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Attorneys for Complainant

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

In the Matter of the Accusation Against: **RADAR TERMITE** 335 East Albertoni Street #200-561 Carson, California 90746 **DANNY WILLIAMS; Owner** **Company Registration Certificate No. PR 5344, Br. 3** **FRANCES NAZAR NAZARIAN, QM, Br. 3** **Operator's License No. OPR 10700, Br. 3** **Field Representative's License No. FR 41068** Respondents.	Case No. 2010-14 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 15, 2009, Complainant Kelli Okuma, in her official capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2010-14 against Radar Termite; Danny Williams, owner; and Frances Nazar Nazarian (Respondents) before the Structural Pest Control Board.

2. On or about May 18, 2007, the Structural Pest Control Board (Board) issued Company Registration Certificate No. PR 5344 in Branch 3 to Radar Termite with Danny Williams as the owner.

3. On or about March 25, 2003, the Structural Pest Control Board issued Operator's License No. OPR 10700 in Branch 3 to Respondent Frances Nazar Nazarian. On November 25, 2009, Respondent Nazarian's Operator's License No. OPR 10700 in Branch 3 was revoked in Accusation Case No. 2009-11.

4. On or about November 28, 2006, the Board issued Field Representative's License No. FR 41068 in Branch 2 to Respondent Nazarian. On or about November 25, 2009, Respondent Nazarian's Field Representative License No. FR 41068 was revoked in Accusation Case No. 2009-11.

5. On or about January 21, 2010, Carolina Castillo, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2010-14, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent Danny Williams' address of record with the Board, which was and is:

Danny Williams
Radar Termite
19769 Wadley Avenue
Carson, CA 90746

And

Danny Williams
Radar Termite
335 East Albertoni Street, #200-561
Carson, CA 90746

A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

6. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

7. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts

of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2010-14.

9. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the evidence on file herein, finds that the allegations in Accusation No. 2010-14 are true.

11. The total cost for investigation and enforcement in connection with the Accusation are **$5,195.00** (Five Thousand One Hundred Ninety –Five Dollars) as of March 1, 2010.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondents Radar Termite; Danny Williams, as owner has subjected his Company Registration Certificate No. PR 5344, Branch 3 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Structural Pest Control Board is authorized to revoke Respondent's Company Registration Certificate No. PR 5344, Br. 3 based upon the following violations alleged in the Accusation:

a. First Cause for Discipline – Fraud.

b. Second Cause for Discipline – Aiding and Abetting an Unlicensed Person

c. Third Cause for Discipline – Unlicensed Activity

d. Fourth Cause for Discipline – Failure to Notify the Board of Disassociation of Qualifying Manager

e. Fifth Cause for Discipline – Failure to Make Inspection Records Available

f. Sixth Cause for Discipline – Failure to Comply with Laws Adopted by the Board – Failure to Notify Board of Address Change

ORDER

IT IS SO ORDERED that Company Registration Certificate No. PR 5344 Br. 3, heretofore issued to Respondent Radar Termite; Danny Williams, as owner, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 25, 2010.

It is so ORDERED March 26, 2010

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment:

Exhibit A: Accusation No. 2010-14

Exhibit A
Accusation No. 2010-14

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Attorneys for Complainant

FILED

Date 9/15/09 By Susan Taylor

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

In the Matter of the Accusation Against: **RADAR TERMITE** 335 East Albertoni Street #200-561 Carson, California 90746 **DANNY WILLIAMS, Owner** **Company Registration Certificate No. PR 5344, Br. 3** **FRANCES NAZAR NAZARIAN, QM, Br. 3** **Operator's License No. OPR 10700, Br. 3** **Field Representative's License No. FR 41068** Respondents.	Case No. 2010-14 **ACCUSATION**

Kelli Okuma ("Complainant") alleges:

PARTIES

1. Complainant brings this Statement of Issues solely in her official capacity as the Registrar of the Structural Pest Control Board ("Board"), Department of Consumer Affairs.

LICENSE HISTORY

Company Registration Certificate No. PR 5344

2. On or about May 18, 2007, the Board issued Company Registration Certificate Number PR 5344 ("registration") in Branch 3 to Radar Termite with Danny Williams as the owner and Gilbert Maldonado as the Qualifying Manager. On May 31, 2007, Gilbert

Maldonado disassociated as the Qualifying Manager. On or about October 11, 2007, Frances Nazar Nazarian ("Respondent Nazarian") became the Qualifying Manager. On September 12, 2008, Respondent Radar Termite paid a fine of $200 levied by the Board for violating Code section 8697 (surety bond). On October 24, 2008, Respondent Radar Termite paid a fine of $1,500 levied by Board for violating Code section 8691 (insurance). On or about January 7, 2009, Respondent Nazarian disassociated as the Qualifying Manager. On or about January 21, 2009, the registration was suspended for failing to have a Qualifying Manager.

Frances Nazar Nazarian

Operator's License No. OPR 10700

3. On or about March 25, 2003, the Board issued Operator's License No. OPR 10700 in Branch 3 to Respondent Nazarian. On or about August 2, 2007, Nazarian became the Qualifying Manager of Termites R Us Termite Control. On or about October 11, 2007, Nazarian became the Qualifying Manager of Radar Termite. On or about July 2, 2008, the license was suspended for failing to maintain general liability insurance as required by Code section 8690. On or about July 14, 2008, Respondent Nazarian disassociated as the Qualifying Manager of Termites R Us Termite Control, and the license was reinstated. On or about August 27, 2008, Accusation No. 2009-11 was filed against Respondent Nazarian and the matter is pending. On or about January 7, 2009, Respondent Nazarian disassociated as the Qualifying Manager of Radar Termite. The license will expire on June 30, 2011, unless renewed.

Field Representative's License No. FR 41068

4. On or about November 28, 2006, the Board issued Field Representative's License No. FR 41068 in Branch 2 to Respondent Nazarian. On or about August 27, 2008, Accusation No. 2009-11 was filed against Respondent Nazarian and is pending. The license expired on June 30, 2009, and has not been renewed.

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JURISDICTION

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

6. Code section 8622 states:

> 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. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.
>
> The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

7. Code section 8624 states:

> If the board suspends or revokes an operator's license and one or more branch offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.
>
> If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.
>
> The performance by any partnership, corporation, firm, association, or 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 the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered company whether or not he or she had knowledge of, or participated in, the prohibited act or omission.

8. Code section 8625 states:

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

STATUTORY PROVISIONS

9. Code section 8550(a), states:

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

10. Code section 8571 states:

If the licensed operator who is designated as the qualifying manager for a registered company ceases for any reason whatsoever to be connected with the company, the company shall notify the registrar in writing within 10 days from such cessation. If the notice is given the registration shall remain in force for a reasonable length of time, to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has ceased to be connected with it, and who shall qualify as such within the time allowed by rules and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace with a qualifying manager within the period fixed by the regulations of the board, at the end of the period the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of an affidavit, executed by a representative of the company, and filed with the registrar, to the effect that the qualifying manager who ceased to be connected with the company has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his or her license suspended or revoked or that he or she has not been connected with a company which has had its registration suspended or revoked.

11. Code section 8613 states:

A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance 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.

12. Code section 8639 states:

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

company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade the provisions of this chapter is a ground for disciplinary action.

13. Code section 8641 states:

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

14. Code section 8642 states:

"The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action."

15. Code section 8652 states:

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

COST RECOVERY

16. Code section 125.3 provides, in pertinent part, that the Registrar 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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RECORDS INSPECTION

17. On or about September 23, 2008, the Board performed a Wood Destroying Organisms Activity Search that revealed 96 Wood Destroying Organism activities had been filed with the Board between April 11, 2008, and August 18, 2008, under Hector Lopez Jr.'s ("Lopez") Field Representative's License No. FR 33850, who had left the employ of Radar Termite on April 10, 2008.[1] Furthermore, the inspections were conducted by unlicensed individuals.

18. On that same day, the Board performed another Wood Destroying Organism Activity Search that revealed 14 Wood Destroying Organisms activities had been filed with the Board between April 5, 2007, and April 10, 2007, (prior to Lopez's employment with Radar Termite) using Lopez's Field Representative's License No. FR 33850.

FIRST CAUSE FOR DISCIPLINE

(Fraud)

19. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8642, in that between April 11, 2008, and August 18, 2008, Respondents committed acts constituting fraud by permitting 96 inspections to be performed by unlicensed individuals and then filing the inspection reports with the Board using Lopez's Field Representative's License No. FR 33850, thereby representing that the inspections had been performed by a licensed field representative, when in fact, they were not.

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1. Hector Lopez Jr. was employed with Radar Termite between January 10, 2008, and April 10, 2008.

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SECOND CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

20. Respondent Radar Termite's registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8639, in that between April 11, 2008, and August 18, 2008, Respondents aided and abetted unlicensed individuals by permitting 96 pest inspections to be conducted by those individuals without a valid license.

THIRD CAUSE FOR DISCIPLINE

(Unlicensed Activity)

21. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8641, in that between April 11, 2008, and August 18, 2008, Respondents engaged in the business or practice of structural pest control without employing or securing the services of a licensed field representative to perform inspections, in violation of Code section 8550.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Notify the Board of Disassociation of Qualifying Manager)

22. Respondent Radar Termite's company registration is subject to discipline under Code section 8641, in that on or about January 7, 2009, Respondent failed to notify the Board within ten (10) days of the disassociation of the Qualifying Manager Frances Nazar Nazarian, as required by Code section 8571.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Make Inspection Records Available)

23. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8652, in that Respondents failed to make reports, contracts, documents, and records available to

the Registrar during business hours.

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SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with Laws Adopted by the Board - Failure to Notify Board of Address Change)

24. Respondent Radar Termite's company registration and Respondent Nazarian's operator's license and field representative's license are subject to discipline under Code section 8641, in that Respondents failed to comply with Code section 8613 by failing to notify the registrar in writing within thirty (30) days after changing the location of their principal office.

OTHER MATTERS

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

26. Pursuant to Code section 8624, if Operator's License Number OPR 10700, issued to Frances Nazar Nazarian, who serves as the Qualifying Manager of Radar Termite, is suspended or revoked, the Board may suspend or revoke Company Registration Certificate Number PR 5344, issued to Radar Termite.

27. Pursuant to Code section 8624, the causes for discipline established as to Radar Termite likewise constitute causes for discipline against Frances Nazar Nazarian, who serves as the Qualifying Manager of Radar Termite, regardless of whether Frances Nazar Nazarian had knowledge of or participated in the acts or omissions which constitute causes for discipline against Radar Termite.

28. Pursuant to Code section 8654, if discipline is imposed on Operator's License

Number OPR 10700, issued to Frances Nazar Nazarian, then Frances Nazar Nazarian shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is

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imposed, and any registered company which employees, elects, or associates Frances Nazar Nazarian shall be subject to disciplinary action.

29. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5344, issued to Radar Termite, with Danny Williams as the owner, then Danny Williams shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employees, elects, or associates Danny Williams shall be subject to disciplinary action.

PRAYER

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

1. Revoking or suspending Company Registration Certificate Number PR 5344, issued to Radar Termite;

2. Revoking or suspending Operator's License Number OPR 10700, issued to Frances Nazar Nazarian;

3. Revoking or suspending any other license for which Frances Nazar Nazarian is furnishing the qualifying experience or appearance;

4. Revoking or suspending Field Representative License Number FR 41068, issued to Frances Nazar Nazarian;

5. Prohibiting Frances Nazar Nazarian 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 5344, issued to Radar Termite;

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6. Ordering Radar Termite and Frances Nazar Nazarian to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 9/15/09

for KELLI OKUMA
Registrar
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

LA2009603509
Accusation (kdg) 9/4/09