

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

In the Matter of the Accusation Against:
SHERIDAN PEST CONTROL
CHRISTOPHER M. SHERIDAN, OWNER
PAUL C. RIGHTLER, QUALIFYING
MANAGER
68 Coombs Street
Napa, California 94558
Company Registration Certificate No. PR
5852,

Case No. 2011-71

CHRISTOPHER M. SHERIDAN
68 Coombs Street
Napa, California 94558
Mailing Address:
P.O. Box 6192
Napa, California 94581
Field Representative's License No. FR 45526
Applicator License No. RA 47811

PAUL C. RIGHTLER
68 Coombs Street
Napa, California 94559
Mailing Address:
9550 Avenue B
Niland, California 92257
Operator's License No. OPR 9068,
and

CLEVELAND MOORE, JR.
2120 University Park Drive
Sacramento, California 95825
Operator's License No. OPR 9548

Respondents.

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 with respect

to Respondent Paul C. Rightler in this matter.

This Decision shall become effective on January 11, 2012.

It is so ORDERED December 12, 2011.

A handwritten signature in black ink, appearing to be 'C. C. R.', written over a horizontal line.

FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
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10 **DEPARTMENT OF PESTICIDE REGULATION**
11 **STATE OF CALIFORNIA**

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15 **MANAGER**
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17 **Napa, California 94558**
18 **Company Registration Certificate No. PR**
19 **5852,**

16 **CHRISTOPHER M. SHERIDAN**
17 **68 Coombs Street**
18 **Napa, California 94558**
19 **Mailing Address:**
20 **P.O. Box 6192**
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25 **CLEVELAND MOORE, JR.**
26 **2120 University Park Drive**
27 **Sacramento, California 95825**
28 **Operator's License No. OPR 9548**

Respondents.

Case No. 2011-71

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER:
RESPONDENT PAUL C. RIGHTLER**

1
2 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
3 entitled proceedings that the following matters are true:

4 PARTIES

5 1. William H. Douglas (Complainant) is the Interim Registrar/Executive Officer of the
6 Structural Pest Control Board. He brought this action solely in his official capacity and is
7 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
8 Sterling A. Smith, Deputy Attorney General.

9 2. Respondent Paul C. Rightler (Respondent) is representing himself in this proceeding
10 and has chosen not to exercise his right to be represented by counsel.

11 3. On or about December 29, 1992, the Structural Pest Control Board issued Operator's
12 License No. OPR 9068 to Paul C. Rightler (Respondent). The license was in full force and effect
13 at all times relevant to the charges alleged in Accusation No. 2011-71 and will expire on June 30,
14 2013, unless renewed.

15 JURISDICTION

16 4. Accusation No. 2011-71 was filed before the Structural Pest Control Board (Board),
17 Department of Pesticide Regulation, and is currently pending against Respondent. The
18 Accusation and all other statutorily required documents were properly served on Respondent on
19 July 5, 2011. Respondent timely filed its Notice of Defense contesting the Accusation. A copy
20 of Accusation No. 2011-71 is attached as exhibit A and incorporated herein by reference.

21 ADVISEMENT AND WAIVERS

22 5. Respondent has carefully read, and understands the charges and allegations in
23 Accusation No. 2011-71. Respondent has also carefully read, and understands the effects of this
24 Stipulated Settlement and Disciplinary Order.

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

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

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

6 CULPABILITY

7 8. Respondent understands and agrees that the charges and allegations in Accusation
8 No. 2011-71, if proven at a hearing, constitute cause for imposing discipline upon his Operator's
9 License.

10 9. For the purpose of resolving the Accusation without the expense and uncertainty of
11 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
12 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
13 those charges.

14 10. Respondent agrees that his Operator's License is subject to discipline and he agrees to
15 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

16 CONTINGENCY

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

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1 the Board in writing acknowledging the employer has read the decision in Case No. 2011-71.

2 5. **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 6. **Completion of Probation.** Upon successful completion of probation, Respondent's
9 license/certificate will be fully restored.

10 7. **Violation of Probation.** Should Respondent violate probation in any respect, the
11 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
12 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
13 Respondent during probation, the Board shall have continuing jurisdiction until the matter is final,
14 and the period of probation shall be extended until the matter is final.

15 8. **Random Inspections.** Respondent shall reimburse the Board for random inspections
16 during the period of probation conducted by Board specialists, not to exceed one inspection per
17 quarter at \$125.00 per inspection.

18 9. **Cost Recovery.** Respondents shall reimburse the Board for costs of investigation
19 and prosecution in this matter in the amount of \$774.00, to be paid in full at least six (6)
20 months before probation terminates.

21 ACCEPTANCE

22 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
23 stipulation and the effect it will have on my Operator's License. I enter into this Stipulated
24 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
25 bound by the Decision and Order of the Structural Pest Control Board.

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27 DATED: 11-1-2011


28 _____
PAUL C. RIGHTLER
Respondent

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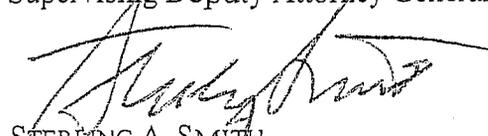
ENDORSEMENT

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: *November 2, 2011*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General



STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

SA2011101421
Stipulation.rtf

Exhibit A

Accusation No. 2011-71

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
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4 State Bar No. 84287
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7 Attorneys for Complainant

FILED

Date 6/16/11

By William H. Douglas

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9 STRUCTURAL PEST CONTROL BOARD
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10 STATE OF CALIFORNIA

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68 Coombs Street
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Company Registration Certificate No. PR 5852,

ACCUSATION

15 CHRISTOPHER M. SHERIDAN
16 68 Coombs Street
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17 Mailing Address:
P.O. Box 6192
18 Napa, California 94581
Field Representative's License No. FR 45526,

19 PAUL C. RIGHTLER
20 68 Coombs Street
Napa, California 94559
21 Mailing Address:
9550 Avenue B
22 Niland, California 92257
Operator's License No. OPR 9068,

23 and

24 CLEVELAND MOORE, JR.
25 2120 University Park Drive
Sacramento, California 95825
26 Operator's License No. OPR 9548

27 Respondents.
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1 Complainant alleges:

2 PARTIES/LICENSE INFORMATION

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

6 **Sheridan Pest Control**

7 2. On or about May 27, 2009, the Board issued Company Registration Certificate
8 Number PR 5852 ("company registration") in Branch 2 (general pest) to Sheridan Pest Control
9 ("Respondent Sheridan Pest Control"), with Christopher M. Sheridan ("Respondent Sheridan" or
10 "Sheridan") as the owner and Cleveland Moore, Jr. ("Respondent Moore" or "Moore") as the
11 qualifying manager. On January 28, 2010, the company registration was upgraded to include
12 Branches 2 and 3 (termite) with Moore as the Branch 3 qualifying manager. On June 3, 2010, the
13 company registration was suspended for failing to maintain general liability insurance as required
14 by Business and Professions Code ("Code") section 8690. On June 23, 2010, Moore
15 disassociated as the qualifying manager. On June 29, 2010, the company registration was
16 reinstated after posting the general liability insurance. On July 9, 2010, the company registration
17 was suspended for failing to replace the qualifying manager. On March 3, 2011, Paul C. Rightler
18 ("Respondent Rightler" or "Rightler") became the Branch 2 qualifying manager and the company
19 registration was downgraded to include Branch 2 only (the company registration was also
20 reinstated).

21 **Christopher M. Sheridan**

22 3. On or about May 17, 2010, the Board issued Field Representative's License Number
23 FR 45526 in Branch 2 to Respondent Sheridan, employee of Sheridan Pest Control.
24 Respondent's field representative's license will expire on June 30, 2012, unless renewed.

25 4. On August 6, 2007, the Board issued Applicator License No. RA 47811 in Branch 2
26 and 3, to Respondent Sheridan, employee of Sheridan Pest Control. On May 17, 2010, Applicator
27 license No. RA 47811 was downgraded to a Branch 3 due to issuance of a Field Representative
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1 License to Respondent Sheridan. On August 6, 2010, Applicator License No. RA 47811 expired
2 and was canceled.

3 **Paul C. Rightler**

4 5. On or about December 29, 1992, the Board issued Operator's License Number OPR
5 9068 ("license") in Branch 2 to Respondent Rightler, employee of Flea X (Respondent left the
6 employ of Flea X on June 1, 1993). On December 4, 1997, Respondent's license was upgraded to
7 include Branches 2 and 3. On July 24, 1999, Respondent became the owner and qualifying
8 manager of PC Pest. On March 23, 2000, Respondent's license was suspended for failing to
9 maintain general liability insurance as required by Code section 8690. On April 3, 2000,
10 Respondent's license was reinstated after posting the general liability insurance. On June 2,
11 2000, Respondent disassociated as the qualifying manager of PC Pest. On March 3, 2011,
12 Respondent became the Branch 2 qualifying manager of Sheridan Pest Control. Respondent's
13 license will expire on June 30, 2013, unless renewed.

14 **Cleveland Moore, Jr.**

15 6. On or about June 19, 1996, the Board issued Operator's License Number OPR 9548
16 ("license") in Branch 2 to Respondent Moore. On September 29, 1998, Respondent's license was
17 upgraded to include Branches 2 and 3. On May 27, 2009, Respondent became the Branch 2
18 qualifying manager for Sheridan Pest Control. On January 28, 2010, Respondent became the
19 Branch 3 qualifying manager. On June 3, 2010, Respondent's license was suspended for failing
20 to maintain general liability insurance as required by Code section 8690. On June 23, 2010,
21 Respondent disassociated as the Branch 2 and 3 qualifying manager for Sheridan Pest Control,
22 and his license was reinstated and placed on inactive status. Respondent's operator's license will
23 expire on June 30, 2013, unless renewed.

24 **JURISDICTION**

25 7. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a
26 license when it finds that the holder, while a licensee or applicant, has committed any acts or
27 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
28 penalty.

1 8. Code section 8624 states, in pertinent part:

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

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

9 9. Code section 8625 states:

10 The lapsing or suspension of a license or company registration by
11 operation of law or by order or decision of the board or a court of law, or the
12 voluntary surrender of a license or company registration shall not deprive the board of
13 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.

14 10. Code section 8654 states, in pertinent part:

15 Any individual . . . who has had his or her license revoked, or whose
16 license is under suspension . . . or who has been a member, officer, director, associate,
17 qualifying manager, or responsible managing employee of any partnership,
18 corporation, firm, or association . . . whose company registration has been revoked as
19 a result of disciplinary action, or whose company registration is under suspension,
20 and while acting as such member, officer, director, associate, qualifying manager, or
21 responsible managing employee had knowledge of or participated in any of the
prohibited acts for which the license or registration was denied, suspended or
revoked, shall be prohibited from serving as an officer, director, associate, partner,
qualifying manager, or responsible managing employee of a registered company, and
the employment, election or association of such person by a registered company is a
ground for disciplinary action.

22 **STATUTORY AND REGULATORY PROVISIONS**

23 **(Statutory Provisions)**

24 11. Code section 8506.2 states that "[a] 'qualifying manager' is the licensed operator or
25 operators designated by a registered company to supervise the daily business of the company and
26 to be available to supervise and assist the company's employees."

27 12. Code section 8507 states, in pertinent part:

28 (a) "Structural pest control field representative" is any individual who is

1 licensed by the board to secure structural pest control work, identify infestations or
2 infections, make inspections, apply pesticides, submit bids for or otherwise contract,
3 on behalf of a registered company . . .

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7 13. Code section 8507.1 states, in pertinent part:

8 (a) "Structural pest control applicator" is any individual who is licensed
9 by the board to apply a pesticide, rodenticide, or allied chemicals or substances for
10 the purpose of eliminating, exterminating, controlling, or preventing infestation or
11 infections of pests or organisms included in Branch 2 or Branch 3 on behalf of a
12 registered company . . .

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17 14. Code section 8515 states:

18 Nothing in this chapter shall prohibit a company registered hereunder
19 from authorizing an officer, partner, or employee to submit bids, after an inspection
20 by an individual licensed as an operator or field representative under this act, or to
21 sign contracts after negotiation by an individual licensed as an operator or field
22 representative under this act, on behalf of the registered company.

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

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(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.

. . . .

A written inspection report conforming to this section and 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.

16. 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.

. . . .

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

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17. Code section 8550 states, in pertinent part:

(a) It is unlawful for any individual to engage or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.

(b) Notwithstanding subdivision (a), an unlicensed individual may solicit pest control work on behalf of a structural pest control company only if the company is registered pursuant to this chapter, and the unlicensed individual does not perform or offer to perform any act for which an operator, field representative, or applicator license is required pursuant to this chapter. As used in this subdivision, to "solicit pest control work" means to introduce consumers to a registered company and the services it provides, to distribute advertising literature, and to set appointments on behalf of a licensed operator or field representative.

(c) It is unlawful for an unlicensed individual, soliciting pest control work on behalf of a registered structural pest control company pursuant to subdivision (b), to perform or offer to perform any act for which an operator, field representative, or applicator license is required, including, but not limited to, performing or offering pest control evaluations or inspections, pest identification, making any claims of pest control safety or pest control efficacy, or to offer price quotes other than what is provided and printed on the company advertising or literature, or both.

....

(e) It is unlawful for any firm, sole proprietorship, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

18. Code section 8610 states, in pertinent part:

....

(c) Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish . . .

19. Code section 8639 states:

Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting

1 as agent or partner or associate, or otherwise, of an unlicensed individual or
2 unregistered company to evade the provisions of this chapter is a ground for
3 disciplinary action.

4 20. Code section 8641 states:

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

10 21. Code section 8646 states:

11 Disregard and violation of pesticide use and application, structural pest
12 control device, fumigation, or extermination laws of the state or of any of its political
13 subdivisions, or regulations adopted pursuant to those laws, is a ground for
14 disciplinary action.

15 22. Code section 8652 states:

16 Failure of a registered company to make and keep all inspection reports,
17 field notes, contracts, documents, notices of work completed, and records, other than
18 financial records, for a period of not less than three years after completion of any
19 work or operation for the control of structural pests or organisms, is a ground for
20 disciplinary action. These records shall be made available to the executive officer of
21 the board or his or her duly authorized representative during business hours.

22 **(Regulatory Provisions)**

23 23. California Code of Regulations, title 16, section ("Regulation") 1918 states, in
24 pertinent part:

25 "Supervise" as used in Business and Professions Code Sections 8506.2,
26 8610 and 8611 means the oversight, direction, control, and inspection of the daily
27 business of the company and its employees, and the availability to observe, assist, and
28 instruct company employees, as needed to secure full compliance with all laws and
regulations governing structural pest control . . .

29 24. Regulation 1970 states, in pertinent part:

30 For the purpose of maintaining proper standards of safety and the
31 establishment of responsibility in handling the dangerous gases used in fumigation
32 and the pesticides used in other pest control operations, a registered company shall
33 compile and retain for a period of at least three years, a log for each fumigation job
34 and for each pesticide control operation in which a pesticide is used by the registered
35 company or the registered company's employee . . .

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37 (b) The report for each pest control operation, other than fumigation, in
38 which a pesticide is used shall contain the following information:

1 Date of treatment.

2 Name of owner or his or her agent.

3 Address of property.

4 Description of area treated.

5 Target pest(s).

6 Pesticide and amount used.

7 Identity of person or persons who applied the pesticide . . .

8 25. Regulation 1983 states, in pertinent part:

9 (a) Each container in which any pesticide is stored, carried or transported
10 shall be adequately labeled in accordance with the provisions of Articles 1 and 5,
11 Chapter 2, Division 7 of the Food and Agriculture Code (relating to economic
12 poisons) and regulations adopted by the Department of Pesticide Regulation
13 thereunder.

14

15 (c) When any pesticide or preparation thereof is carried on a truck or
16 other vehicle, a suitable storage space shall be provided thereon. Under no
17 circumstances shall such storage be left either unlocked or unattended when
18 containing any pesticide or preparation thereof . . .

19 26. Regulation 1996.3 states, in pertinent part:

20 (a) The address of each property inspected and/or upon which work was
21 completed shall be reported on a form prescribed by the Board and designated as the
22 WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev.
23 5/09) at the end of this section. This form shall be prepared by each registered
24 company and shall comply with all of the requirements pursuant to Section 8516(b),
25 and 8518.

26

27 (c) Failure of a registered company to report and file with the Board the
28 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 than two thousand five hundred dollars (\$ 2,500).

29 **COST RECOVERY**

30 27. Code section 125.3 states, in pertinent part, that a Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
33 enforcement of the case.

BACKGROUND

1
2 28. On June 3, 2010, the Board sent a letter and an Order of Suspension to Sheridan Pest
3 Control and Moore, notifying them that the company's registration certificate and Moore's
4 operator's license were suspended due to their failure to file with the Board written evidence of a
5 general liability insurance policy in effect for the company (Sheridan Pest Control's certificate of
6 insurance had expired on May 26, 2010). The Board ordered Sheridan Pest Control and Moore to
7 cease operation immediately and informed them that any business conducted after June 3, 2010,
8 was unlicensed activity and that disciplinary action may be taken.

9 29. On June 23, 2010, the Board received a Notice of Transfer of Employment form from
10 Moore, indicating that as of June 21, 2010, he was no longer qualifying manager for Sheridan
11 Pest Control.

12 30. On June 29, 2010, Sheridan Pest Control's company registration was reinstated after
13 posting the general liability insurance.

14 31. On July 9, 2010, the Board's specialist, Thomas E. Ineichen ("Ineichen"), sent a letter
15 to Sheridan Pest Control, notifying them that Moore had disassociated as their qualifying
16 manager effective June 23, 2010, that the company must cease all work immediately, and that any
17 further business would be considered unlicensed activity and may result in disciplinary action.
18 That same day, Sheridan Pest Control's company registration was suspended for failing to replace
19 the qualifying manager.

20 32. On July 13, 2010, Ineichen went to Sheridan Pest Control and met with Christopher
21 Sheridan. Sheridan admitted that the company was actively working. Sheridan gave Ineichen a
22 few Branch 3 files, which he represented were the only Branch 3 records in the office. Sheridan
23 told Ineichen that Moore performed all of the Branch 3 work and that Moore kept the Branch 3
24 records in a computer at his home. Sheridan stated that he had been paying Moore for the use of
25 his operator's license, that Moore did not supervise the company's business operations, Moore had
26 been coming to the office only once a month "to check on things" and to get his payment, and
27 that Moore was not providing any training. Sheridan could not provide Ineichen with complete
28 records of all of the Branch 2 operations that the company had performed in the previous 3 years.

1 Sheridan admitted that the company's licensed applicators regularly perform one-time, initial, or
2 retreatment services, sell accounts, sign agreements, and perform services for new pest problems
3 on re-treatments without an inspection of the property or negotiation of the contract first by a
4 licensed field representative or operator. Ineichen obtained a copy of a "Services Report" from
5 Sheridan listing the dates pest control services were performed by the company¹. The report
6 showed that the company had performed services for several different customers on July 9, 2010,
7 and July 12, 2010, while the company registration was suspended. Ineichen also obtained copies
8 of an invoice issued by the company for a pest control service performed on July 12, 2010, by
9 licensed applicator Allan Gilpin ("Gilpin"); Wood Destroying Pests and Organisms ("WDO")
10 Inspection Reports dated January 14, 2010, March 17, 2010, April 22, 2010, and April 27, 2010,
11 prepared by Moore, and related documents (field notes, contracts, and invoices), pertaining to
12 four different properties located in Napa that were inspected by Moore; and invoices for pest
13 control treatments performed at two of the properties (no other records were provided by
14 Sheridan regarding the work completed relating to those treatments).

15 33. That same day (July 13, 2010), Ineichen issued a compliance inspection report to
16 Sheridan Pest Control, outlining several violations of the Code which he found during his meeting
17 with Sheridan. Ineichen noted, among other things, that there were no records of training or
18 supervision of the licensed applicators and that the company was operating without a qualifying
19 manager or licensed operator. Ineichen directed Sheridan Pest Control to cease all structural pest
20 control activities until a licensed operator/qualifying manager was associated with the company
21 and the company was properly licensed.

22 34. On July 19, 2010, Ineichen interviewed Moore regarding his prior association with
23 the company. Moore told Ineichen that he believed it was Sheridan's responsibility to maintain
24 the company's records and insurance, that he did not have possession of any of the company's
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26 ¹ The report listed the customer's name, address, and telephone number, the date and cost
27 of the service, and whether the work was done under a service contract or was a one-time service.
28 There was no description of the actual Branch 2 service that was provided at the customer's
property or the identity of the person or persons who performed the service.

1 documents, and that he did not have any documents or information showing his supervision or
2 training of the company's employees. Moore stated that one of the company's employees worked
3 as a "route tech" and another performed the termite treatments.

4 35. On July 20, 2010, Ineichen performed a search of the Board's records and found that
5 Sheridan Pest Control had not filed any addresses with the Board for Branch 3 inspections or
6 completed work (WDO activities).

7 36. On July 27, 2010, Ineichen returned to Sheridan Pest Control and met with the office
8 manager, "Cheryl". Cheryl told Ineichen that the company was still operating and that they had
9 not obtained a new qualifying manager as of that time. Later, Ineichen met with Sheridan and
10 told him that he needed to cease all pest control activity and that any further pest control work
11 was unlicensed activity and could subject him and the company to disciplinary action.

12 37. On September 28, 2010, Ineichen met with Walt Blevins ("Blevins"), Maintenance
13 and Construction Supervisor for the Napa County School District (the school district was
14 identified as a customer on the Services Report). Blevins told Ineichen that Sheridan Pest Control
15 had been performing pest control work for the school district, including rodent control, cockroach
16 control, flea control, and wasp control. Blevins stated that he had heard from another source that
17 the company was not properly licensed. When Blevins confronted the company about their
18 licensure status, they told him the information was not true. Blevins provided Ineichen with
19 copies of several invoices that had been issued by Sheridan Pest Control for pest control work
20 performed for the school district from July 2010 through September 2010. Gilpin was listed as
21 the service technician on all of the invoices. Later, Ineichen met with Janice Owens ("Owens"),
22 the owner of Moors Landing, a restaurant located in Napa (also identified as a customer on the
23 Services Report). Owens told Ineichen that Sheridan Pest Control had been doing their pest
24 control service for some time and provided Ineichen with copies of various invoices, including an
25 invoice dated June 7, 2010, and an invoice dated August 2, 2010. Gilpin was listed as the service
26 technician on both invoices. Ineichen returned to Sheridan Pest Control and saw two trucks in the
27 parking lot that appeared to belong to the company, one of which had a Sheridan Pest Control

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1 logo. Ineichen inspected and photographed both trucks, and found various pesticides located in
2 the beds of both vehicles that were not properly stored, maintained, or labeled, as set forth below.

3 38. On October 5, 2010, Ineichen met with Gilpin regarding his employment at Sheridan
4 Pest Control. Gilpin stated that he works "mostly" on his own with no supervision, that he has
5 full access to the company's chemicals and equipment, that he has performed many jobs where
6 there was no inspection or initial treatment by anyone other than himself, and that he determines
7 how to perform the work. Gilpin also stated that Moore had not been "around much", and that the
8 only contact he had with Moore was when Moore provided him with some video tapes for
9 training. Gilpin admitted that he had performed the duties of a field representative many times on
10 new jobs and re-treatments, including inspections, contracting, and identifications.

11 39. On February 8, 2011, Ineichen received a call from John Cooledge ("Cooledge"),
12 Deputy Agricultural Commissioner for Napa County. Cooledge told Ineichen that on February 4,
13 2011, his office had received a Monthly Summary Pesticide Use Report from Sheridan Pest
14 Control, indicating that the company had applied pesticides in Napa County for structural use
15 during the month of January 2011. Cooledge stated that the use report was prepared by Paul
16 Rightler.

17 40. On February 10, 2011, Ineichen met with Cooledge and agricultural biologist Chad
18 Godoy ("Godoy"). Godoy stated that he attempted to contact Sheridan after receiving the use
19 report, but had not received a response from Sheridan or the company. Cooledge and Godoy
20 provided Ineichen with a copy of the use report for January 2011.

21 41. On March 3, 2011, Rightler became the Branch 2 qualifying manager for Sheridan
22 Pest Control.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unlicensed Activity)

3 42. Respondents Sheridan Pest Control, Cleveland Moore, Jr., Christopher M. Sheridan,
4 and Paul C. Rightler are subject to disciplinary action pursuant to Code section 8641 in that
5 Respondents failed to comply with Code section 8550 by engaging in the business or practice of
6 structural pest control when Sheridan Pest Control's company registration certificate was
7 suspended and invalid, as follows:

8 a. On or about June 7, 2010, Respondents Sheridan Pest Control, Moore, and Sheridan
9 performed a pest control service (rodent control, cockroach control, and spider control) for
10 customer Moors Landing while Sheridan Pest Control's company registration was suspended.

11 b. On and between July 9, 2010 and September 20, 2010, Respondents Sheridan Pest
12 Control and Sheridan performed pest control services, including rodent control, cockroach
13 control, flea control, wasp control, and spider control, for several customers, including, but not
14 limited to, the Napa County School District and Moors Landing, while Sheridan Pest Control's
15 company registration was suspended for failing to replace the qualifying manager. Further,
16 Respondents continued to engage in the practice of structural pest control despite the fact that
17 they had been warned repeatedly by the Board's authorized representative, Ineichen, to cease all
18 pest control activities until a licensed operator/qualifying manager was associated with the
19 company, and that any further business would be considered unlicensed activity and may result in
20 disciplinary action.

21 c. In or about January 2011, Respondents Sheridan Pest Control, Sheridan, and Rightler
22 applied pesticides in Napa County for structural use while the company registration was
23 suspended.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Aiding and Abetting Unlicensed Activity)

26 43. Respondents Sheridan Pest Control, Cleveland Moore, Jr., and Christopher M.
27 Sheridan are subject to disciplinary action pursuant to Code section 8639 in that Respondents
28 aided or abetted an unlicensed individual or unregistered company to evade the provisions of the

1 chapter, knowingly combined or conspired with an unlicensed individual or unregistered
2 company, allowed their licenses or the company registration to be used by an unlicensed
3 individual or unregistered company, or acted as agent or partner or associate, or otherwise, of an
4 unlicensed individual or unregistered company to evade the provisions of the chapter, as follows:

5 a. In and between May 2009 and October 2010, Respondents Sheridan Pest Control,
6 Moore, and Sheridan authorized or permitted their employee/applicator, Allan Gilpin, to engage
7 or offer to engage in the business or practice of structural pest control as a field representative,
8 including securing structural pest control work for the company, making inspections, identifying
9 infestations and/or infections, and/or submitting bids for or otherwise contracting on behalf of the
10 company, as set forth above, when Gilpin was not licensed as a field representative.

11 b. On or about June 7, 2010, Respondents Sheridan Pest Control, Moore, and Sheridan
12 authorized or permitted Gilpin to perform a pest control service for customer Moors Landing
13 while Sheridan Pest Control's company registration certificate was suspended and invalid, as set
14 forth in subparagraph 41 (a) above.

15 c. On and between July 9, 2010 and September 20, 2010, Respondents Sheridan Pest
16 Control and Sheridan authorized or permitted Gilpin to perform pest control services for several
17 customers, including, but not limited to, the Napa County School District and Moors Landing,
18 while Sheridan Pest Control's company registration was suspended and invalid, as set forth in
19 subparagraph 41 (b) above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Submission of Bids and Contracting for Pest Control Work**

22 **Without Inspections by a Licensed Field Representative or Operator)**

23 44. Respondents Sheridan Pest Control, Cleveland Moore, Jr., and Christopher M.
24 Sheridan are subject to disciplinary action pursuant to Code section 8641 in that in and between
25 May 2009 and October 2010, Respondents failed to comply with Code sections 8514 and 8515 by
26 authorizing or permitting their employee/applicator, Allan Gilpin, to submit bids and sign
27 contracts for structural pest control work on behalf of Sheridan Pest Control without an inspection
28 of the property or negotiation of the contract first by a licensed field representative or operator.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Failure to Supervise Registered Company's Daily Business)

3 48. Respondents Sheridan Pest Control, Cleveland Moore, Jr., and Christopher M.
4 Sheridan are subject to disciplinary action pursuant to Code section 8641 in that Respondents
5 failed to comply with Code section 8610, as follows:

6 a. In and between May 2009 and June 2010, Respondent Moore failed to supervise the
7 daily business of Sheridan Pest Control, and failed to be available to supervise and assist the
8 employees of the company, including, but not limited to, employee/applicator, Allan Gilpin.

9 b. In and between May 2009 and October 2010, Respondents Sheridan Pest Control and
10 Sheridan failed to ensure that their employees/applicators, including, but not limited to, Allan
11 Gilpin, were supervised or assisted in the performance of their structural pest control work on
12 behalf of the company.

13 EIGHTH CAUSE FOR DISCIPLINE

14 (Failure to Properly Store, Maintain, and Label all Pesticides)

15 49. Respondents Sheridan Pest Control and Christopher M. Sheridan are subject to
16 disciplinary action pursuant to Code section 8646 in that on or about September 28, 2010,
17 Respondents disregarded and violated Regulation 1983, as follows:

18 a. Respondents failed to label the service equipment chemical tanks located in both of
19 their vehicles or identify the pesticides that were stored in the tanks, in violation of Regulation
20 1983, subdivision (a).

21 b. Respondents left various pesticides, including containers carrying the pesticides
22 Tenugard SFR One-Shot, Catalyst, and Phantom, unlocked and/or unattended in the beds of both
23 of their vehicles, in violation of Regulation 1983, subdivision (c). Further, the marking tubes to
24 the gallon gauges on the chemical tanks of both vehicles were broken and leaking, enabling the
25 pesticides to be easily removed from each tank.

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OTHER MATTERS

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2 50. Pursuant to Code section 8624, the causes for discipline established as to Respondent
3 Sheridan Pest Control likewise constitute causes for discipline against Christopher M. Sheridan,
4 the owner of the registered company, regardless of whether Christopher M. Sheridan had
5 knowledge of or participated in the acts or omissions which constitute cause for discipline against
6 Respondent Sheridan Pest Control.

7 51. Pursuant to Code section 8624, the causes for discipline established as to Respondent
8 Sheridan Pest Control likewise constitute causes for discipline against Paul C. Rightler, who has
9 served as the qualifying manager for Respondent since March 3, 2011, regardless of whether Paul
10 C. Rightler had knowledge of or participated in the acts or omissions which constitute cause for
11 discipline against Respondent Sheridan Pest Control.

12 52. Pursuant to Code section 8624, the causes for discipline established as to Respondent
13 Sheridan Pest Control likewise constitute causes for discipline against Cleveland Moore, Jr., who
14 served as the qualifying manager for Respondent from May 27, 2009, to June 23, 2010, regardless
15 of whether Cleveland Moore, Jr. had knowledge of or participated in the acts or omissions which
16 constitute cause for discipline against Respondent Sheridan Pest Control.

17 53. Pursuant to Code section 8624, if Operator's License Number OPR 9068, issued to
18 Paul C. Rightler, is suspended or revoked, the Board may suspend or revoke Company
19 Registration Certificate Number PR 5852, issued to Sheridan Pest Control.

20 54. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
21 License Number FR 45526, issued to Christopher M. Sheridan, Christopher M. Sheridan shall be
22 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
23 responsible managing employee for any registered company during the time the discipline is
24 imposed, and any registered company which employs, elects, or associates Christopher M.
25 Sheridan shall be subject to disciplinary action.

26 55. Pursuant to Code section 8654, if discipline is imposed on Operator's License
27 Number OPR 9068, issued to Paul C. Rightler, Paul C. Rightler shall be prohibited from serving
28 as an officer, director, associate, partner, qualifying manager, or responsible managing employee

1 for any registered company during the time the discipline is imposed, and any registered company
2 which employs, elects, or associates Paul C. Rightler shall be subject to disciplinary action.

3 56. Pursuant to Code section 8654, if discipline is imposed on Operator's License
4 Number 9548, issued to Cleveland Moore, Jr., Cleveland Moore, Jr. shall be prohibited from
5 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
6 employee for any registered company during the time the discipline is imposed, and any
7 registered company which employs, elects, or associates Cleveland Moore, Jr. shall be subject to
8 disciplinary action.

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

14 **PRAYER**

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

17 1. Revoking or suspending Company Registration Certificate Number PR 5852, issued
18 to Sheridan Pest Control;

19 2. Revoking or suspending Field Representative's License Number FR 45526, issued to
20 Christopher M. Sheridan;

21 3. Prohibiting Christopher M. Sheridan from serving as an officer, director, associate,
22 partner, qualifying manager or responsible managing employee of any registered company during
23 the period that discipline is imposed on Field Representative's License Number FR 45526, issued
24 to Christopher M. Sheridan;

25 4. Revoking or suspending Operator's License Number OPR 9068, issued to Paul C.
26 Rightler;

27 5. Prohibiting Paul C. Rightler from serving as an officer, director, associate, partner,
28 qualifying manager or responsible managing employee of any registered company during the

1 period that discipline is imposed on Operator's License Number OPR 9068, issued to Paul C.
2 Rightler;

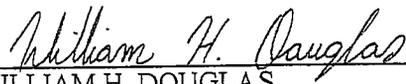
3 6. Revoking or suspending Operator's License Number OPR 9548, issued to Cleveland
4 Moore, Jr.

5 7. Prohibiting Cleveland Moore, Jr. from serving as an officer, director, associate,
6 partner, qualifying manager or responsible managing employee of any registered company during
7 the period that discipline is imposed on suspending Operator's License Number OPR 9548,
8 issued to Cleveland Moore, Jr.

9 8. Ordering Sheridan Pest Control, Christopher M. Sheridan, Paul C. Rightler, and
10 Cleveland Moore, Jr. to pay the Structural Pest Control Board the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;

13 9. Taking such other and further action as deemed necessary and proper.

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15 DATED: 6/16/11


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

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