BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: SATELLITE PEST CONTROL CORY RICO WILSON, Owner & Qualifying Manager Company Registration No. PR 5201, Br. 2 & 3 and CORY RICO WILSON Operator's License No. OPR 11142, Br. 2 Field Representative License No. FR 47359, Br. 3 and RICARDO ALONSO WILSON Operator's License No. OPR 11859, Br. 3 Respondents.	Case No.: 2013-8 OAH No.: 2012110419

ORDER DENYING PETITION FOR RECONSIDERATION

Pursuant to section 11521 of the Government Code, the Structural Pest Control Board (Board), having considered a Petition for Reconsideration submitted by Respondent's Counsel in the above–captioned matter and determining that good cause for the granting of reconsideration was not established, hereby denies the Petition. The Board's Decision and Order dated October 23, 2014 shall become effective on **January 2, 2015.**

IT IS SO ORDERED this 31st day of December 2014.

for

SUSAN SAYLOR
Registrar/Executive Officer
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: SATELLITE PEST CONTROL; CORY RICO WILSON, Owner & Qualifying Manager Company Registration No. PR 5201, Br. 2 & 3, and CORY RICO WILSON Operator's License No. OPR 11142, Br. 2 Field Representative License No. FR 47359, Br. 3 and RICARDO ALONSO WILSON Operator's License No. OPR 11859, Br. 3, Respondents.	Case No. 2013-8 OAH No. 2012110419

ORDER GRANTING 10 DAY STAY TO CONSIDER PETITION FOR RECONSIDERATION

Pursuant to Section 11521 of the Government Code, the Decision adopted by the Structural Pest Control Board in the above-entitled matter is hereby stayed for ten (10) days until January 1, 2015, in order to permit the Board to decide whether to order reconsideration.

IT IS SO ORDERED this 22nd day of December 2014.

for

SUSAN SAYLOR
Registrar/Executive Officer
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: SATELLITE PEST CONTROL; CORY RICO WILSON, Owner & Qualifying Manager Company Registration No. PR 5201, Br. 2 & 3, and CORY RICO WILSON Operator's License No. OPR 11142, Br. 2 Field Representative License No. FR 47359, Br. 3 and RICARDO ALONSO WILSON Operator's License No. OPR 11859, Br. 3, Respondents.	Case No. 2013-8 OAH No. 2012110419

ORDER GRANTING STAY OF EXECUTION OF DECISION

The Decision herein having been made and entered on October 23, 2014, to become effective on November 22, 2014, and respondents now having petitioned for a stay for the purposed of filing a petition for reconsideration and good cause appearing therefor,

IT IS HEREBY ORDERED that a stay until December 22, 2014 be granted for the purpose of filing a petition for reconsideration.

DATED: November 21, 2014

SUSAN SAYLOR
Registrar/Executive Officer
Department of Consumer Affairs

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: SATELLITE PEST CONTROL; CORY RICO WILSON, Owner & Qualifying Manager Company Registration No. PR 5201, Br. 2 & 3, and CORY RICO WILSON Operator's License No. OPR 11142, Br. 2 Field Representative License No. FR 47359, Br. 3 and RICARDO ALONSO WILSON Operator's License No. OPR 11859, Br. 3, and BOBBY BURGESS Field Representative's License No. FR 43885, Br. 2 & 3, Respondents.	Case No. 2013-8 OAH No. 2012110419

DECISION

The Proposed Decision of Erlinda G. Shrenger, Administrative Law Judge, dated September 30, 2014, in Los Angeles, is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c) to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

1. On page 1, in the heading, "DEPARTMENT OF PESTICIDE REGULATION" is stricken and replaced with "DEPARTMENT OF CONSUMER AFFAIRS".

2. On page 1, in the caption, "Field Represenative License No. FR 47359" is stricken and replaced with "Field Representative License No. FR 47359".

3. On page 1, paragraph 3, "Satellie Pest" is stricken and replaced with "Satellite Pest".

4. On page 2, paragraph number 1, "Susan Saylor" is stricken and replaced with "William H.

Douglas", "her" is stricken and replaced with "his" and "Interim Registrar/Executive Officer" is stricken and replaced with "former Interim Registrar/Executive Officer".

5. On page 3, paragraph number 6, "May 26, 2006" is stricken and replaced with "May 26, 2009".

The Proposed Decision as amended is hereby accepted and adopted as the Decision and Order by the Structural Pest Control Board, Department of Consumer Affairs, State of California.

This Decision shall become effective on November 22, 2014.

IT IS SO ORDERED October 23, 2014.

FOR THE STRUCUTRAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation Against: SATELLITE PEST CONTROL; CORY RICO WILSON, Owner & Qualifying Mgr. Company Registration Certificate No. PR 5201, Br. 2 & 3, and CORY RICO WILSON Operator's License No. OPR 11142, Br. 2 Field Represenative License No. FR 47359, Br. 3, and RICARDO ALONSO WILSON Operator's License No. OPR 11859, Br. 3, and BOBBY BURGESS Field Representative License No. FR 43885, Br. 2 & 3, Respondents.	Case No. 2013-8 OAH No. 2012110419

PROPOSED DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings, State of California, on September 9 and 10, 2013, and April 28, 29, and 30, 2014, in Los Angeles.

Helene E. Swanson, Deputy Attorney General, represented complainant.

Damon L. Hobdy, Attorney at Law, represented respondents Satellie Pest Control, Cory Rico Wilson, Ricardo Alonso Wilson, and Bobby Burgess.

Oral and documentary evidence was received on the hearing dates. The record was held open to allow the parties to submit closing briefs. The parties timely filed their briefs. Complainant's closing brief and reply brief were marked as exhibits 45 and 46, respectively. Respondents' closing brief was marked as exhibit BB. The record was closed and the matter was deemed submitted on July 9, 2014.

FACTUAL FINDINGS

Parties and Jurisdiction

1. On July 26, 2012, complainant Susan Saylor brought the Accusation solely in her official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs, State of California (Board).

2. On August 8, 2012, respondent Cory Rico Wilson filed a notice of defense individually and on behalf of respondent Satellite Pest Control. On August 8, 2012, respondent Ricardo A. Wilson filed a notice of defense. On August 6, 2012, respondent Bobby Burgess filed a notice of defense. All jurisdictional requirements have been met.

License Histories

3. On July 5, 2005, the Board issued operator license number OPR 11142, in Branch 2, to respondent Cory Rico Wilson (Cory Wilson), as an employee of Orkin Exterminating Company, Inc. (Orkin). On January 2, 2007, Cory Wilson, holding operator license number 11142, became the owner and Branch 2 qualifying manager of respondent Satellite Pest Control (SPC). On December 9, 2011, Cory Wilson's operator license was placed on three years' probation pursuant to the Decision in Accusation No. 2010-67. Cory Wilson's operator license is current and renewed through June 30, 2017.[1]

4. On January 17, 2012, the Board issued field representative license number FR 47359, in Branch 3, to Cory Wilson, as an employee of SPC. Cory Wilson's field representative license is current and renewed through June 30, 2017.

5. On January 2, 2007, the Board issued company registration certificate number PR 5201, in Branch 2, to SPC, with Cory Wilson as the owner and qualifying manager. On July 1, 2009, SPC's company registration certificate was upgraded to

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[1] Official notice is taken that the Board's public website indicates that the licenses of each of the respondents, described in Findings 3 through 7, are renewed through June 30, 2017. (Gov. Code, §§ 11515, 11513, subd. (c); Evid. Code, § 452, subd. (c).)

include Branch 3, with respondent Ricardo Alonso Wilson (Ricardo Wilson) as the Branch 3 qualifying manager. SPC's company registration certificate was in full force and effect at all relevant times and will remain active, unless canceled or revoked.

6. On March 15, 1999, the Board issued field representative license number FR 30619, in Branch 3, to Ricardo Wilson, as an employee of Orkin. The license was cancelled on May 26, 2006, due to the Board's issuance of operator license number OPR 11859, in Branch 3, to Ricardo Wilson, as an employee of Orkin. On July 1, 2009, Ricardo Wilson, holding operator license number OPR 11859, became the Branch 3 qualifying manager for SPC. Ricardo Wilson's operator license is current and renewed through June 30, 2017.

7. Respondent Bobby Burgess is licensed by the Board as a field representative. His field representative license number FR 43885, in Branches 2 and 3, was issued by the Board on December 19, 2008. Bobby Burgess' field representative license is current and renewed through June 30, 2017.

Garetal Street Property

8. On May 14, 2010, SPC performed a WDO inspection[2] at a single-family, one-story house located at 11630 Garetal Street in Santa Fe Springs (Property). The inspection was requested by G.V., who was the owner of the Property at the time. SPC issued a "complete" WDO inspection report dated May 14, 2010 (May 2010 inspection report). (Exh. 5.)

9. The May 2010 inspection report included findings that the Property had evidence of drywood termites, cellulose debris, and dryrot fungi in the substructure; evidence of drywood termites on the exterior back porch, the attic, and the garage; evidence of drywood termites on window sills and wall framings; and evidence of drywood termites and dryrot fungi on exterior rafter tails and facias. The May 2010 inspection report included a primary recommendation to fumigate the structure for the reported evidence of drywood termites in the substructure and the attic, and a secondary recommendation to treat the entire substructure and attic with Timbor or Boracare and treat the termite galleries with Premise 2. The recommendations also included removing or treating the cellulose debris from the substructure, scrape and chemically treat the decay fungi, and treat the other areas with reported evidence of drywood termites with Timbor or Boracare, and treat the termite galleries with Premise 2.

10. SPC did not fumigate the Property following the May 2010 inspection. Instead, SPC treated the evidence of drywood termites found in the attic, substructure, and garage with Borates, by drilling the wood and injecting the Borates into the

[2] As used herein, WDO refers to wood destroying pests and organisms.

termite galleries. According to Ricardo Wilson and Cory Wilson, the primary recommendation of fumigation and the secondary recommendation of treatment with Borates was explained to the homeowner, G.V. SPC performed the Borates treatment because that was the treatment method chosen by G.V. Ricardo Wilson and Cory Wilson each contend that SPC was not allowed to fumigate the Property because they found no active infestation during the WDO inspection on May 14, 2010.

11. In November 2010, Tim Jakcsy (Jakcsy) purchased the Property from G.V. Escrow on the transaction closed on November 8, 2010. Prior to the close of escrow, Jakcsy was informed that the Property was free from termite infestation. He was given a copy of the May 2010 inspection report as part of the escrow documents.

12. Jakcsy had some remodeling work done on the Property starting in December 2010. The interior of the T.V. room was remodeled. Drywall was installed and a walk-in closet was covered up; walls were painted and stair rails were removed; carpet was added; and wood floors were sanded. The work was completed by February or March 2011. After moving into the house, Jakcsy noticed termite droppings throughout the Property, but he thought they were old droppings that had shaken loose because of vibrations from the construction.

13. In July 2011, Jakcsy hired A-Accredit Termite & Pest Control Co. (A-Accredit) to inspect and treat the Property for ants and cockroaches. Jakcsy also asked A-Accredit to inspect for termites. On July 7, 2011, A-Accredit inspected the Property. A-Accredit's inspector, Manuel Pech, informed Jakcsy that there was an active infestation of termites at the Property. Jakcsy showed Pech the May 2010 inspection report. Pech told Jakcsy that, based on that report, the Property should have been fumigated.

14. On August 8, 2011, Jakcsy filed a complaint against SPC with the Board. The basis for the complaint was Jakcsy's contention that SPC failed to properly treat the Property for termite infestation. Jakcsy contends that SPC should have fumigated the house. (Exh. 9.)

15. In mid-August 2011, Jakcsy spoke by telephone with Cory Wilson regarding the termite infestation at the Property. On August 29, 2011, Cory Wilson performed a termite inspection of the Property. He came alone to the Property. Jakcsy was present at the Property during the inspection, which lasted 20 minutes. Cory Wilson inspected the interior and exterior of the home, including the remodeled area, and crawled under the house to inspect the substructure. He did not inspect the attic. While Cory Wilson was under the house, Jakcsy waited outside and heard digging sounds and then heard an aerosol can being sprayed. Jakcsy later saw a spray can in Cory Wilson's truck. At the end of the inspection, Cory Wilson told Jakcsy that he saw no evidence of active termite infestation. He offered to have SPC retreat the Property at no cost to Jakcsy. Cory Wilson also told Jakcsy that he would be sending him a new inspection report.

16. Later on August 29th or the next day, Cory Wilson spoke by telephone with Jakcsy and asked if he could come back to the Property to inspect the attic and patio. Jakcsy agreed. On August 30, 2011, Cory Wilson performed an inspection of the Property, which lasted 20 to 30 minutes. Jakcsy was present at the Property during the inspection. According to Jakcsy, Cory Wilson walked around the exterior of the home, inspected the patio, and crawled into the attic. Jakcsy showed Cory Wilson termite dust in the garage. Cory Wilson brushed away the termite dust with his hand and told Jakcsy he did so because if new dust appeared, that would indicate an active infestation. At the end of the inspection, Cory Wilson told Jakcsy he saw no evidence of active termite infestation on the Property.

17. Eventually, Jakcsy made a claim against SPC's insurance company and bonding company. Jakcsy negotiated a settlement with both companies for a total of $5,000. In November 2012, Jakcsy had the Property fumigated by another pest control company.

Inspection by Board's Investigator

18. Steven Smith (Smith) is the Board's investigator who was assigned to investigate Jakcsy's complaint against SPC. Smith has worked for the Board for 11 years. He has been licensed by the Board since 1974. Smith is licensed as an operator in Branch 3 and a field representative in Branch 2. He has worked for other businesses and owned his own companies. His licenses are currently inactive because of his employment as a Board investigator. Smith is also licensed in California as a general building contractor (classification B).

19. On October 28, 2011, Smith received a fax from Cory Wilson which included a copy of a "complete" WDO inspection report dated August 30, 2011 issued by SPC regarding the Property (August 2011 inspection report). (Exh. 15.) According to Jakcsy, he received the August 2011 inspection report "several weeks" after Cory Wilson inspected the Property on August 29 and 30, 2011.[3]

20. The August 2011 inspection report indicated the inspection was performed by Ricardo Wilson on August 30, 2011. The report indicated that the areas of the Property inspected were the substructure, attic, garage, patio, and interior and exterior of the house. The report noted there was evidence of drywood termites found in the substructure and garage, but the infestation was inactive, and there was no evidence of termite activity in the other areas inspected. The report noted that the substructure, attic, and garage were previously treated with Timbor or Boracare.

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[3] Pursuant to Business and Professions Code section 8516, subdivision (b), a written inspection report must be delivered to the person requesting the inspection within 10 business days of the inspection.

21. (A) On October 31, 2011, Smith performed an inspection of the Property. The inspection lasted approximately three hours. Jakcsy was present at the Property during the inspection. Smith inspected the substructure, attic, garage, patio, and the home's exterior. Smith took photographs of the conditions he saw during the inspection. (Exh. 16.)

(B) In the substructure, Smith found cellulose debris, some of which was on the ground, including a sock, pieces of wood, and the cardboard from a paper towel roll. (Exh. 16, pp. 152-158.) He also found evidence of drywood termites and termite damage (Exh. 16, pp. 159-170), and evidence of excessive moisture conditions in the form of water stains and corroded pipes. (Exh. 16, pp. 171-173.)

(C) In the attic, Smith found drywood termite damage on the rafters and roof sheathing. (Exh. 16, pp. 175-179). When Smith touched one area of the roof sheathing (Exh. 16, p. 177), termite pellets fell out. Termite pellets occur from infestations that are two to four years old. Smith saw no other areas in the attic with termite pellets.

(D) In the garage, Smith found evidence of drywood termite damage, including termite pellets, which occur from infestations that are two to four years old, and frass, which indicates a new or recent infestation. (Exh. 16, pp. 181-185.) Smith also found drywood termite damage at a rafter tail on the garage and estimated that the damage he saw would take a minimum of 10 years to occur. (Exh. 16, p. 186.)

(E) In the patio, Smith found drywood termite damage at a rafter, a fascia board, load posts, and a patio header. (Exh. 16, pp. 188-193.) Smith opined that the conditions and damage he saw would take from five to 10 years to occur. Smith testified that drywood termites are slow workers and it can take up to 10 years before wood damage from drywood termites appears. There was also termite damage and decay fungi on the patio framing. (Exh. 16, pp. 194-199.) Smith also observed evidence of an excessive moisture condition in the form of water stains on the patio framing. (Exh. 16, p. 200.)

(F) On exterior of the home, Smith found decay fungi at the kitchen window (Exh. 16, p. 201), and evidence of live termites and termite damage, and decay fungi, in the eaves, patio framing, roof sheathing, and rafter tails. (Exh. 16, pp. 203-210.) When Smith touched a rafter tail in the back of the house (Exh. 16, p. 203), it sounded hollow. When Smith poked his screw driver into the rafter tail, a live termite fell on to his flashlight. Smith estimated that the damage he saw on this rafter tail would take eight years to occur. This particular board is 10 feet long and extends into the ceiling but only one foot of the board is visible and accessible. Smith's opinion is that fumigation should have been recommended to treat this condition.

22. Based on his inspection of the Property, Smith opined that the appropriate treatment for the Property was fumigation. Smith's opinion is that the majority of the conditions and damage he found during his inspection of the Property existed at the time of SPC's WDO inspection on May 14, 2010, and should have been reported by SPC in the May 2010 inspection report, but SPC had not done so.

Report of Findings

23. Pursuant to Business and Professions Code section 8622, Smith sent a transmittal letter and a Report of Findings dated November 9, 2011, to SPC and Ricardo Wilson, which identified 19 violations of the Board's laws and regulations by SPC in regards to its failure to report certain items and conditions at the Property in the May 2010 and/or August 2011 inspection reports. (Exh. 22.) The transmittal letter stated that SPC had 30 days from its receipt of the letter to: (1) inspect the Property and submit a WDO inspection report that addresses the items in the Report of Findings; (2) bring the Property into compliance by correcting the items in the Report of Findings; and (3) submit a "Standard Notice of Work Completed and Not Completed" to the Board. SPC and Ricardo Wilson received the Report of Findings on November 17, 2011.

24. Smith's determination that SPC committed the 19 violations identified in the Report of Findings was based on his October 31, 2011 inspection of the Property. Smith had attempted to review and obtain copies of SPC's records regarding the Property, but those attempts were unsuccessful. On October 27, 2011, Smith went to SPC's business address of record with the Board, which was 817 North Vine in Los Angeles. At that location, Smith was informed by the security guard of the building that SPC had moved out two to three weeks earlier. Smith subsequently spoke by telephone with Cory Wilson, who confirmed that SPC had moved from the North Vine location and that SPC's records were in storage. Smith arranged to meet with Cory Wilson and Ricardo Wilson at a restaurant on November 1, 2011. Smith requested that they bring SPC's completion notice for the Property and any other inspection reports for the Property to the meeting. The meeting occurred on November 1, 2011 at a Denny's restaurant. Cory Wilson and Ricardo Wilson did not bring any of the documents requested by Smith to the meeting.

25. Based on the Report of Findings (Exh. 22) and the testimony of Smith, it was established that SPC failed to report certain items in the May 2010 and/or August 2011 inspection reports, in violation of Business and Professions Code (Code) sections 8516 and 8638, and California Code of Regulations, title 16 (Regulations), sections 1990 and 1991, as follows:

(1) Failed to report the cellulose debris in the substructure on the August 2011 inspection report, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (b)(3).

(2) Failed to report the full extent of the evidence of drywood termites in the substructure, on the May 2010 and August 2011 inspection reports, in violation of Code section, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(3).

(3) Failed to report the drywood termite damage in the substructure, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(4) Failed to report the evidence of an excessive moisture condition (water stains) in the substructure, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (b)(5).

(5) Failed to report the evidence of an excessive moisture condition (corroded pipes) in the substructure on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (b)(5).

(6) Failed to report the evidence of drywood termites and drywood termite damage in the attic, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(7) Failed to report the full extent of the evidence of drywood termites in the garage, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(3).

(8) Failed to report the drywood termite damage, inside and outside of the garage, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(9) Failed to report the evidence of drywood termites and drywood termite damage at the patio, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(10) Failed to report the dry rot (decay fungi damage) at the patio, on the August 2011 inspection report, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(11) Failed to report the evidence of an excessive moisture condition (water stains) at the patio framing, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (b)(5).

(12) Failed to report the decay fungi damage at the kitchen window, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(13) Failed to report the evidence of drywood termites and drywood termite damage in the house eaves, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(14) Failed to report the decay fungi damage in the house eaves, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivisions (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(15) Failed to make proper recommendations regarding the reported evidence of drywood termites, on the May 2010 and August 2011 inspection reports, in violation of Code section 8516, subdivision (b)(10), and Regulations section 1991, subdivision (a)(8). SPC's recommendations failed to include a recommendation to cover or remove the accessible evidence of infestation.

(16) Failed to make a proper finding and recommendation regarding the reported decay fungi and/or decay fungi damage, on the May 2010 inspection report, in violation of Code section 8516, subdivisions (b)(7) and (10), and Regulations section 1991, subdivision (a)(5). SPC's failed to identify the excessive moisture conditions responsible for the infections, and failed to include a recommendation to correct the excessive moisture conditions responsible for the infections.

(17) Failed to complete the work regarding the removal of the cellulose debris in the substructure, reported on the May 2010 inspection report, in violation of Code section 8638 and Regulations section 1991, subdivision (a)(2). Cellulose debris remained throughout the substructure.

(18) Failed to complete the work regarding the treatment of the decay fungi at the patio, reported on the May 2010 inspection report, in violation of Code section 8638 and Regulations section 1991, subdivision (a)(5). Decay fungi damage remained at the reported areas.

(19) Failed to exterminate the evidence of drywood termites, reported on the May 2010 inspection report, through the use of a secondary chemical treatment, in violation of Code section 8638. Active drywood termite infestations remained at the reported areas in the house and garage. Fumigation, or another all-encompassing method of treatment, was required to eliminate the infestations.

26. On December 2, 2011, Smith received an email which identified the sender as "Ricardo Wilson." (Exh. 25.) Cory Wilson testified that he actually sent the email. The email indicated that SPC's intention was "to fully comply" with the Report of Findings. Later on December 2, 2011, the Board's office in Sacramento received a fax from Cory Wilson which transmitted a copy of a "complete" WDO inspection report dated November 21, 2011, issued by SPC regarding the Property (November 2011 inspection report). (Exh. 26.) Smith received a copy of the November 2011 inspection report on December 9, 2011.

27. After reviewing the November 2011 inspection report, Smith determined there were 22 items that SPC needed to correct in the report in order to bring the Property into compliance. On December 12, 2011, Smith sent a Report of Findings Compliance Instruction Letter #1 (Instruction Letter #1) to SPC and Ricardo Wilson, which detailed the 22 items that SPC needed to correct to bring the Property into compliance. (Exh. 27.) Instruction Letter #1 stated, in part: "Please give this matter your immediate attention. The 30 days you're allowed to bring this property into compliance will expire soon." The 30-day period began to run on November 17, 2011, upon SPC's receipt of the Report of Findings.

28. Based on Instruction Letter #1 (Exh. 27) and the testimony of Smith, it was established that SPC failed to make proper recommendations and failed to report certain items in the November 2011 inspection report, in violation of Code section 8516 and Regulations sections 1990 and 1991, as follows:

(1) Failed to contain a proper recommendation for the reported cellulose debris in the substructure, in violation of Code section 8516, subdivision (b)(10), and Regulations section 1991, subdivision (a)(2).

Cellulose debris in contact with the soil is required to be removed from the substructure.

(2) Failed to report the evidence of drywood termites in the substructure, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3).

(3) Failed to report the drywood termite damage in the substructure, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(4) Failed to report the evidence of an excessive moisture condition (water stains) in the substructure, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (b)(5).

(5) Failed to report the evidence of an excessive moisture condition (corroded pipes) in the substructure, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (b)(5).

(6) Failed to report the evidence of drywood termites in the attic, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(7) Failed to report the full extent of the drywood termite damage in the attic, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(8) Failed to contain a proper recommendation for the reported drywood termite damage in the attic, in violation of Code section 8516, subdivision (b)(10), and Regulations section 1991, subdivision (a)(5).

(9) Failed to report the full extent of the evidence of drywood termites in the garage, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3).

(10) Failed to contain a proper recommendation for the reported evidence of drywood termites in the garage, in violation of Code section 8516, subdivision (b)(10), and Regulations section 1991, subdivision (a)(8). Evidence of drywood termites present in the garage indicated that infestations extended into inaccessible areas.

(11) Failed to report the drywood termite damage in the garage, in violation of Code section 8516, subdivision (b)(7), and Regulations section 1990, subdivision (a)(4).

(12) Failed to report the full extent of the evidence of drywood termites at the patio, in violation of Code sections 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(13) Failed to report the full extent of the drywood termite damage at the patio, in violation of Code sections 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(14) Failed to report the full extent of the decay fungi damage at the patio, in violation of Code sections 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(15) Failed to contain a proper recommendation for the reported evidence of an excessive moisture condition at the patio, in violation of Code section 8516, subdivision (b)(10).

(16) Failed to report the decay fungi damage at the kitchen window, in violation of Code sections 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

(17) Failed to make a proper recommendation for the reported excessive moisture condition and fungi damage at the side beam and fascia, in violation of Code section 8516, subdivision (b)(10).

(18) Failed to report the evidence of drywood termites at the garage rafter tail, in violation of Code section 8516, subdivision(b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(19) Failed to contain a proper recommendation for the reported termite damage at the garage rafter tail, in violation of Code section 8516, subdivision (b)(10).

(20) Failed to report the evidence of drywood termites in the house eaves, in violation of Code sections 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(21) Failed to report the drywood termite damage in the house eaves, in violation of Code sections 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(3) and (4).

(22) Failed to report the decay fungi damage in the house eaves, in violation of Code section 8516, subdivision (b)(6) and (7), and Regulations section 1990, subdivision (a)(4).

29. SPC did not bring the Property into compliance within 30 days of its receipt of Report of Findings. Smith returned the file to the Board's office in Sacramento for enforcement action against the respondents. The Accusation was filed on July 26, 2012.

30. Cory Wilson testified that he never received Instruction Letter #1 from the Board, he only saw a copy of the letter that was sent to him by his insurance company, and he responded to his insurance company to express his disagreement with Instruction Letter #1. Instruction Letter #1 was addressed to Ricardo Wilson and SPC at P.O. Box 191246, the mailing address Cory Wilson repeatedly claimed during the hearing was SPC's principal office. Cory Wilson testified to his receipt of other correspondence at that same P.O. Box address. (E.g., Exhs. C and 10.) Cory Wilson's claim that he did not receive Instruction Letter #1 was not credible. His testimony does not excuse or justify SPC's failure to timely comply with the Report of Findings and Instruction Letter #1. In addition, Cory Wilson presented four emails purportedly sent to William Douglas at the Board dated December 29, 2011, and January 10 and 11, 2012, regarding the Report of Findings and Jakcsy's complaint. (Exh. W.) No evidence was presented to corroborate that these emails were actually sent and/or received by William Douglas (e.g., a written response or reply email from Douglas). The emails do not establish excuse or justification for the failure to comply with the Report of Findings and Instruction Letter #1.

Change of Principal Office Location

31. SPC's company registration was issued on January 2, 2007, with SPC's principal business address designated as 817 North Vine, Los Angeles, California 90038. SPC's business address of record with the Board remained unchanged until January 26, 2012, when the business address was changed to 2634 Dalton Avenue, Unit #5, Los Angeles, California 90019. (Exh. 38.) When Smith visited the North Vine location on October 27, 2011, he was informed by the security guard at the building that SPC had already moved out of that location. No records of SPC were available for Smith to review as required under Code section 8652.

32. Cory Wilson testified that he notified the Board of a change in SPC's business address from the 817 North Vine location. First, he presented a letter dated September 20, 2011, that the Board sent to SPC which stated in part, that the Board "received your letter regarding the change of address for Satellite Pest Control." The letter instructed SPC to complete the enclosed Request for Change of Address form to update SPC's business address, and to return the completed form to the Board along with the $25 fee. (Exh. G.) Second, he presented a letter dated October 24, 2011, that he sent to the Board indicating that he was notifying the Board "of our change of address at 817 North Vine suite 205." The letter explained: "The property has new owners and we are waiting for their moving order to see what suites are available for us to rent. Our mailing address remains the same." (Exh. 18.) The Board received

this letter on October 31, 2011. Cory Wilson also testified that SPC had not moved from the 817 North Vine location when Smith visited on October 27, 2011.

33. It was established that SPC failed to notify the Board of a change in the location of SPC's principal office as required by Code section 8613. No evidence was presented that SPC completed a Request for Change of Address form and paid the required fee to update SPC's business address with the Board prior to January 26, 2012. The letters referenced by Cory Wilson during his testimony (Exhs. G and 18) are insufficient to establish compliance with Code section 8613. Cory Wilson's letter dated October 24, 2011, failed to identify a new address for SPC's principal office. As far as the Board's records were concerned, and in accordance with Code section 8613, the address of record for SPC's principal office remained as 817 North Vine from January 2, 2007, until January 26, 2012. SPC changed the location of its principal office without notifying the Board within 30 days of the change, in violation of Code section 8613.

Reporting WDO Activity

34. As a registered company in Branch 3, SPC is required to report to the Board the address of each property inspected or upon which work is completed related to wood-destroying pests or organisms. SPC is required to make such report to the Board no later than 10 days after the commencement of an inspection or upon completed work. (Code, § 8516, subd. (b); Regulations § 1996.3.) Board licensees can submit reports electronically to the Board to report WDO activity, as required under Code section 8516.

35. Kayla Wilson testified at this hearing. She is Cory Wilson's niece and Ricardo Wilson's granddaughter. Kayla Wilson worked for SPC in 2009 and 2010 doing office work, answering phones, and entering data on a computer, including electronically submitting SPC's activity and inspection reports to the Board. Kayla Wilson was 16 years old when she began working at SPC in June 2009. She testified that Cory Wilson trained her to input reports and complete electronic filings (e-filings) to the Board. She testified that she used handwritten notes provided to her by Cory Wilson for the information entered on the computer and submitted to the Board. She testified that neither Cory Wilson nor Ricardo Wilson checked her e-filings before they were submitted to the Board. Kayla Wilson admitted that Cory Wilson had "numerous conversations" with her about errors in her e-filings. She confirmed that no one at SPC reviewed her e-filings ahead of time, and she was never asked by Cory Wilson to correct an e-filing after she made a mistaken entry. Cory Wilson testified that he was unaware of any process to correct mistakes in WDO activity reports.

36. (A) On November 1, 2011, as part of his investigation, Smith performed several WDO activity searches of SPC to determine if SPC had been filing WDO activity reports with the Board as required by law. Smith's WDO activity

searches of SPC revealed that SPC filed four WDO activity reports with the Board indicating that Cory Wilson performed WDO inspections on April 1, 2, 3, and 7, 2011, under his Branch 2 operator license number OPR 11142. (Exh. 19, p. AGO-220.) In April 2011, Cory Wilson did not have a Branch 3 license issued to him by the Board. A Branch 3 license is required to perform work related to WDO. (Code § 8560, subd. (a).)

(B) Cory Wilson testified that the WDO activity reports showing that he performed four WDO inspections in April 2011 were erroneous and the result of data entry errors by his niece, Kayla Wilson. He testified that the four WDO inspections were performed by Ricardo Wilson and should have shown Ricardo Wilson's license number. Cory Wilson further testified that, to the extent that any of SPC's WDO entries for 2009, 2010, and 2011 refer to his operator license, those entries are data entry errors made by his niece Kayla Wilson. However, when Kayla Wilson was shown the printout of Smith's WDO activity searches, she could not identify the entries that she made. No records were presented to corroborate Cory Wilson's claim that the four WDO inspections were performed by Ricardo Wilson.

37. Smith's WDO activity searches disclosed that SPC reported that the WDO inspection of the Property on May 14, 2010, was performed by license number FR 43885, issued to Bobby Burgess. Smith's searches also disclosed that SPC reported that the August 30, 2011 WDO inspection was performed on August 28th by Ricardo Wilson. The evidence established that Cory Wilson conducted the WDO inspection of the Property on August 29 and 30, 2011. In his letter to Smith dated August 29, 2011, Cory Wilson indicated that he performed a WDO inspection at the Property on August 29th. Cory Wilson attributed the incorrect entry for the May 14, 2010 inspection, showing Bobby Burgess' license number, to a data entry error by Kayla Wilson. Cory Wilson testified that the August 30, 2011 inspection at the Property was performed by Ricardo Wilson, but that he was also present during the inspection.

38. Smith's WDO activity searches led him to conclude that SPC was not reporting all of its WDO activities to the Board. The May 2010 inspection report was issued as report number 10035.[4] The August 2011 inspection report was issued as report number 10179. There is a difference of 144 between the two report numbers. SPC, however, filed only 35 WDO Activity Reports between May 14, 2010 and August 30, 2011. (Exh. 19, pp. 218-220.) Cory Wilson's explanation, that no law requires WDO reports must be issued in sequence, is insufficient to rebut Smith's conclusion.

39. (A) Smith's WDO activity searches of SPC revealed that SPC did not file any completion reports for inspections and work relating to the Property. WDO

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[44] The report number is shown in the upper right corner of the first page of the report. The report number is more legible on Exhibit H than on Exhibit 5.

activity reports for reporting completed work are designated with an Activity Code of "5." Smith's searches of SPC's WDO activity revealed that none of the reports made by SPC had an Activity Code of "5."

(B) Cory Wilson contends that a notice of completion is not required to be filed unless and until the property inspected is going to be sold, and that a completion notice for a termite inspection is issued only for the purpose of closing escrow. This contention is without merit. Under Code section 8518, when a registered company, such as SPC, 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 it to the owner of the property . . . within 10 working days of completing the work." Under section 8518, SPC is further required to report the address of the property inspected or upon which work was completed on a form prescribed by the Board and filed with the Board no later than 10 working days after completed work.

Use of Different Name Style

40. Respondent SPC's company registration number PR 5201 was issued in the name of "Satellite Pest Control." The May 2010 inspection report, the August 2011 inspection report, and the November 2011 inspection report were issued under the name "Satellite Pest Management Services," which is not the name on SPC's company registration number PR 5201. Further, respondents SPC, Ricardo Wilson, and Cory Wilson conducted business as "Satellite Pest Management Services" in correspondence with the Board and investigator Smith. It was therefore established that respondents SPC, Cory Wilson, and Ricardo Wilson acted in the capacity of a registered company under a name that is different than the name set forth on SPC's company registration, in violation of Code section 8650, subdivision (a).

Other Findings

41. (A) Cory Wilson and Ricardo Wilson contend that fumigation was not appropriate at the Property because no active termite infestation was found on May 14, 2010. Both respondents testified it was appropriate to treat the areas where evidence of drywood termites was found by drilling and injecting Borates into the wood. Both respondents opined that, in their experience, treatment with Borates will last nine to 10 years. Both respondents testified that, in their experience, they have never had an instance of reinfestation of termites following treatment of a property with Borates. Both respondents adamantly deny there was any active termite infestation at the Property on or after May 14, 2010. They dispute the findings of Smith's investigation of the Property on October 31, 2011, and Jakcsy's claim of finding termite droppings throughout the house. They contend that any infestation of the Property after May 14, 2010, was due to the remodeling work on the house by Jakcsy (e.g., infestation caused by new lumber brought to the home).

(B) The more persuasive evidence in this case was the testimony and expert opinion of the Board's investigator, Steven Smith. Smith testified credibly regarding the findings of his inspection of the Property on October 31, 2011. He opined that the Property had an active infestation of termites, and that the conditions and damage he saw on October 31, 2011, were present at the Property on or before May 14, 2010. Smith opined that SPC should have fumigated the Property as a result of the May 14, 2010 WDO inspection. Smith's opinions were persuasive and consistent with the applicable law, other evidence in the record, including Smith's color photographs from his inspection and Jakcsy's testimony of finding termite droppings throughout the interior of the house. Smith's testimony and opinion established that the Property had an active termite infestation which respondents SPC, Ricardo Wilson, and Cory Wilson failed to appropriately address.

42. Respondents also contend that Ricardo Wilson is only an employee of SPC and not a qualifying manager. Cory Wilson testified that he [Cory Wilson] is the sole owner and qualifying manager of SPC. Ricardo Wilson testified that he is not a qualifying manager of SPC. He contends that Cory Wilson is the qualifying manager for SPC. Ricardo Wilson, however, does not know if Cory Wilson had a Branch 3 license in 2009 through 2011 to serve as SPC's Branch 3 qualifying manager during that period. Ricardo Wilson testified he never notified the Board that he was a qualifying manager for SPC. Cory Wilson previously held a Branch 3 license, which was cancelled in 2005. Cory Wilson testified, on cross-examination, that he did not have a Branch 3 license between 2005 and 2012. Respondents' contentions are not supported by the evidence.

43. It was not established that respondents SPC, Ricardo Wilson, and/or Cory Wilson failed to issue the May 2010 inspection report, the August 2011 inspection report, and the November 2011 inspection report, on a form approved by the Board. The first page of each of those reports shows the Board's address as 1418 Howe Avenue, which is incorrect. The Board's address since March 2008 is 2005 Evergreen Street. Complainant contends that SPC's failure to show the Board's correct address on the three inspection reports established that SPC did not use an inspection report form approved by the Board. This contention is not persuasive. Official notice is taken of Regulations section 1996, which governs the requirements for reporting all inspections under Code section 8516, subdivision (b). The sample inspection form included in that regulation shows the Board's address at Howe Avenue. Official notice is further taken of the Board's website, which includes a sample inspection form that shows the Board's address at Howe Avenue.[5]

44. (A) It was established that the May 2010 inspection report provided by SPC to the Property's owner, G.V., at the time of the May 14, 2010 inspection, did not contain the name, license number, and signature of the Branch 3 licensee who performed the inspection. (Exh. 5.) The inspector's name and license number are

[5] Government Code sections 11513 and 11515.

handwritten on the report. The inspector's name and signature are illegible. The space for the inspector's license number appears to show a date of "2-12-11."

(B) Cory Wilson and Ricardo Wilson presented another version of the May 2010 inspection report (Exh. H), which shows Ricardo Wilson's name and license number typewritten in the space provided for the inspector's name and license number. According to respondents, this version of the May 2010 inspection report (Exh. H) is the report that SPC filed with the Board; the other version (Exh. 5) was the copy given to the Property's owner at the time of the inspection. Ricardo Wilson testified that Kayla Wilson must have written the date instead of the license number on the version of the report given to the Property's owner. Ricardo Wilson could not explain why the Property owner's report had the box for drywood termites ("DWT") marked but the same box was not marked on the other report. Simiarly, Ricardo Wilson could not explain the discrepancy in the diagram of the Property shown on each report. Respondents' version of the May 2010 inspection report (Exh. H) is insufficient to rebut Complainant's evidence that the May 2010 inspection report issued by SPC failed to include the name, license number and signature of the inspector who performed the inspection.

45. In her closing brief, Complainant argues that the maximum discipline of revocation should be imposed against the license of respondent Bobby Burgess because he failed to appear at the hearing, and failed to testify and thereby failed to rebut any of the charges against him. The only cause for discipline of the Accusation alleged against Bobby Burgess is the Third Cause for Discipline. The Third Cause for Discipline alleges that Bobby Burgess failed to report items in the May 2010 inspection report, in violation of Code section 8516, subdivision (b)(6), (7) and/or (10), and Regulations sections 1990 and 1991. The evidence did not establish that Bobby Burgess performed the WDO inspection of the Property on May 14, 2010. His name is listed on the WDO Activity Report for the inspection, but the evidence established that the listing of Burgess' license number was a clerical error.

46. Any arguments or contentions raised by the parties that are not specifically addressed in this Proposed Decision were deemed not established by the evidence, not persuasive, immaterial, and/or surplusage.

Cost Recovery

47. The reasonable cost of the investigation and prosecution incurred by the Board in this case is $15,813, consisting of $1,498 of investigation costs and $14,315 of prosecution costs. (Exhs. 41, 42.)

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LEGAL CONCLUSIONS

1. The law governing structural pest control operators is set forth in Chapter 14 of the Business and Professions Code (Code) section 8500 et seq. The implementing regulations are set forth at California Code of Regulations, title 16 (Regulations), section 1900 et seq., with the regulations governing WDO activities set forth at Regulations section 1990 et seq.

2. Pursuant to Code section 8610, subdivision (c), Ricardo Wilson was and is a qualifying manager for SPC, in Branch 3, as of July 1, 2009, to the present time. His license is subject to disciplinary action for any acts or omissions constituting cause for disciplinary action against SPC. Code section 8624 provides, in pertinent part: "The performance by any . . . registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time of the act or omission occurred, was the qualifying manager, . . . or owner of the . . . registered company, whether or not he or she had knowledge of, or participated in, the prohibited act or omission."

3. Cory Wilson is the sole owner and Branch 2 qualifying manager of SPC. Pursuant to Code section 8624, Cory Wilson's operator and field representative licenses are subject to disciplinary action for any acts and omissions of SPC constituting grounds for disciplinary action against SPC's company registration.

First Cause for Discipline

4. Code section 8641 provides, in pertinent part: "Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, . . . is a ground for disciplinary action."

5. Cause exists, pursuant to Code sections 8641 and 8624, to discipline SPC's company registration, Ricardo Wilson's license, and Cory Wilson's licenses, in that SPC, Ricardo Wilson, and/or Cory Wilson, failed to comply with the following provisions of the Code and/or Regulations, with respect to the Property:

(A) Code § 8650(a): Acted in capacity of registered company under a name different than the name on SPC's company registration. (Factual Finding 40.)

(B) Code § 8516(b)(1), Regulations § 1990(a)(1) & (2): Issued the May 2010 inspection report, which did not contain the name, license number, and signature of the Branch 3 licensee performing the inspection. (Factual Finding 44.)

(C) Code § 8638, Regulations § 1991(a)(2): Failed to complete the work reported on the May 2010 inspection report regarding the removal of the cellulose debris in the substructure. (Factual Findings 8, 9, 21(A), 21(B), and 25 (subparagraph 17).)

(D) Code § 8638, Regulations § 1991(a)(5): Failed to complete the work reported on the May 2010 inspection report regarding the treatment of the decay fungi at the patio. (Factual Findings 8, 9, 21(A), 21(F), and 25 (subparagraph 18).)

(E) Code § 8638: Failed to exterminate the evidence of drywood termites reported on the May 2010 inspection report through the use of a secondary chemical treatment. (Factual Findings 8, 9, 10, 25 (subparagraph 19).)

(F) Code § 8613: Failed to notify the Board in writing of a change in the location of SPC's principal office within 30 days of the change. (Factual Findings 31-33.)

(G) Code § 8652: Failed to make records available. (Factual Findings 24 and 31.)

(H) Code § 8622: Failed to comply with the Report of Findings within the required 30 days. (Factual Findings 23-29.)

(I) Code § 8516(b)(6), Regulations § 1996.3(b)(4): Failed to accurately file WDO activities with the Board. (Factual Findings 34-39.)

(J) Code §§ 8550(a), (c), (d): SPC performed four Branch 3 WDO inspections in April 2011 without being properly licensed. (Factual Findings 35-36.)

(K) Code §§ 8550(a), (c), (d): SPC performed a Branch 3 WDO inspection at the Property without being properly licensed. (Factual Finding 37.)

Second Cause for Discipline

6. Code section 8516, subdivision (b), provides, in part, that every WDO inspection report must include the items specified in paragraphs (1) through (10).

Subdivision (b)(6) requires the inspection report to include: "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."

Subdivision (b)(7) requires the inspection report to include: "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."

7. Cause exists, pursuant to Code sections 8516, subdivisions (b)(6) and (7), and 8620, to discipline Ricardo Wilson's operator license because Ricardo Wilson, as an inspector, failed to report items in the August 2011 and/or November 2011 inspection reports regarding the Property, based on Factual Findings 25 and 28.

Third Cause for Discipline

8. Cause does not exist to discipline Bobby Burgess' field representative license, pursuant to Code sections 8516, subdivisions (b)(6) and (7), and 8620, for failing to report items in separate inspection reports regarding the Property. This ground for discipline was not established against Bobby Burgess. The evidence established that the May 2010 inspection report regarding the Property was performed by Cory Wilson and/or Ricardo Wilson, not Bobby Burgess. The Accusation shall be dismissed against respondent Bobby Burgess.

Fourth Cause for Discipline

9. Code section 8638 provides: "Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action."

10. Cause exists, pursuant to Code section 8638, to discipline SPC's company registration and Ricardo Wilson's operator license, because SPC, Ricardo Wilson, and Cory Wilson, failed to complete work they contracted to perform at the Property. Specifically, respondents failed to do the work stated in the May 2010 inspection report, failed to remove cellulose debris in the substructure, failed to treat decay fungi in the patio area, and failed to exterminate evidence of drywood termites. (Factual Findings 8, 9, 21, 25.)

Fifth Cause for Discipline

11. Code section 8650 provides, in pertinent part: "Acting in the capacity of a licensee or registered company under any of the licenses or registrations issued hereunder except: [¶] (a) In the name of the licensee or registered company as set forth upon the license or registration, . . . is a ground for disciplinary action."

12. Cause exists, pursuant to Code sections 8620 and 8650, subdivision (a), to discipline SPC's company registration and Ricardo Wilson's operator license, in that SPC, Ricardo Wilson, and Cory Wilson, acted in the capacity of a registered company under a name that does not appear on SPC's company registration issued by the Board, based on Factual Findings 40.

Sixth Cause for Discipline

13. Code section 8622 states, in pertinent part:

> When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected.

14. Cause exists, pursuant to Code section 8622, to discipline SPC's company registration and Ricardo Wilson's operator license, because SPC, Ricardo Wilson, and Cory Wilson failed to comply with the Report of Findings notice, in that they failed to bring the Property into compliance and failed to correct all items in the Report of Findings within 30 days. (Factual Findings 23-29.)

Seventh Cause for Discipline

15. Code section 8516, subdivision (b), provides, in part: "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. . . . [¶] Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to . . . this section is grounds for disciplinary action . . . ."

16. Regulations section 1996.3, subdivision (a), provides: "The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518." Subdivision (c) provides that a registered company's failure "to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b)" is grounds for disciplinary action.

17. Cause exists, pursuant to Code section 8516, subdivision (b), and Regulation section 1996.3, subdivision (b), to discipline SPC's company registration, and Ricardo Wilson's operator license, in that SPC failed to file WDO activities reports with the Board within 10 business days after commencement of a WDO inspection or upon completed work, based on Factual Findings 38 and 39.

Eighth Cause for Discipline

18. Code section 8516, subdivision (b)(10), provides, in part, that a WDO inspection report shall include, among other things: "Recommendations for corrective measures."

19. Regulations section 1991, subdivision (a)(5), provides, in part, that "[r]ecommendations for corrective measures for the conditions found shall be made as required by [Code section 8516, subdivision (b)(10)] . . . and shall accomplish the following: . . . [¶] (5) Structural member which appears to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. . . ."

20. Cause exists, pursuant to Code section 8516, subdivision (b)(10), and Regulations section 1991, subdivision (a)(5), to discipline SPC's company registration and Ricardo Wilson's operator license, in that SPC failed to make proper findings and recommendations in the November 2011 Report for the reported drywood termite damage in the attic, based on Factual Finding 28 (subparagraph 18).

Ninth Cause for Discipline

21. Code section 8613 provides, in part: "A registered company which changes the location of its principal office or any branch office . . . shall notify the registrar in writing of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674." Section 8674, subdivision (p), sets a fee of not more than $25 for, among other things, filing a change of a registered company's principal office address or branch office address.

22. Cause exists, pursuant to Code section 8613, to discipline SPC's company registration, in that SPC failed to notify the Board of a change in the location of its principal office within 30 days of the change, based on Factual Findings 31-33.

Disposition

23. In this case, the revocation of SPC's company registration and the individual licenses of Ricardo Wilson and Cory Wilson, respectively, is the appropriate level of discipline. The evidence demonstrated that Ricardo Wilson and Cory Wilson, as qualifying managers of SPC, do not understand and appreciate their responsibilities as licensees of the Board. They fail to understand the laws and regulations governing structural pest control. They refuse to acknowledge they committed any violations of the Board's laws and regulations. There is no evidence that these respondents have made any changes in their business practices. Under these circumstances, the revocation of the company registration and individual licenses is warranted in the interest of public protection.

Cost Recovery

24. Code section 125.3 provides, in pertinent part, that the entity bringing a proceeding for discipline may request the ALJ hearing the matter to direct a licentiate found to have committed a violation of the applicable licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the proceeding. The reasonable costs of investigating and enforcing this matter are $15,813. (Factual Finding 47.)

25. Cause exists, pursuant to Code section 125.3, to require SPC, Ricardo Wilson, and Cory Wilson, to pay the Board its costs of investigation and enforcement of this case in the total amount of $15,813. However, cause does not exist, pursuant to Code section 125.3, to require Bobby Burgess to pay the Board any of that cost amount, as the only cause for discipline alleged against Burgess was not established by the evidence.

26. Inasmuch as SPC's company registration, Ricardo Wilson's operator license, and Cory Wilson's licenses will be revoked, thereby precluding said respondents from conducting business involving structural pest control, said respondents will not be ordered to pay these costs at this time. When or if said respondents obtain relicensure or reinstatement of their revoked licenses and registration, payment of the costs may be made a condition for relicensure or reinstatement in the discretion of the Board.

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ORDER

1. Company Registration Certificate number PR 5201, Branch 2 and 3, issued to Satellite Pest Control and Cory Rico Wilson, is revoked.

2. Operator License number OPR 11859, Branch 3, issued to Ricardo Alonso Wilson, is revoked.

3. Operator License number OPR 11142, Branch 2, and Field Representative License number FR 47359, Branch 3, issued to Cory Rico Wilson, are revoked.

5. Ricardo Alonso Wilson is prohibited 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 5201 issued to Satellite Pest Control and Operator License number OPR 11859 issued to Ricardo Alonso Wilson.

6. Cory Rico Wilson is prohibited 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 5201 issued to Satellite Pest Control and Operator License number OPR 11859 issued to Ricardo Alonso Wilson.

7. Satellite Pest Control, Ricardo Alonso Wilson, and Cory Rico Wilson shall pay the Board the reasonable costs of the investigation and enforcement of this case of $15,813, pursuant to Code section 125.3, as condition for relicensure or reinstatement of their registration and licenses, in the discretion of the Board, in accordance with Legal Conclusion 26.

8. The Accusation is dismissed against respondent Bobby Burgess and his Field Representative License number FR 43885.

DATED: September 30, 2014

ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings