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**FILED**

Date 10/12/11

By William H. Douglas

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2012-17

12 **SANITARIAN'S PEST CONTROL**  
13 **COMPANY; CARLOS SANCHEZ,**  
14 **OWNER/QUALIFYING MANAGER**  
15 **7700 State Street**  
**Huntington Park, California 90255**  
16 **Company Registration Certificate No. PR 2538**  
**Operator's License No. OPR 9205**

**ACCUSATION**

17 Respondents.

18 Complainant alleges:

19 **PARTIES**

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

23 **Sanitarian's Pest Control Company**

24 2. On or about February 25, 1994, the Board issued Company Registration Certificate  
25 Number PR 2538 in Branch 2 to Sanitarian's Pest Control Company ("Respondents") with Carlos  
26 Sanchez ("Respondents or Respondent Sanchez"), as owner and qualifying manager. The  
27  
28

1 license/company registration certificate is currently suspended due to the lack of a required  
2 restoration bond.

3 **Carlos Sanchez**

4 3. On or about November 30, 1993, the Board issued Operator's License Number OPR  
5 9205 in Branch 2 to Respondent Sanchez, owner and qualifying manager of Sanitarian's Pest  
6 Control Company. Respondent's operator's license is currently in effect and renewed through  
7 June 30, 2014. The license/company registration certificate is currently suspended due to the lack  
8 of a required restoration bond.

9 **JURISDICTION**

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

14 5. Code section 8625 states:

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

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

22 . . . .

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

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

7. Code section 8654 states:

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

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

## 15 STATUTORY AND REGULATORY PROVISIONS

### 16 (Statutory Provisions)

17 8. Code section 125.9 states, in pertinent part:

18 (a) Except with respect to persons regulated under Chapter 11 (commencing with  
19 Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, any board,  
20 bureau, or commission within the department, the board created by the Chiropractic Initiative  
21 Act, and the Osteopathic Medical Board of California, may establish, by regulation, a system for  
22 the issuance to a licensee of a citation which may contain an order of abatement or an order to pay  
23 an administrative fine assessed by the board, bureau, or commission where the licensee is in  
24 violation of the applicable licensing act or any regulation adopted pursuant thereto.

25 (b) The system shall contain the following provisions:

26 . . . .

27 (2) Whenever appropriate, the citation shall contain an order of abatement fixing a  
28 reasonable time for abatement of the violation.

29 . . . .

30 (5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the  
31 citation is being appealed, may result in disciplinary action being taken by the board, bureau, or  
32 commission. Where a citation is not contested and a fine is not paid, the full amount of the  
33 assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed  
34 without payment of the renewal fee and fine.

35 9. Code section 8652 states:

36 Failure of a registered company to make and keep all inspection reports, field notes,  
37 contracts, documents, notices of work completed, and records, other than financial records,  
38 for a period of not less than three years Failure to complete of a registered company to  
make and keep all inspection reports, field notes, contracts, documents, notices of work

1 completed, and records, other than financial records, for a period of not less than three years  
2 after completion of any work or operation for the control of structural pests or organisms, is  
3 a ground for disciplinary action. These records shall be made available to the executive  
4 officer of the board or his or her duly authorized representative during business hours.

5 10. Code section 8641 states:

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

#### 11 Regulatory Provisions

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

14 (d) Compliance with Orders of Abatement: When a citation is not contested or if the  
15 citation is appealed and the person cited does not prevail, failure to comply with the order  
16 of abatement or to pay the fine in the citation within the time allowed by a licensee may  
17 result in disciplinary action being taken by the Board against the person cited, or where  
18 the cited person is unlicensed in appropriate judicial relief being taken against the person  
19 cited.

#### 20 COST RECOVERY

21 12. Code section 125.3 states, in pertinent part, that a Board may request the  
22 administrative law judge to direct a licensee found to have committed a violation or violations of  
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case.

#### 25 FACTUAL SUMMARY

26 13. On or about September 28, 2010, Respondent Sanchez was issued Citation CF  
27 11-18 for violating Business and Professions Code section 8652 (the failure to make records  
28 available to a duly authorized representative of the Board during business hours). The Citation  
included a fine of \$500 which was to be paid within 30 days after receipt of the Citation Order.  
The Citation also included an order of abatement directing Respondent Sanchez to contact a  
representative of the Board within 30 days of receipt of the Order on the Citation to schedule an  
appointment to make the records of the registered company available to the Executive Officer or  
her duly appointed representative of the Board.

1           14. On or about September 30, 2010, Respondent Sanchez received a copy of  
2 Citation No. CF 11-18. On or about February 14, 2011, a follow-up letter was sent to Respondent  
3 Sanchez reminding Respondent Sanchez that the Board had not yet received payment of the \$500  
4 fine and that Respondent Sanchez had failed to cooperate with the Order of Abatement. On or  
5 about March 2, 2011, Respondent Sanchez paid Citation No. CF 11-18 in full. However, this  
6 occurred after the time allowed for by Citation No. CF 11-18. Moreover, to date, Respondents  
7 have failed to comply with the Order of Abatement to allow the Board or its designated  
8 representative to inspect the company's records.

9                                   **FIRST CAUSE FOR DISCIPLINE**

10                   **(Failure to Comply with Citation and Order of Abatement)**

11           15. Respondents Sanitarian's Pest Control Company and Sanchez are subject to  
12 disciplinary action pursuant to Code sections 125.9, subsection (5), 8652, and 8641 and California  
13 Code of Regulations, regulation 1920 subsection (d) in that Respondents have failed to comply  
14 with payment of \$500 within the time allotted by the Order in Citation No. CF 11-18 and have  
15 failed to comply with the order of abatement contained within the Citation as further set forth in  
16 paragraphs 13 and 14 which are incorporated herein by reference.

17                                   **MATTERS IN AGGRAVATION**

18           16. By way of aggravation, the Board alleges the following against Respondent's  
19 Company Registration Certificate No. PR 2538:

- 20                   a. On or about March 2, 2011, Respondent's Company Registration Certificate No.  
21 PR 2538 paid a \$500 fine levied by the Board for violation of section 8652 of the  
22 Business and Professions Code.

23           17. By way of aggravation, the Board alleges the following against Respondent's  
24 Operator License No. OPR 9205:

- 25                   a. On or about March 2, 2011, Respondent's Operator License No. OPR 9205  
26 paid a \$500 fine levied by the Board for violation of section 8652 of the Business  
27 and Professions Code.  
28

OTHER MATTERS

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

19. Pursuant to Code section 8624, the causes for discipline established as to Respondent Sanitarian's Pest Control Company likewise constitute causes for discipline against Respondent Carlos Sanchez regardless of whether he had knowledge of or participated in the acts or omissions which constitute causes for discipline against Respondent Sanitarian's Pest Control Company.

20. Pursuant to Code section 8624, if Operator's License Number OPR 9205, issued to Respondent Carlos Sanchez, is suspended or revoked, the Board may suspend or revoke Company Registration Certificate Number PR 2538, issued to Respondent Sanitarian's Pest Control Company.

21. Respondent Carlos Sanchez, the owner and qualifying manager for Respondent Sanitarian's Pest Control Company, had knowledge of and participated in, the acts or omissions which constitute causes for discipline against Respondent Sanitarian's Pest Control Company.

22. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 2538, issued to Respondent Sanitarian's Pest Control Company, Respondent Carlos Sanchez shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Carlos Sanchez shall be subject to disciplinary action.

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

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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 2538, issued to Sanitarian's Pest Control Company;

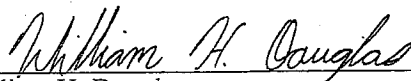
2. Revoking or suspending Operator's License Number OPR 9205, issued to Carlos Sanchez;

3. Prohibiting Carlos Sanchez 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 2538, issued to Sanitarian's Pest Control Company;

4. Ordering Sanitarian's Pest Control Company and Carlos Sanchez 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;

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

DATED: 10/12/11

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

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