 9722. Enkhorn recommended further inspection of the inaccessible
9 areas of the units; covering or removal of the accessible evidence of drywood termites and
10 replacement, reinforcement, or fill of any damage resulting from the infestation; removal and
11 replacement of the decay fungi damage; lowering or isolating the earth-to-wood contact;
12 determining the source of the excessive moisture condition and repair as necessary; and
13 replacement, reinforcement, or fill of the subterranean termite damage. That same day, Enkhorn
14 sent a letter to the Board, stating that during the first week of November, he received a call from
15 the buyer's agent informing him that some of the work had not been completed. Enkhorn met
16 with the agent at the properties and observed two items in need of correction. Enkhorn and his
17 employee repaired the two items the following day. Enkhorn did not issue an inspection report or
18 completion notice regarding the two items.

19 27. Field representative Jeremiah Jaramillo ("Jaramillo") of Dewey Pest Control also
20 inspected the properties on December 23, 2009 (at Williams' request). Jaramillo issued a
21 "limited" inspection report, consisting of 5 findings, 9 recommendations, and 3 notes. Jaramillo
22 indicated in his notes that there were subterranean termites and earth-to-wood contacts at the
23 exterior fence at unit 9722 and peeling, cracking paint at the exterior eaves and siding on both
24 units. Jaramillo reported evidence of drywood termites at the exterior eaves and siding, which
25 appeared to extend into inaccessible areas on both units; drywood termite damage at the exterior
26 eaves and siding on both units; decay fungi damage at the exterior eaves and siding on both units;
27 earth-to-wood contact at the exterior siding on unit 9722; and evidence of subterranean termites at
28 the storeroom siding and doorjamb at unit 9722.

1 28. On January 11, 2010, and January 29, 2010, the Board's specialist, Steven R. Smith
2 ("Smith"), inspected the properties.

3 29. On February 1, 2010, Smith contacted Enkhorn and requested a copy of Enkhorn's
4 supplemental" inspection report relating to his further inspection of the substructure of unit 9722
5 that was indicated as having been completed on the October 23, 2009, completion notice. Later,
6 Smith received an e-mail from Enkhorn, stating that after gaining access to the substructure of
7 unit 9722, no reportable conditions were found. Enkhorn also stated that after reviewing the file,
8 he realized that the completion notice was issued and escrow had closed on the units without the
9 issuance of a supplemental inspection report.

10 30. On February 3, 2010, Smith received a copy of Enkhorn's supplemental inspection
11 report dated October 21, 2009, pertaining to his inspection of the substructure of unit 9722. The
12 inspection report certified that the substructure of unit 9722 was "found to be clear of evidence,
13 infestation, infection, or any adverse structural pest condition" at the date of inspection.

14 31. On February 4, 2010, Smith issued a Report of Findings ("ROF"), outlining several
15 violations of the Code which he found during his inspections. That same day, the Board sent a
16 notice, via certified mail, to Enkhorn and Mr. Termite along with the ROF, directing them to
17 inspect the properties and submit an inspection report addressing the items described in the ROF,
18 to bring the properties into compliance by correcting the items described in the ROF, and to
19 submit a completion notice to the Board within thirty (30) calendar days from receipt of the
20 notice.

21 32. On February 11, 2010, copies of the Board's notice and the ROF were received at
22 Enkhorn's and Mr. Termite's address of record.

23 33. Enkhorn inspected the properties on March 1, 2010, and issued a complete inspection
24 report, consisting of 41 findings and recommendations, but thereafter failed to bring the property
25 into compliance or to correct the items described in the ROF.

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FIRST CAUSE FOR DISCIPLINE

(Improper Inspections)

34. Respondents Mr. Termite and Enkhorn are subject to disciplinary action pursuant to Code section 8641 in that as to the 9722 and 9730 Pacific Avenue properties, they failed to comply with Code section 8516 in the following respects:

a. Respondent Enkhorn failed to make a proper finding and recommendation in the June 24, 2009, and December 23, 2009, inspection reports regarding the water stains at unit 9730, in violation of Code section 8516, subdivisions (b)(7) and (10), and Regulation 1990, subdivision (b)(5).

b. Respondent Enkhorn failed to make a proper recommendation in the June 24, 2009, inspection report regarding the reported cellulose debris in the substructure of unit 9730, in violation of Code section 8516, subdivision (b)(10), and Regulation 1991, subdivision (a)(2). Specifically, Respondent recommended removing the cellulose debris off of the soil rather than remove the cellulose debris completely from the substructure.

c. Respondent Enkhorn failed to include on the December 23, 2009, inspection report the required limited report statement, in violation of Regulation 1993, subdivision (c).

d. Respondent Enkhorn failed to report in the October 21, 2009, inspection report the cellulose debris in the substructure of unit 9722, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivision (b)(3).

e. Respondent Enkhorn failed to report in the October 21, 2009, inspection report the evidence of subterranean termites, subterranean termite damage, evidence of drywood termites, and drywood termite damage in the substructure of unit 9722, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivisions (a)(3) and (4).

f. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the evidence of subterranean termites and subterranean termite damage in the substructure of unit 9730, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivisions (a)(3) and (4).

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1 g. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
2 evidence of drywood termites and drywood termite damage in the substructure of unit 9730, in
3 violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivisions
4 (a)(3) and (4).

5 h. Respondent Enkhorn failed to report in the October 21, 2009, inspection report the
6 earth-to-wood contact at the substructure access of unit 9722, in violation of Code section 8516,
7 subdivisions (b)(6) and (7), and Regulation 1990, subdivision (b)(4).

8 i. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the faulty
9 grade in the substructure of unit 9730, in violation of Code section 8516, subdivisions (b)(6) and
10 (7), and Regulation 1990, subdivision (b)(2).

11 j. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the earth-
12 to-wood contact, evidence of subterranean termites, and subterranean termite damage at the
13 latticework attached to unit 9722, in violation of Code section 8516, subdivisions (b)(6) and (7),
14 and Regulations 1990, subdivisions (a)(3) and (4), and 1990, subdivision (b)(4). Further,
15 Respondent failed to report in the December 23, 2009, inspection report the earth-to-wood contact
16 at the latticework attached to unit 9722.

17 k. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
18 evidence of subterranean termites in the attic of unit 9722, in violation of Code section 8516,
19 subdivisions (b)(6) and (7), and Regulation 1990, subdivision (a)(3).

20 l. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the full
21 extent of the evidence of drywood termites in the attic of units 9722 and 9730, in violation of
22 Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivision (a)(3).

23 m. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
24 drywood termite damage in the attic of units 9722 and 9730, in violation of Code section 8516,
25 subdivisions (b)(6) and (7), and Regulation 1990, subdivision (a)(4).

26 n. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
27 evidence of an excessive moisture condition (water stains) in the attic of unit 9722, in violation of
28 Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivision (b)(5).

1 o. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
2 evidence of subterranean termites, subterranean termite damage, evidence of drywood termites,
3 and drywood termite damage at the laundry room attached to unit 9722, in violation of Code
4 section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivisions (a)(3) and (4).

5 p. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the earth-
6 to-wood contact at the laundry room attached to unit 9722, and failed to report in the December
7 23, 2009, inspection report the full extent of the earth-to-wood contact at the laundry room
8 attached to unit 9722, in violation of Code section 8516, subdivisions (b)(6) and (7), and
9 Regulation 1990, subdivision (b)(4).

10 q. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
11 evidence of an excessive moisture condition (water damage) at the doors of the laundry room
12 attached to unit 9722, in violation of Code section 8516, subdivisions (b)(6) and (7), and
13 Regulation 1990, subdivision (b)(5).

14 r. Respondent Enkhorn failed to report in the June 24, 2009, and December 23, 2009,
15 inspection reports the inaccessible area at the door of the laundry room attached to unit 9722 (a
16 metal cover was installed over the base of the door), in violation of Code section 8516,
17 subdivisions (b)(6) and (7), and Regulation 1990, subdivision (e).

18 s. Respondent Enkhorn failed to report in the December 23, 2009, inspection report the
19 full extent of the evidence of drywood termites and the drywood termite damage at the laundry
20 room attached to unit 9722, in violation of Code section 8516, subdivisions (b)(6) and (7), and
21 Regulation 1990, subdivisions (a)(3) and (4).

22 t. Respondent Enkhorn failed to report in the June 24, 2009, and December 23, 2009,
23 inspection reports the full extent of the evidence of drywood termites at the exterior framing of
24 units 9722 and 9730, in violation of Code section 8516, subdivisions (b)(6) and (7), and
25 Regulation 1990, subdivision (a)(3).

26 u. Respondent Enkhorn failed to report in the June 24, 2009, and December 23, 2009,
27 inspection reports the drywood termite damage at the exterior framing of units 9722 and 9730, in

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1 violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivision
2 (a)(4).

3 v. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the decay
4 fungi damage at the water heater cabinet framing and eaves of unit 9730, in violation of Code
5 section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivision (a)(4). Further,
6 Respondent failed to report in the December 23, 2009, inspection report the decay fungi damage
7 at the eaves of unit 9730.

8 w. Respondent Enkhorn failed to report in the June 24, 2009, inspection report the
9 evidence of an excessive moisture condition (water damage) at the kitchen door of unit 9730, in
10 violation of Code section 8516, subdivisions (b)(6) and (7), and Regulation 1990, subdivision
11 (b)(5).

12 x. Respondent Enkhorn failed to issue an inspection report pertaining to the repair work
13 at the eaves and blocking at unit 9722 and the eaves and siding at unit 9730 which was completed
14 in November 2009, in violation of Code section 8516, subdivision (b).

15 y. Respondent Enkhorn failed to make a proper recommendation in the June 24, 2009,
16 inspection report regarding the reported drywood termites in the attics of units 9722 and 9730.
17 Specifically, Respondent failed to include a recommendation to cover or remove the accessible
18 evidence of infestation, in violation of Code section 8516, subdivision (b)(10), and Regulation
19 1991, subdivision (a)(8).

20 z. Respondent Enkhorn failed to make a proper recommendation in the December 23,
21 2009, inspection report regarding the reported decay fungi damage. Specifically, Respondent
22 failed to include a recommendation to correct the excessive moisture condition responsible for the
23 infection, in violation of Code section 8516, subdivision (b)(10), and Regulation 1991,
24 subdivision (a)(5).

25 aa. Respondent Enkhorn failed to report in the October 21, 2009, inspection report the
26 damage in the substructure below the stool in unit 9722, in violation of Code section 8516,
27 subdivisions (b)(6) and (7), and Regulation 1990, subdivision (a)(4).

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1 d. Respondents certified in the completion notice that Unit 9722 was free and clear of
2 evidence of infestation, infection, or any adverse structural pest condition. In fact, evidence of
3 subterranean termites, subterranean termite damage, evidence of drywood termites, and drywood
4 termite damage were still present at the laundry room attached to the unit. Further, various
5 adverse conditions were still present, including earth-to-wood contact at the laundry room and
6 evidence of an excessive moisture condition (water damage) and an inaccessible area at the
7 laundry room doors.

8 e. Respondents certified in the completion notice that Unit 9722 was free and clear of
9 evidence of infestation, infection, or any adverse structural pest condition. In fact, drywood
10 termite damage was still present at the exterior framing.

11 f. Respondents certified in the completion notice that Unit 9730 was free and clear of
12 evidence of infestation, infection, or any adverse structural pest condition. In fact, evidence of
13 subterranean termites, subterranean termite damage, evidence of drywood termites, and drywood
14 termite damage were still present in the substructure and the grade was faulty.

15 g. Respondents certified in the completion notice that Unit 9730 was free and clear of
16 evidence of infestation, infection, or any adverse structural pest condition. In fact, drywood
17 termite damage was still present in the attic.

18 h. Respondents certified in the completion notice that Unit 9730 was free and clear of
19 evidence of infestation, infection, or any adverse structural pest condition. In fact, drywood
20 termite damage was still present at the exterior framing.

21 i. Respondents certified in the completion notice that Unit 9730 was free and clear of
22 evidence of infestation, infection, or any adverse structural pest condition. In fact, decay fungi
23 damage was still present at the water heater cabinet framing and eaves.

24 j. Respondents certified in the completion notice that Unit 9730 was free and clear of
25 evidence of infestation, infection, or any adverse structural pest condition. In fact, there was an
26 excessive moisture condition (water damage) at the kitchen door of the unit.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with the Board's Notice)

3 37. Respondents Mr. Termite and Enkhorn are subject to disciplinary action pursuant to
4 Code section 8641 in that they failed to comply with Code section 8622. Respondents failed to
5 bring the 9722 and 9730 Pacific Avenue properties into compliance by failing to correct all of the
6 items described in the Report of Findings within thirty (30) calendar days from receipt of the
7 Board's notice of February 4, 2010.

8 FIFTH CAUSE FOR DISCIPLINE

9 (Poor Workmanship)

10 38. Respondent Mr. Termite is subject to disciplinary action pursuant to Code section
11 8641 in that Respondent failed to comply with Regulation 1937.14 by failing to perform the
12 repairs at the 9722 and 9730 Pacific Avenue properties in a good and workmanlike manner in the
13 following respects:

14 a. Respondent failed to replace all of the drywood termite damage at the eaves and
15 blocking at unit 9722 and at the eaves and siding at unit 9730.

16 b. Respondent failed to properly support or nail the replacement wood members (rafter
17 tails) at the eaves of both units, and failed to repair or replace the existing wood members that had
18 split at the area where the replacement wood members were attached.

19 c. Respondent damaged the roof shingles above the repaired areas at the eaves.

20 d. Respondent failed to sand the patchwork at the repaired areas at the siding on unit
21 9730.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Gross Negligence and Fraud)

24 39. Respondents Mr. Termite and Enkhorn are subject to disciplinary action pursuant to
25 Code section 8642 in that they committed grossly negligent or fraudulent acts as follows:

26 a. Respondent Enkhorn failed to indicate on the completion notice whether the water
27 stains at unit 9730, reported as a note in the June 24, 2009, inspection report, had been addressed
28 or resolved.

1 b. Respondent Enkhorn failed to issue the supplemental inspection report of October 21,
2 2009, pertaining to the substructure of unit 9722 prior to the close of escrow, and did not issue the
3 report until February 3, 2010, when he was requested to do so by the Board's specialist, Smith.
4 Further, Respondent certified in the inspection report that the substructure of unit 9722 was clear
5 of evidence of infestation, infection, or any adverse structural pest condition at the date of
6 inspection. In fact, evidence of subterranean termites, subterranean termite damage, evidence of
7 drywood termites, and drywood termite damage were still present in the substructure.

8 SEVENTH CAUSE FOR DISCIPLINE

9 (Fraud or Misrepresentation Irrespective of Report)

10 40. Respondents Mr. Termite and Enkhorn are subject to disciplinary action pursuant to
11 Code section 8644 in that they misrepresented the condition of the 9722 and 9730 Pacific Avenue
12 properties, as follows:

13 a. Respondents falsely represented on the notice of completion that the corrective work
14 recommended in the June 24, 2009, inspection report had been completed in accordance with the
15 Board's rules and regulations. In fact, Respondents failed to remove the reported cellulose debris
16 from the soil in the substructure of unit 9730.

17 b. Respondents falsely represented on the notice of completion that Unit 9722 was free
18 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
19 evidence of subterranean termites and subterranean termite damage were still present at the
20 latticework attached to the unit and there was earth-to-wood contact at the latticework.

21 c. Respondents falsely represented on the notice of completion that Unit 9722 was free
22 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
23 evidence of subterranean termites and drywood termite damage were still present in the attic and
24 there was evidence of an excessive moisture condition (water stains).

25 d. Respondents falsely represented on the notice of completion that Unit 9722 was free
26 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
27 evidence of subterranean termites, subterranean termite damage, evidence of drywood termites,
28 and drywood termite damage were still present at the laundry room attached to the unit. Further,

1 various adverse conditions were still present, including earth-to-wood contact at the laundry room
2 and evidence of an excessive moisture condition (water damage) and an inaccessible area at the
3 laundry room doors.

4 e. Respondents falsely represented on the notice of completion that Unit 9722 was free
5 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
6 drywood termite damage was still present at the exterior framing.

7 f. Respondents falsely represented on the notice of completion that Unit 9730 was free
8 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
9 evidence of subterranean termites, subterranean termite damage, evidence of drywood termites,
10 and drywood termite damage were still present in the substructure and the grade was faulty.

11 g. Respondents falsely represented on the notice of completion that Unit 9730 was free
12 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
13 drywood termite damage was still present in the attic.

14 h. Respondents falsely represented on the notice of completion that Unit 9730 was free
15 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
16 drywood termite damage was still present at the exterior framing.

17 i. Respondents falsely represented on the notice of completion that Unit 9730 was free
18 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
19 decay fungi damage was still present at the water heater cabinet framing and eaves.

20 j. Respondents falsely represented on the notice of completion that Unit 9730 was free
21 and clear of evidence of infestation, infection, or any adverse structural pest condition. In fact,
22 there was an excessive moisture condition (water damage) at the kitchen door of the unit.

23 OTHER MATTERS

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

1 42. Pursuant to Code section 8624, the causes for discipline established as to Respondent
2 Mr. Termite likewise constitute causes for discipline against Respondent Peter Kenneth Enkhorn
3 regardless of whether he had knowledge of or participated in the acts or omissions which
4 constitute causes for discipline against Respondent Mr. Termite.

5 43. Pursuant to Code section 8624, if Operator's License Number OPR 8551, issued to
6 Respondent Peter Kenneth Enkhorn, is suspended or revoked, the Board may suspend or revoke
7 Company Registration Certificate Number PR 1852, issued to Respondent Mr. Termite.

8 44. Respondent Peter Kenneth Enkhorn, the owner and qualifying manager for
9 Respondent Mr. Termite, had knowledge of and participated in, the acts or omissions which
10 constitute causes for discipline against Respondent Mr. Termite.

11 45. Pursuant to Code section 8654, if discipline is imposed on Company Registration
12 Certificate Number PR 1852, issued to Respondent Mr. Termite, Respondent Peter Kenneth
13 Enkhorn shall be prohibited from serving as an officer, director, associate, partner, qualifying
14 manager, or responsible managing employee for any registered company during the time the
15 discipline is imposed, and any registered company which employs, elects, or associates Peter
16 Kenneth Enkhorn shall be subject to disciplinary action.

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

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

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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 1852, issued to Mr. Termite;

2. Revoking or suspending Operator's License Number OPR 8551, issued to Peter Kenneth Enkhorn;

3. Prohibiting Peter Kenneth Enkhorn 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 1852, issued to Mr. Termite;

4. Ordering restitution of all damages according to proof suffered by John M. Williams III as a condition of probation in the event probation is ordered;

5. Ordering Mr. Termite and Peter Kenneth Enkhorn 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;

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

DATED: 9/2/10

Kelli Okuma
KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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