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FILED

Date 9/25/14 By Susan Saylor

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

11 In the Matter of the Accusation Against:

Case No. 2015-10

12 **COOLEY'S GENERAL PEST &**
13 **TERMITE CONTROL, INC.; John Cooley,**
14 **Qualifying Manager Company Registration**
15 **Certificate No. PR 4027 Branches 2 & 3**

ACCUSATION

15 and

16 **JOHN COOLEY Operator License No.**
17 **OPR 8329 Branches 2 & 3**

18 **P.O. Box 940907, Simi Valley, CA 93094**

19 Respondent.
20

21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about September 24, 2001, the Structural Pest Control Board issued Company
27 Registration Certificate Number PR 4027 Branches 2 & 3 to Cooley's General Pest & Termite
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1 Control, Inc.; with John Cooley (Respondent) as President and Qualifying Manager, Nick Dallas
2 as Vice President and James Kennedy Jackson as corporate officer.

3 In accordance with the terms and conditions of the Decision rendered in the Statement of
4 Issues Case No. 2001-2, revoked Company Registration Certificate PR 4027, stayed, suspended
5 40 days and three years probation with terms and conditions.

6 On August 22, 2002, Company Registration Certificate PR 4027 was suspended for failure
7 to maintain general liability insurance as required per section 8690 of the Business & Professions
8 Code.

9 On August 27, 2002, Company Registration Certificate PR 4027 was reinstated after
10 posting the general liability insurance.

11 On March 28, 2003, Company Registration Certificate PR 4027 was issued a \$500 fine for
12 violation of regulations and the fine was paid on May 13, 2003.

13 On June 1, 2009, Company Registration Certificate PR 4027 was suspended for failure to
14 maintain general liability insurance as required per section 8690 of the Business & Professions
15 Code.

16 On June 4, 2009, Company Registration Certificate PR 4027 was reinstated after posting
17 general liability insurance.

18 On October 24, 2011, Company Registration Certificate PR 4027 was suspended for failure
19 to maintain a surety bond in the amount of \$4,000 as required per section 8697 of Business and
20 Professions Code.

21 On November 7, 2011, Company Registration Certificate PR 4027 was reinstated after
22 posting a surety bond in the amount of \$4,000.

23 On August 29, 2014, Company Registration Certificate PR 4027 was suspended for failure
24 to maintain the general liability insurance as required per section 8690 of the Business &
25 Professions Code.

26 On September 18, 2014, Company Registration Certificate PR 4027 was suspended for
27 failure to maintain a surety bond in the amount of \$12,500 as required per section 8697 of the
28 Business & Professions Code.

1 3. On March 27, 1989, Operator's License No. OPR 8329 was issued in Branch 2 to
2 John Cooley Qualifying Manager of Cooley's General Pest Control.

3 On October 22, 1990, and September 1, 1991, Operator's License No. OPR 8329 reflected
4 changes of address.

5 On November 16, 1991, Operator's License No. OPR 8329 was suspended for failure to
6 maintain the general liability insurance as required per section 8690 of the Business &
7 Professions Code.

8 On February 20, 1992, Operator's License No. OPR 8329 was reinstated after posting
9 general liability insurance.

10 On December 1, 1992, Operator's License No. OPR 8329 was upgraded to include
11 Branches 2 and 3 and became Branch 3 Qualifying Manager of Cooley's General Pest Control.

12 On August 21, 1997, Operator's License No. OPR 8329 was suspended for failure to
13 maintain the general liability insurance required per section 8690 of the Business & Professions
14 Code.

15 On August 29, 1997, Operator's License No. OPR 8329 was reinstated after posting general
16 liability insurance per section 8690 of the Business & Professions Code.

17 On March 12, 1998, Accusation No. 98-20 was filed against Operator's License No. OPR
18 8329.

19 On November 23, 1998, the Decision rendered in Accusation 98-20 suspended Operator's
20 License No. OPR 8329 for 30 days, stayed, 5 days actual suspension and three years probation
21 with terms and conditions.

22 On September 16, 2001, the Decision rendered in Accusation and Petition to Revoke
23 Probation 2000-6 revoked Operator's License No. OPR 8329, stayed, 40 days suspension and 3
24 years probation with terms and conditions.

25 On September 24, 2001, Operator's License No. OPR 8329 became the President and
26 Qualifying Manager of Cooley's General Pest and Termite Control, Inc.

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1 On August 22, 2002, Operator's License No. OPR 8329 was suspended for failure to
2 maintain the general liability insurance as required by section 8690 of the Business & Professions
3 Code.

4 On August 27, 2002, Operator's License No. OPR 8329 was reinstated after posting the
5 general liability insurance.

6 On March 28, 2003, Operator's License No. OPR 8329 was issued a \$500 fine for violation
7 of regulations and the fine was paid on May 13, 2003.

8 On June 1, 2009, Operator's License No. OPR 8329 was suspended for failure to maintain
9 the general liability insurance as required by section 8690 of the Business & Professions Code.

10 On June 4, 2009, Operator's License No. OPR 8329 was reinstated after posting the general
11 liability insurance.

12 On August 29, 2014, Operator's License No. OPR 8329 was suspended for failure to
13 maintain the general liability insurance as required by section 8690 of the Business & Professions
14 Code.

15 4. On August 24, 1990, Company Registration Certificate No. PR 1622 reflected a
16 change of name to Cooley's General Pest Control and was upgraded to include Branches 2 and 3.

17 On November 16, 1991, Company Registration Certificate No. PR 1622 was suspended for
18 failure to maintain the general liability insurance as required per section 8690 of the Business &
19 Professions Code.

20 On February 20, 1992, Company Registration Certificate No. PR 1622 was reinstated after
21 posting general liability insurance.

22 On December 1, 1992, Company Registration Certificate No. PR 1622 reflected a change of
23 Branch 3 qualifying manager to John Cooley.

24 On January 11, 1996, Company Registration Certificate No. PR 1622 was suspended for
25 failure to maintain a surety bond in the amount of \$4,000 as required by section 8697 of the
26 Business & Professions Code.

27 On February 20, 1996, Company Registration Certificate No. PR 1622 was reinstated after
28 posting the surety bond.

1 On August 21, 1997, Company Registration Certificate No. PR 1622 was suspended for
2 failure to maintain general liability insurance per section 8690 of the Business & Professions
3 Code.

4 On August 29, 1997, Company Certificate No. PR 1622 was reinstated after posting general
5 liability insurance.

6 5. On March 12, 1998, an Accusation 98-20 was filed against Company Registration
7 Certificate No. PR 1622.

8 On November 23, 1998, the Decision rendered in Accusation No. 98-20 suspended
9 Company Registration Certificate No. PR 1622 for 30 days, stayed, five days actual suspension
10 and three years probation with terms and conditions.

11 On September 16, 2001, Accusation and Petition to Revoke Probation 2000-6 revoked
12 Company Registration Certificate No. PR 1622, stayed, 40 days suspension and 3 years probation
13 with terms and conditions.

14 On September 24, 2001, Company Registration Certificate No. PR 1622 was cancelled due
15 to re-registration as a corporation.

16 JURISDICTION

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

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

24 8. Section 8620 of the Code states:

25 "The board may upon its own motion, and shall upon verified complaint in writing of any
26 person, investigate the actions of any individual acting as a licensee, or making application for a
27 license.

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1 "After a hearing, the board may temporarily suspend or permanently revoke a license issued
2 under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or
3 more of the acts or omissions constituting grounds for disciplinary action. In addition to its
4 authority to suspend or revoke a license, the board may assess a civil penalty as follows:

5 "(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with
6 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed
7 decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts
8 or omissions constituting grounds for disciplinary action, the proposed decision shall provide for
9 the imposition of a suspension or for the revocation of the license. In this case, the board may
10 impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil
11 penalty. The licensee may express a preference for a form of discipline, but the board shall not
12 be bound by any expression of preference.

13 "If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing,
14 the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

15 "If a proposed stipulation is rejected by the board, it is null and void and does not constitute
16 an admission of any violation charged.

17 "(b) The civil penalty shall not be more than five thousand dollars (\$5,000) for an actual
18 suspension of one to 19 days.

19 "(c) The civil penalty shall not be more than ten thousand dollars (\$10,000) for an actual
20 suspension of 20 to 45 days.

21 "(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty
22 shall be paid before the effective date of the decision.

23 "(e) If the civil penalty is not paid before the effective date of the suspension, the license
24 shall be suspended until the penalty is paid or until the actual suspension is served.

25 "No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With
26 the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section
27 8617, the proceedings under this article shall be conducted in accordance with Chapter 5
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1 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and
2 the board shall have all the powers granted therein.

3 "In any order of suspension or revocation, the board may authorize the completion of any
4 contract or work contracted for under terms and conditions set forth in the order."

5 9. Pursuant to section 8624 of the Code, the causes for discipline established as to
6 Respondent Cooley's General Pest & Termite Control, Inc. likewise constitute cause for discipline
7 against John Cooley regardless of whether John Cooley had knowledge of or participated in the
8 acts or omissions which constitute cause for discipline against Respondent Cooley's General Pest
9 & Termite Control, Inc..

10 10. Pursuant to section 8624 of the Code, if Operator License Number OPR 8329 issued
11 to Respondent is suspended or revoked, the Board may suspend or revoke Company Registration
12 Certificate Number PR 4027, issued to Cooley's General Pest & Termite Control, Inc..

13 11. Section 8625 of the Code states:

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

19 STATUTORY PROVISIONS

20 12. Section 8593 states, in pertinent part:

21 The board shall require as a condition to the renewal of each operator's and field
22 representative's license that the holder submit proof satisfactory to the board that he or she has
23 informed himself or herself of developments in the field of pest control either by completion of
24 courses of continuing education in pest control approved by the board or equivalent activity
25 approved by the board. In lieu of submitting that proof, the license holder, if he or she so desires,
26 may take and successfully complete an examination given by the board, designed to test his or her
27 knowledge of developments in the field of pest control since the issuance of his or her license.

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1 (d) Field representatives licensed in one branch of pest control shall have completed 16
2 continuing education hours, field representatives licensed in two branches of pest control shall
3 have completed 20 continuing education hours, field representatives licensed in three branches of
4 pest control shall have completed 24 continuing education hours during each three year renewal
5 period. In each case, a minimum of four continuing education hours in a technical subject directly
6 related to each branch of pest control held by the licensee must be completed for each branch of
7 pest control licensed, a minimum of two hours in Integrated Pest Management must be completed
8 by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours
9 must be completed from Board approved courses on the Structural Pest Control Act, the Rules
10 and Regulations, or structural pest control related agencies' rules and regulations.

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COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

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(Failure to Provide Proof of Continuing Education)

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18. Respondent is subject to disciplinary action under Code section 8641 in that he failed
to verify the completion of 20 hours continuing education hours as claimed on his renewal
application dated June 15, 2012, as required by California Code of Regulations, title 16, section
1950, subdivision (a) and (c), and having been requested by the Board to do so in writing on
November 28, 2012, January 9, 2013, and October 23, 2013.

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SECOND CAUSE FOR DISCIPLINE

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(Misrepresentation)

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19. Respondent is subject to disciplinary action under section 8637 for misrepresentation
of a material fact on his June 15, 2012 License Renewal Application by certifying under penalty

1 of perjury that he had completed the continuing education required to renew his license, when in
2 fact he had not done so.

3 OTHER MATTERS

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

9 21. Pursuant to Code section 8654, if discipline is imposed on Operator's License
10 Number OPR 8329, issued to Respondent, then Respondent shall be prohibited from serving as an
11 officer, director, associate, partner, qualifying manager, or responsible managing employee for
12 any registered company during the time the discipline is imposed, and any registered company
13 which employs, elects, or associates Respondent shall be subject to disciplinary action.

14 DISCIPLINE CONSIDERATIONS

15 22. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about September 24, 2001, for Company Registration Certificate
17 No. PR 4027, revoked, stayed suspended 40 days and three year probation.

18 On September 16, 2001, Accusation and Petition to Revoke Probation No. 2000-6 revoked,
19 stayed, suspended 40 days and three years probation for Operator License No. OPR 8329.

20 PRAYER

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

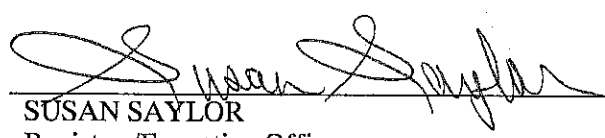
- 23 1. Revoking or suspending Company Registration Certificate Number PR 4027 issued to
24 Cooley's General Pest & Termite Control, Inc.; John Cooley Qualifying Manager;
- 25 2. Revoking or suspending Operator's License No. OPR 8329 issued to John Cooley;
- 26 3. Prohibiting John Cooley from serving as an officer, director, associate, partner,
27 qualifying manager or responsible managing employee of any registered company during the
28 period that discipline is imposed on Operator License No. OPR 8329, issued to John Cooley.

1 4. Ordering John Cooley to pay the Structural Pest Control Board the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3; and,

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

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DATED: 9/25/14



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

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