

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ANTOINETTE B. CINCOTTA  
Deputy Attorney General  
4 State Bar No. 120482  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2095  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

**FILED**

Date 7/13/15 By *Supan*  
*Saylor*

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

12 In the Matter of the Accusation Against:

Case No. 2016-3

13 **KILTER TERMITE AND PEST CONTROL,**  
14 **GREGORY S. MCKENDALL,**  
15 **QUALIFYING MANAGER**  
16 **381 West Grove Avenue**  
**Orange, CA 92865**  
**Company Registration Certificate No. PR 2272**  
**Operator's License No. OPR 10496**

**ACCUSATION**

17 **Branch Office Registration No. BR 5284**  
18 **41785 Enterprise Circle South**  
**Temecula, CA 92590**

19 **Branch Office Registration No. BR 4912**  
20 **10148 Artesia Place**  
**Bellflower, CA 90706**

21 **Branch Office Registration No. BR 4962**  
22 **41785 Enterprise Circle South, Unit A**  
**Temecula, CA 92590**

23 Respondent.

24  
25 Complainant alleges:

26 ///

27 ///

28 ///

1 **PARTIES**

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

5 2. On or about November 1, 2001, the Structural Pest Control Board issued Operator's  
6 License Number OPR 10496 to Gregory S. McKendall as Branch 3 Qualifying Manager of Kilter  
7 Termite and Pest Control. The Operator's License was in full force and effect at all times  
8 relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

9 3. On or about June 19, 1992, the Structural Pest Control Board issued Company  
10 Registration Certificate Number PR 2272 in Branch 3 to Kilter Termite and Pest Control. The  
11 Company Registration Certificate was upgraded on November 29, 2006 to include Branches 2  
12 and 3. On December 20, 2012, the Company Registration Certificate reflected Gregory S.  
13 McKendall as Branch 2 Qualifying Manager. The Company Registration Certificate was in full  
14 force and effect at all times relevant to the charges brought herein.

15 4. On or about October 31, 2011, the Structural Pest Control Board issued Branch  
16 Office Registration Number BR 5284 to Kilter Termite and Pest Control, with Gregory S.  
17 McKendall as Branch Office Supervisor. The Branch Office Registration was in full force and  
18 effect at all times relevant to the charges brought herein.

19 5. On or about January 2, 2004, the Structural Pest Control Board issued Branch Office  
20 Registration Number BR 4962 to Kilter Termite and Pest Control, with Gregory S. McKendall as  
21 Branch Office Supervisor. The Branch Office Registration was in full force and effect at all  
22 times relevant to the charges brought.

23 6. On or about January 26, 2002, the Structural Pest Control Board issued Branch Office  
24 Registration Number BR 4912 to Kilter Termite and Pest Control, with Gregory S. McKendall as  
25 Branch Office Supervisor. The Branch Office Registration was in full force and effect at all  
26 times relevant to the charges brought.

27 7. Kilter Termite and Pest Control, Gregory S. McKendall, Company Registration  
28 Certificate Number PR 2272, Operator's License Number OPR 10496, Branch Office

1 Registration Number BR 5284, Branch Office Registration Number BR 4912, and Branch Office  
2 Registration Number BR 4962 are collectively referred to herein as "Respondent."

### 3 JURISDICTION

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

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

11 10. Section 8625 of the Code states:

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

### 15 STATUTORY PROVISIONS

16 11. Section 8505.17, subdivision (c) of the Code states:

17 Registered structural pest control companies shall prepare and submit to the county  
18 agricultural commissioner a monthly report of all pesticides used in that county. The  
19 report shall be on a form approved by the Director of Pesticide Regulation and shall  
20 contain the name and registration number of each pesticide and the amount used. The  
21 report shall be submitted to the commissioner by the 10<sup>th</sup> day of the month following the  
22 month of application and a copy shall be maintained by the licensee for a period of three  
23 years after the report submission date. Each pesticide use report or combination of use  
24 reports representing a registered structural pest control company's total county pesticide  
25 use for the month shall require a pesticide use stamp or stamp number issued by the  
26 board in the denomination fixed by the board in accordance with Section 8674 as the  
27 pesticide use report filing fee. The board shall provide for the sale of these stamps and  
28 stamp numbers and for the refund of moneys paid for stamps and stamp numbers which  
are returned to it unused. When a registered structural pest control company performs no  
pest control during a month in a county in which it has given notice pursuant to Section  
15204 of the Food and Agricultural Code, the registered company shall submit a use  
report stating this fact to the commissioner. A pesticide use stamp or stamp number is  
not required on negative use reports.

12. Section 8506.2 of the Code states:

A "qualifying manager" is the licensed operator or operators designated by a  
registered company to supervise the daily business of the company and to be  
available to supervise and assist the company's employees.

1 13. Section 8516, subdivision (b) of the Code states:

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

9 Every property inspected pursuant to subdivision or Section 8518 shall be assessed  
10 a filing fee pursuant to Section 8674.

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

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

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

26 (1) The date of the inspection and the name of the licensed field representative or  
27 operator making the inspection.

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

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

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

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

1 (8) One of the following statements, as appropriate, printed in bold type: (A) The  
2 exterior surface of the roof was not inspected. If you want the water tightness of the roof  
3 determined, you should contact a roofing contractor who is licensed by the Contractors'  
4 State License Board.

5 (B) The exterior surface of the roof was inspected to determine whether or not  
6 wood destroying pests or organisms are present.

7 (9) Indication or description of any areas that are inaccessible or not inspected  
8 with recommendation for further inspection if practicable. If, after the report has been  
9 made in compliance with this section, authority is given later to open inaccessible areas,  
10 a supplemental report on conditions in these areas shall be made.

11 (10) Recommendations for corrective measures.

12 (11) Information regarding the pesticide or pesticides to be used for their control  
13 as set forth in subdivision (a) of Section 8538.

14 (12) The inspection report shall clearly disclose that if requested by the person  
15 ordering the original report, a reinspection of the structure will be performed if an  
16 estimate or bid for making repairs was given with the original inspection report, or  
17 thereafter.

18 (13) The inspection report shall contain the following statement, printed in  
19 boldface type:

20 "NOTICE: Reports on this structure prepared by various registered companies  
21 should list the same findings (i.e. termite infestations, termite damage, fungus damage,  
22 etc.). However, recommendations to correct these findings may vary from company to  
23 company. You have a right to seek a second opinion from another company." An  
24 estimate or bid for repairs shall be given separately allocating the costs to perform each  
25 and every recommendation for corrective measures as specified in subdivision (c) with  
26 the original inspection report if the person who ordered the original inspection report so  
27 requests, and if the registered company is regularly in the business of performing  
28 corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter,  
then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original  
report to determine if the recommendations have been completed. Each reinspection  
shall be reported on an original inspection report form and shall be labeled  
"Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall  
also identify the original report by date.

After four months from an original inspection, all inspections shall be original  
inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered  
company's original inspection price and shall be completed within 10 working days after  
a reinspection has been ordered.

....

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

14. Section 8518 of the Code states:

(a) 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 business 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.

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

(c) A filing fee shall be assessed pursuant to Section 8674 for every property upon which work is completed.

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

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

(f) 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.

15. Section 8610 of the Code states:

(a) Every company that engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof, shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers and shareholders with 10 percent or more ownership interest, if it is a corporation, and the address of the company's principal office in this state.

(b)(1) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, whose license or registration is revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

(2) A company registration shall not be issued to an applicant that has an officer, director, qualifying manager, responsible managing employee, or an individual who otherwise exercises dominion or control over the company, who owns or has owned in the past more than a 10 percent interest in another sole proprietorship, partnership, corporation, or other organization that has its license or registration revoked or suspended at the time of the application as the result of disciplinary action pursuant to this chapter.

///

1 (c) Each registered company shall designate an individual or individuals who hold  
2 an operator's license to act as its qualifying manager or managers. The qualifying  
3 manager or managers must be licensed in each branch of pest control in which the  
4 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.

5 16. Section 8611 of the Code states:

6 Each branch office shall have a branch supervisor designated by the registered  
7 company to supervise and assist the company's employees who are located at that  
8 branch. The branch supervisor shall be an individual who is licensed by the board as an  
operator or a field representative and his or her license shall be prominently displayed in  
the branch office.

9 If a branch supervisor ceases for any reason to be connected with a registered  
10 company, the company shall notify the registrar in writing within 10 days from that  
11 cessation. If this notice is given, the company's branch office registration shall remain in  
12 force for a reasonable length of time to be determined by rules of the board, during  
which period the company shall submit to the registrar in writing the name of another  
qualified branch supervisor.

13 17. Section 8641 of the Code states:

14 Failure to comply with the provisions of this chapter, or any rule or regulation  
15 adopted by the board, or the furnishing of a report of inspection without the making of a  
16 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.

17 18. Section 8624 of the Code states:

18 If the board suspends or revokes an operator's license and one or more branch  
19 offices are registered under the name of the operator, the suspension or revocation may  
be applied to each branch office.

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

22 The performance by any partnership, corporation, firm, association, or registered  
23 company of any act or omission constituting a cause for disciplinary action, likewise  
24 constitutes a cause for disciplinary action against any licensee who, at the time the act or  
25 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.

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

19. Section 8646 of the Code states:

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

20. Section 8654 of the Code states:

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

21. Section 15204 of the Food and Agriculture Code states:

(a) Each licensed Branch 2 and Branch 3 structural pest control operator qualifying manager, as defined in Section 8506.2 of the Business and Professions Code, and Structural Pest Control Board registered company, as defined in Section 8506.1 of the Business and Professions Code, shall register with the commissioner prior to operating a structural pest control business in the county. The registration shall cover a calendar year. A fee may also be required at the time of registration. The fee shall be set by the county board of supervisors, except that in no case shall the fee exceed the actual cost of processing the registration or ten dollars (\$10), whichever is less. Payment of the fee shall be due by the date designated by the commissioner.

(b) Each registration shall be in a form prescribed by the director after consulting with the Structural Pest Control Board and commissioners and shall include the structural pest control licensee's name and address, including all satellite locations conducting business in the county, telephone numbers, responsible persons, and the type of pest control to be conducted.

(c) If ordered by the commissioner, other structural pest control licensees shall appear in person at the office of the commissioner to complete registration.

(d) The commissioner may levy a civil penalty against any person who violates the provisions of this section in accordance with the procedures provided in Section 12999.5.

///  
///  
///



1 **REGULATORY PROVISIONS**

2 22. California Code of Regulations, title 16, section 1918 states:

3 "Supervise" as used in Business and Professions Code Sections 8506.2, 8610 and  
4 8611 means the oversight, direction, control, and inspection of the daily business of the  
5 company and its employees, and the availability to observe, assist, and instruct company  
6 employees, as needed to secure full compliance with all laws and regulations governing  
7 structural pest control.

8 In cases of ownership of more than one registered company by the same sole  
9 owner, corporation or partnership where the qualifying manager or managers cannot  
10 supervise each registered company because of the location of the companies, the  
11 qualifying manager or managers may designate an individual or individuals licensed as  
12 an operator or as a field representative in the branch or branches of business being  
13 conducted to supervise the company. This designated supervisor or supervisors must be  
14 under the direct supervision of the qualifying manager or managers. Any such  
15 designation of supervisors does not relieve the qualifying manager or managers of  
16 responsibility to supervise as required in sections 8506.2 and 8610.

17 23. California Code of Regulations, title 16, section 1996.3 states:

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

23 (b) The form shall contain the following information for each property inspected  
24 and/or upon which work was completed.

25 (1) Company Name

26 (2) Company registration number

27 (3) Branch office registration number (when a branch office issues an inspection  
28 report or notice of work completed

(4) Date of Activity

(5) Address of property inspected or upon which work was completed, including  
zip code

(6) Activity Code

(7) License number of licensee performing the inspection

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

///

///

1 **COSTS**

2 24. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
6 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
7 may be included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 25. On March 7, 2006, Kilter Termite and Pest Control (the Company) was issued  
10 Citation No. CF 2006-181 by the Board in the amount of \$2,500 for a violation of Code section  
11 8648 (false advertising). The Company complied with the citation.

12 26. On July 13, 2007, the Company was issued Citation No. CF 2008-6 by the Board in  
13 the amount of \$750 for a violation of Code section 8648 (false advertising), and section 8651  
14 (perform/solicit beyond scope of license). Respondent complied with the citation.

15 27. On August 15, 2007, the Company was issued Citation No. CF 2008-23 by the Board  
16 in the amount of \$200 for a violation of Code section 8638 (failure to exterminate a drywood  
17 termite infestation at a property). The Company complied with the citation.

18 28. On September 27, 2007, the Company was issued Citation No. CF 2008-56 by the  
19 Board in the amount of \$2,813 for a violation of Code section 8516 (failure to file inspection  
20 report pertaining to wood destroying organisms (WDO)), and Code section 8518 (failure to file  
21 notice of work completed/not completed with the Board no later than 10 business days after  
22 completed work). The Company complied with the citation.

23 29. On April 29, 2008, the Company was issued Citation No. SP 2008-233 by the Los  
24 Angeles County Agricultural Commissioner's office (CAC) in the amount of \$1,100 for  
25 violations of Title 3, California Code of Regulations sections 6678 (service container label), 6738  
26 (respirator training not completed), 6670 (pesticides not properly stored/handled/disposed of),  
27 Code section 8551 (unlawful acts by non-licensees), and Food and Agricultural Code section  
28 15204 (failure to notify CAC). The Company complied with the citation.

1           30. On June 30, 2008, the Company was issued Citation No. SP 2009-36 by the San  
2 Diego CAC in the amount of \$250 for violation of Food and Agricultural Code section 15204  
3 (failure to notify CAC). The Company complied with the citation.

4           31. On August 12, 2008, the Company was issued Citation No. CF 2009-14 by the Board  
5 in the amount of \$1,750 for a violation of Code section 8551.5 (unlawful acts by non-licensees).  
6 The Company complied with the citation.

7           32. On October 23, 2009, the Company was issued Citation No. CF 2010-46 by the  
8 Board in the amount of \$3,500 for violations of Code section 8648 (false advertising), and section  
9 8651 (perform/solicit beyond scope of license). The Company complied with the citation.

10          33. On May 11, 2010, the Company was issued Citation No. SP 2011-27 by the Riverside  
11 CAC for a violation of Food and Agricultural Code section 15204 (failure to notify CAC). The  
12 Company complied with the citation.

13          34. On June 8, 2010, the Company was issued Citation No. CF 2010-109 by the Board in  
14 the amount of \$2,500 for a violation of Code section 8516 (failure to file inspection report  
15 pertaining to WDO). The Company complied with the citation.

16          35. On March 9, 2011, the Company was issued Citation No. SP 2011-155 by the San  
17 Diego CAC in the amount of \$250 for violation of Food and Agricultural Code section 15204  
18 (failure to notify CAC). The Company complied with the citation.

19          36. On April 23, 2012, Company was issued Citation No. SP 2012-254 by the Riverside  
20 CAC in the amount of \$50 for violation of Food and Agricultural Code section 15204 (failure to  
21 notify CAC). The Company complied with the citation.

22          37. On April 26, 2012, the Company was issued Citation No. CF 2012-127 by the Board  
23 in the amount of \$2,500 for a violation of Code section 8516 (failure to file inspection reports  
24 pertaining to WDO). The Company complied with the citation.

25          38. On July 12, 2012, the Company was issued Citation No. SP 2013-50 by the San  
26 Diego CAC in the amount of \$400 for violation of Food and Agricultural Code section 15204  
27 (failure to notify CAC). The Company complied with the citation.

28       ///

1           39. On May 22, 2014, the Company was issued Citation No. SP 2014-226 by the Orange  
2 CAC in the amount of \$50 for a violation of Code section 8505.17 (failure to submit County  
3 Monthly Pesticide Use Report). The Company complied with the citation.

4           40. In February 2015, the Board conducted an audit of Respondent's WDO activity  
5 submittals for the period from January 1, 2013 to February 5, 2015, and found the following  
6 discrepancies:

7           a. The principal registration (PR2272 located at 381 West Grove Avenue, Orange)  
8 filed no WDO activities from October 27, 2012 through February 6, 2013. It filed 30 WDO  
9 activities from February through June 20, 2013, and no WDO activities have been filed since  
10 June 20, 2013.

11           b. Two branch offices are located at 41785 Enterprise Circle in Temecula.  
12 BR4962 filed 299 WDO activities on April 6, 2012; 192 were filed late. BR5284 has no WDO  
13 activities on file from April 25, 2013 through February 28, 2014, and from July 12, 2014 to the  
14 present.

15           c. The branch office at 10148 Artesia Place in Bellflower (BR 4912) has no WDO  
16 activities on file from July 2, 2013 to February 28, 2014, and July 12, 2014 to the present.

17           d. From June 27, 2014 to December 15, 2014, Respondent submitted 1,851 WDO  
18 activities. Of those submitted, 1,666 WDO activities were submitted late.

19           e. Research of Respondent's WDO activities from January 1, 2015 to February  
20 26, 2015 found that they were not registered with any of the counties where they performed work,  
21 which included Orange, San Bernardino, Los Angeles, and Riverside Counties.

22           41. After telephone discussions and personal interviews with Respondent's employees on  
23 February 11, 2015, they provided declarations stating that they were not trained or properly  
24 supervised in the submission of WDO activities reports.

25           42. A specialist with the Board met with Respondent Gregory S. McKendall on February  
26 19, 2015. Respondent McKendall's WDO Activity computer program listed the following  
27 information:

28           ///

1 a. Principal Registration (PR2272): From January 1, 2013 to February 19, 2015,  
2 there were 74 WDO activities completed but not submitted.

3 b. Branch Office (BR5284): From July 14, 2013 to February 19, 2015, there were  
4 2,012 WDO activities completed but not submitted. From April 25, 2013 to February 28, 2014,  
5 there were 2,673 WDO activities completed but not submitted.

6 c. Branch Office (BR4912) From July 2, 2013 to February 28, 2014, there were  
7 1,403 WDO activities completed but not submitted. From July 14, 2014 to February 19, 2014,  
8 there were 1,545 WDO activities completed but not submitted.

9 d. A total of 7,707 WDO activities were not submitted during the referenced time  
10 period.

11 43. On February 12, 2015, Respondent was issued Violation Notice No. V001-015-14/15  
12 by the Los Angeles CAC for violating Code section 8505.17(c) in that from January 2013 to  
13 August 2014, Respondent failed to submit Monthly Summary Pesticide Use Reports affixed with  
14 pesticide usage stickers by the 10<sup>th</sup> day of the month following the month of application.

15 44. On February 17, 2015, the Board received a copy of the Orange CAC's undated  
16 Letter of Warning to Respondent stating that they failed to submit pesticide use reports for the  
17 months of February 2012 through June 2013.

18 45. On February 17, 2015, the Board received a copy of the Orange CAC's Notice of  
19 Proposed Action dated May 22, 2014. Respondent was fined \$50 for violating Code section  
20 8505.17(c) in that they failed to submit pesticide use reports from January 2013 to February 2014.

21 46. Between February 19, 2015 and March 27, 2015, Respondent submitted a total of  
22 6,762 WDO activity reports, 6689 of which were filed late. No WDO activities have been  
23 submitted by Respondent since March 27, 2015.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Failure to Comply With Pesticide Use Report Requirements)**

26 47. Respondent's Company Registration Certificate, Operator's License, and Branch  
27 Office Registrations are subject to disciplinary action under section 8641, as described in  
28 paragraphs 25-46, in that they failed to prepare and submit Pesticide Use Reports and/or be

1 registered as required in Orange, San Bernardino, Los Angeles, and Riverside Counties at the  
2 time it completed structural pest control work in those counties, as required by Code section  
3 8505.17, subdivision (c).

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Failure to Supervise Registered Companies and Branch Offices)**

6 48. Respondent's Company Registration Certificate, Operator's License, and Branch  
7 Office Registrations are subject to disciplinary action under Code section 8641, as described in  
8 paragraphs 25-46, in that Respondent Gregory S. McKendall failed to supervise the daily  
9 operations of the company and branches, and failed to assist its employees as required by Code  
10 sections 8506.2 and 8610, subdivision (c), and 8611, and California Code of Regulations, title 16,  
11 section 1918.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Failure to Comply With WDO Activities Reports & Inspection Requirements)**

14 49. Respondent's Company Registration Certificate, Operator's License, and Branch  
15 Office Registrations are subject to disciplinary action under Code section 8641, as described in  
16 paragraphs 25-46, in that Respondent failed to report and file the address of properties inspected  
17 or where work was completed, failed to submit its wood destroying organisms (WDO) activity  
18 statements, and/or failed to remit the required fees to the Board within 10 business days, as  
19 required by Code sections 8516, subdivision (b) and 8518, and California Code of Regulations,  
20 title 16, section 1996.3.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Disregard and Violation of Pesticide Use and Application)**

23 50. Respondent's Company Registration Certificate, Operator's License, and Branch  
24 Office Registrations are subject to disciplinary action under Code section 8646, as described in  
25 paragraphs 25-46, in that Respondent failed to register with Orange, San Bernardino, Los  
26 Angeles, and Riverside Counties prior to operation of business in that county.

27 ///

28 ///

1 **OTHER MATTERS**

2 51. Pursuant to sections 8624 and 8654 of the Code, if discipline is imposed on Company  
3 Registration Certificate Number PR 2272, Operator's License Number OPR 10496, Branch  
4 Office Registration Number BR 5284, Branch Office Registration Number BR 4912, and/or  
5 Branch Office Registration Number BR 4962, Gregory S. McKendall shall be prohibited from  
6 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
7 employee for any registered company during the time the discipline is imposed, and any  
8 registered company which employs, elects, or associates Gregory S. McKendall shall be subject  
9 to disciplinary action.

10 **PRAYER**

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

- 13 1. Revoking or suspending Company Registration Certificate Number PR 2272, issued  
14 to Kilter Termite and Pest Control, with Gregory S. McKendall as the Qualifying Manager;
- 15 2. Revoking or suspending Operator's License Number OPR 10496, issued to Gregory  
16 S. McKendall as the Qualifying Manager of Kilter Termite and Pest Control;
- 17 3. Revoking or suspending Branch Office Registration Number BR 5284, issued to  
18 Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor;
- 19 4. Revoking or suspending Branch Office Registration Number BR 4912, issued to  
20 Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor;
- 21 5. Revoking or suspending Branch Office Registration Number BR 4962, issued to  
22 Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office Supervisor;
- 23 6. Ordering Kilter Termite and Pest Control and/or Gregory S. McKendall to pay the  
24 Structural Pest Control Board the reasonable costs of the investigation and enforcement of this  
25 case, pursuant to Business and Professions Code section 125.3;

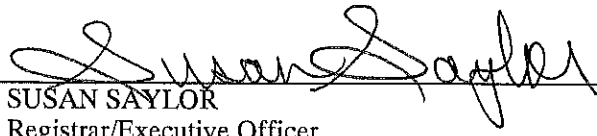
26 ///  
27 ///  
28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7. Prohibiting Gregory S. McKendall 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 Operator License Number OPR 10496, issued to Gregory S. McKendall;

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

DATED: 7/13/15



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

SD2015700748  
71076171.doc