

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

In the Matter of the Accusation Against:

Case No. 2010-62

**SUPPRESS PEST CONTROL COMPANY;
SALVADOR MONARREZ, Owner and QM**
17186 Osborne Street
Northridge, CA 91325

Company Registration Certificate No. PR 2790
Operator License No. OPR 9446

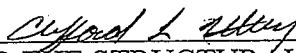
Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on December 1, 2010.

It is so ORDERED November 2, 2010.



FOR THE STRUCTURAL PEST CONTROL
BOARD
DEPARTMENT OF PESTICIDE REGULATION

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
Deputy Attorney General
4 State Bar No. 223418
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2574
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 2010-62

12 **SUPPRESS PEST CONTROL COMPANY;**
13 **SALVADOR MONARREZ, Owner and QM**
17186 Osborne Street
14 Northridge, CA 91325

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Company Registration Certificate No. PR 2790**
16 **Operator License No. OPR 9446**

17 Respondents.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kelli Okuma (Complainant) is the Registrar/Executive Officer of the Structural Pest
23 Control Board. She brought this action solely in her official capacity and is represented in this
24 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Heather Hua,
25 Deputy Attorney General.

26 2. Respondents Suppress Pest Control Company (Respondent Suppress Pest Control)
27 and Salvador Monarrez (Respondent Monarrez), Qualifying Manager and Owner of Suppress
28

1 Pest Control Company, are represented in this proceeding by attorney James Frederick, whose
2 address is: 504 West Mission Avenue, Suite 103, Escondido, CA 92025.

3 **3. Company Registration Certificate No. PR 2790**

4 On or about August 18, 1995, the Board issued Company Registration Certificate Number
5 PR 2790 ("registration") to Suppress Pest Control in Branch 2, with Salvador Monarrez as the
6 owner and Qualifying Manager. On or about June 19, 1999, the registration was upgraded to
7 include Branch 3. The Company Registration License was in full force and effect at all times
8 relevant to the charges brought in Accusation No. 2010-62 and will expire on December 31,
9 2010, unless renewed.

10 **4. Operator's License No. OPR 9446**

11 On or about August 18, 1995, the Board issued Operator's License Number OPR 9446
12 ("license") in Branch 2 to Salvador Monarrez as the owner and Qualifying Manager of Suppress
13 Pest Control. On or about April 29, 1999, the license was upgraded to include Branch 3. The
14 Operator's License was in full force and effect at all times relevant to the charges brought in
15 Accusation No. 2010-62 and will expire on June 30, 2013, unless renewed.

16 **JURISDICTION**

17 5. Accusation No. 2010-62 was filed before the Structural Pest Control Board (Board),
18 Department of Pesticide Regulation, and is currently pending against Respondents. The
19 Accusation and all other statutorily required documents were properly served on Respondents on
20 April 21, 2010. Respondents timely filed their Notice of Defense contesting the Accusation. A
21 copy of Accusation No. 2010-62 is attached as exhibit A and incorporated herein by reference.

22 **ADVISEMENT AND WAIVERS**

23 6. Respondents have carefully read, fully discussed with counsel, and understand the
24 charges and allegations in Accusation No. 2010-62. Respondents have also carefully read, fully
25 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
26 Order.

27 7. Respondents are fully aware of their legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at

1 their own expense; the right to confront and cross-examine the witnesses against them; the right
2 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
3 compel the attendance of witnesses and the production of documents; the right to reconsideration
4 and court review of an adverse decision; and all other rights accorded by the California
5 Administrative Procedure Act and other applicable laws.

6 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
7 every right set forth above.

8 CULPABILITY

9 9. Respondents admit the truth of each and every charge and allegation in Accusation
10 No. 2010-62.

11 10. Respondents agree that their Operator's License and Company Registration
12 Certificate are subject to discipline and agree to be bound by the Board's probationary terms as
13 set forth in the Disciplinary Order below.

14 CONTINGENCY

15 11. This stipulation shall be subject to approval by the Board. Respondents understand
16 and agree that counsel for Complainant and the staff of the Board may communicate directly with
17 the Board regarding this stipulation and settlement, without notice to or participation by
18 Respondents or their counsel. By signing the stipulation, Respondents understand and agree that
19 they may not withdraw this agreement or seek to rescind the stipulation prior to the time the
20 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
21 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
22 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
23 not be disqualified from further action by having considered this matter.

24 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
25 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
26 effect as the originals.

27 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 14. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Board may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Company Registration Certificate No. PR 2790 issued to
10 Respondent Suppress Pest Control and Operator's License No. OPR 9446 issued to Respondent
11 Monarrez are revoked. However, the revocations are stayed and Respondents are placed on
12 probation for three (3) years on the following terms and conditions.

13 **Actual Suspension.** Company Registration Certificate No. PR 2790 issued to Respondent
14 Suppress Pest Control and Operator's License No. OPR 9446 issued to Respondent Monarrez are
15 suspended for 15 days.

16 1. **Obey All Laws.** Respondents shall obey all laws and rules relating to the practice of
17 structural pest control.

18 2. **Quarterly Reports.** Respondents shall file quarterly reports with the Board during
19 the period of probation.

20 3. **Tolling of Probation.** Should Respondents leave California to reside outside this
21 state, Respondents must notify the Board in writing of the dates of departure and return. Periods
22 of residency or practice outside the state shall not apply to reduction of the probationary period.

23 4. **Notice to Employers.** Respondents shall notify all present and prospective
24 employers of the decision in Case No. 2010-62 and the terms, conditions and restriction imposed
25 on Respondents by said decision.

26 Within 30 days of the effective date of this decision, and within 15 days of Respondents
27 undertaking new employment, Respondents shall cause his/her employer to report to the Board in
28 writing acknowledging the employer has read the decision in Case No. 2010-62

1 5. **Notice to Employees.** Respondents shall, upon or before the effective date of this
2 decision, post or circulate a notice to all employees involved in structural pest control operations
3 which accurately recite the terms and conditions of probation. Respondents shall be responsible
4 for said notice being immediately available to said employees. "Employees" as used in this
5 provision includes all full-time, part-time, temporary and relief employees and independent
6 contractors employed or hired at any time during probation.

7 6. **Post Notice of Suspension.** Respondents shall prominently post a suspension notice
8 provided by the Board of the Board's order of suspension at its principal office and each of its
9 branch offices in a place conspicuous and readable to the public. Said notice shall remain so
10 posted during the entire period of actual suspension.

11 7. **Completion of Probation.** Upon successful completion of probation, Respondents'
12 license/registration certificate will be fully restored.

13 8. **Violation of Probation.** Should Respondents violate probation in any respect, the
14 Board, after giving Respondents notice and an opportunity to be heard, may revoke probation and
15 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
16 Respondents during probation, the Board shall have continuing jurisdiction until the matter is
17 final, and the period of probation shall be extended until the matter is final.

18 9. **Random Inspections.** Respondents shall reimburse the Board for random
19 inspections by Board specialists during the period of probation not to exceed \$125 per inspection.

20 10. **Inspection Fees.** Respondents shall pay to the registrar, or designee, an inspection
21 fee of \$50 within thirty (30) days from the effective date of this decision.

22 11. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**
23 **Manager.** Respondent is prohibited from serving as an officer, director, associate, partner,
24 qualifying manager or branch office manager of any registered company except Respondent's
25 own company, Suppress Pest Control, Company Registration Certificate No. PR 2790, during the
26 period that discipline is imposed on Operator's License No. OPR 9446.

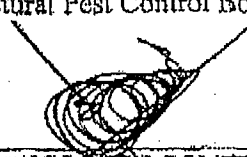
27 12. **Cost Recovery.** Pursuant to Business and Professions Code section 125.3,
28 Respondents shall pay to the Board its enforcement and investigative costs in the amount of

1 \$7,565.62, which may be paid in monthly installment payments and which is to be paid in full by
2 three months prior to the end of the probationary period.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, James Frederick. I understand the stipulation and the effect it will
6 have on my Company Registration Certificate and Operator License. I enter into this Stipulated
7 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
8 bound by the Decision and Order of the Structural Pest Control Board.

9
10 DATED: 9/27/10



11 SUPPRESS PEST CONTROL COMPANY;
12 SALVADOR MONARREZ, OWNER and
13 QUALIFYING MANAGER
14 Respondents

15 I have read and fully discussed with Respondents Suppress Pest Control Company and
16 Salvador Monarrez, Qualifying Manager and Owner of Suppress Pest Control Company, the
17 terms and conditions and other matters contained in the above Stipulated Settlement and
18 Disciplinary Order. I approve its form and content.

19
20 DATED: 9/27/10

21 James L. Frederick
22 James Frederick
23 Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation.

Dated: *September 27, 2010*

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

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

Exhibit A

Accusation No. 2010-62

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804

FILED

Date 3/1/10 By Kelli Okuma

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 2010-62

13 **SUPPRESS PEST CONTROL**
14 **SALVADOR MONARREZ, Owner and QM**
17186 Osborne Street
Northridge, CA 91325
15 **Company Registration License No. PR 2790**
16 **Operator License No. OPR 9446**

ACCUSATION

17 Respondents.

18 Kelli Okuma ("Complainant") alleges:

19 **PARTIES**

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

22 **Company Registration Certificate No. PR 2790**

23 2. On or about August 18, 1995, the Board issued Company Registration Certificate
24 Number PR 2790 ("registration") to Suppress Pest Control in Branch 2, with Salvador Monarrez
25 ("Respondent") as the owner and Qualifying Manager. On or about June 19, 1999, the
26 registration was upgraded to include Branch 3.

27 ///

28

1 **Operator's License No. OPR 9446**

2 3. On or about August 18, 1995, the Board issued Operator's License Number
3 OPR 9446 ("license") in Branch 2 to Salvador Monarrez ("Respondent") as the owner and
4 Qualifying Manager of Suppress Pest Control. On or about April 29, 1999, the license was
5 upgraded to include Branch 3. The license will expire on or about June 30, 2010, unless renewed.

6 **JURISDICTION**

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

11 5. Code section 8624 states:

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

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

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

24 6. Code section 8625 states:

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

///

///

///

1 7. Code section 8622 states:

2 When a complaint is accepted for investigation of a registered company, the board,
3 through an authorized representative, may inspect any or all properties on which a report
4 has been issued pursuant to Section 8516 or a notice of completion has been issued
5 pursuant to Section 8518 by the registered company to determine compliance with the
6 provisions of this chapter and the rules and regulations issued thereunder. If the board
7 determines the property or properties are not in compliance, a notice shall be sent to the
8 registered company so stating. The registered company shall have 30 days from the receipt
9 of the notice to bring such property into compliance, and it shall submit a new original
10 report or completion notice or both and an inspection fee of not more than one hundred
11 twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is
12 necessary, pursuant to the board's review of the new original report or notice or both, a
13 commensurate reinspection fee shall also be charged. If the board's authorized
14 representative makes no determination or determines the property is in compliance, no
15 inspection fee shall be charged.

16 The notice sent to the registered company shall inform the registered company that if
17 it desires a hearing to contest the finding of noncompliance, the hearing shall be requested
18 by written notice to the board within 20 days of receipt of the notice of noncompliance from
19 the board. Where a hearing is not requested pursuant to this section, payment of any
20 assessment shall not constitute an admission of any noncompliance charged.

21 STATUTORY PROVISIONS

22 8. Code section 8516 states, in pertinent part:

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

Every property inspected pursuant to subdivision (b) of Section 8516.1, or Section
8518, or subdivision (b) of this section shall be assessed a filing fee pursuant to Section
8674.

Failure of a registered company to report and file with the board the address of any
property inspected or work completed pursuant to Section 8516.1, Section 8518, or this
section are grounds for disciplinary action and shall subject the registered company to a fine
of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and on a form approved by the
board shall be prepared and delivered to the person requesting the inspection or to the
person's designated agent within 10 business days of the inspection, except that an
inspection report prepared for use by an attorney for litigation purposes is not required to be
reported to the board. The report shall be delivered before work is commenced on any

1 property. The registered company shall retain for three years all original inspection reports,
2 filed notes, and activity forms.

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

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

8 (6) A foundation diagram or sketch of the structure or structures or portions of the
9 structure or structures inspected, indicating thereon the approximate location of any infested
10 or infested areas evident, and the parts of the structure where conditions that would
11 ordinarily subject those parts to attack by wood destroying pests or organisms exist.

12 (7) Information regarding the substructure, foundation walls and footings, porches,
13 patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves,
14 rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other
15 parts subject to attack by wood destroying pests or organisms. Conditions usually deemed
16 likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose
17 debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and
18 insufficient ventilation are to be reported.

19 (10) Recommendations for corrective measures.

20 9. Code section 8638 states:

21 Failure on the part of a registered company to complete any operation or construction
22 repairs for the price stated in the contract for such operation or construction repairs or in
23 any modification of such contract is a ground for disciplinary action.

24 10. Code section 8641 states:

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

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1990, states, in pertinent
part:

(a) All reports shall be completed as prescribed by the board. Copies filed with the board
shall be clear and legible. All reports must supply the information required by Section 8516 of the
Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of
the Code, and shall contain or describe the following:

1 (3) Infestations, infections or evidence thereof.

2 (4) Wood members found to be damaged by wood destroying pests or organisms.

3 (b) Conditions usually deemed likely to lead to infestation or infection include, but are not
4 limited to:

5 (3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be
6 raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.

6 (4) Earth-wood contacts.

7 (d) Even though the licensee may consider the following areas inaccessible for purposes of
8 inspection, the licensee must state specifically which of these areas or any other areas were
9 not inspected and why the inspection of these areas is not practical: furnished interiors;
10 inaccessible attics or portions thereof; the interior of hollow walls; spaces between a floor
11 or porch deck and the ceiling or soffit below; stall showers over finished ceilings; such
12 structural segments as porte cocheres, enclosed bay windows, buttresses, and similar areas
13 to which there is no access without defacing or tearing out lumber, masonry or finished
14 work; built-in cabinet work; floors beneath coverings, areas where storage conditions or
15 locks make inspection impracticable.

12 (e) Information regarding all accessible areas of the structure including but not limited to
13 the substructure, foundation walls and footings, porches, patios and steps, stairways, air
14 vents, abutments, stucco walls; columns, attached structures or other parts of a structure
15 normally subject to attack by wood-destroying pests or organisms.

15 (f) The following language shall appear just prior to the first finding/recommendation on
16 each separated report:

16 This is a separated report which is defined as Section I/Section II conditions evident
17 on the date of the inspection. Section I contains items where there is visible evidence of
18 active infestation, infection or conditions that have resulted in or from infestation of
19 infection. Section II items are conditions deemed likely to lead to infestation or infection
20 but where no visible evidence of such was found. Further inspection items are defined as
21 recommendations to inspect area(s) which during the original inspection did not allow the
22 inspector access to complete the inspection and cannot be defined as Section I or Section II.

21 (g) Information must be reported regarding any wooden deck, wooden stairs or
22 wooden landing in exterior exposure attached to or touching the structure being inspected.
23 Portions of such structure that are not available for visual inspection must be designated as
24 inaccessible.

24 12. California Code of Regulations, title 16, section 1991, states, in pertinent
25 part:

26 (a) Recommendations for corrective measures for the conditions found shall be made
27 as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also
28 conform with the provisions of Title 24 of the California Code of Regulations and any other
applicable local building code, and shall accomplish the following:

1 (5) Structural members which appear to be structurally weakened by wood-
2 destroying pests to the point where they no longer serve their intended purpose shall be
3 replaced or reinforced. Structural members which are structurally weakened by fungus to
4 the point where they no longer serve their intended purpose shall be removed or, if feasible,
5 may remain in place if another structural member is installed adjacent to it to perform the
6 same function, if both members are dry (below 20% moisture content), and if the excessive
7 moisture condition responsible for the fungus damage is corrected. Structural members
8 which appear to have only surface fungus damage may be chemically treated and/or left as
9 is if, in the opinion of the inspector, the structural member will continue to perform its
10 originally intended function and if correcting the excessive moisture condition will stop the
11 further expansion of the fungus.

12 (8) Exterminate all reported wood-destroying pests. Such extermination shall not be
13 considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-
14 destroying pests extend into an inaccessible area(s), recommendation shall be made to
15 either:

16 (A) enclose the structure for an all encompassing treatment utilizing materials listed
17 in Section 8505.1 of the code, or

18 (B) use another all encompassing method of treatment which exterminates the
19 infestation of the structure, or

20 (C) locally treat by any or all of the following:

21 1. exposing the infested area(s) for local treatment,

22 2. removing the infested wood,

23 3. using another method of treatment which exterminates the infestation. (If any
24 recommendation is made for local treatment, the report must contain the following
25 statement: "Local treatment is not intended to be an entire structure treatment method. If
26 infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment,
27 they may not be exterminated.")

28 When a complete inspection is performed, a recommendation shall be made to
remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the
inspection is limited to the area(s) described and diagramed. A recommendation shall be
made to remove or cover all accessible pellets and frass of wood-destroying pests in the
limited areas. The limited inspection report shall include a recommendation for further
inspection of the entire structure and that all accessible evidence of wood-destroying pests
be removed or covered.

13. California Code of Regulations, title 16, section 1993(c), states:

A limited report is the report on only part of a structure. Such a report shall have a diagram
of the area inspected and shall specifically indicate which portions of the structure were
inspected with recommendation for further inspection of the entire structure and the name
of the person or agency requesting a limited report.

1 **COST RECOVERY/RESTITUTION**

2 14. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 15. Government Code section 11519(d) provides, in pertinent part, that the Board may
7 require restitution of damages suffered as a condition of probation in the event probation is
8 ordered.

9 **VARGA PROPERTY**

10 16. On or about April 3, 2008, Respondent inspected the property located at 29500
11 Heathercliff Road, Space #172, located in Malibu, California ("Varga property"), for wood
12 destroying pests and organisms for escrow purposes, and thereafter issued a Complete Wood
13 Destroying Pests and Organisms Inspection Report No. 12007 ("Inspection Report No. 12007").

14 17. Respondent's findings involved evidence of drywood termites and drywood termite
15 damage at the deck; fungus damage (decay fungi damage) at the carport, exterior siding/trim, and
16 deck hand rail; and water stains on the underside of the eaves.

17 18. Respondent recommended to locally treat for the control of drywood termites;
18 remove or cover the accessible evidence of infestation; remove and replace the decay fungi
19 damage; treat the adjacent wood members with a registered fungicide or wood preservative; and
20 to obtain the services of a licensed roofing contractor to determine the present condition of the
21 roof and make any necessary repairs regarding the water stains on the underside of the eaves.

22 19. On or about April 22, 2008, Respondent issued a Standard Notice of Work
23 Completed and Not Completed ("Completion Notice"), certifying that all recommendations made
24 in Inspection Report No. 12007, had been completed with the exception of the water stains on the
25 underside of the eaves.

26 20. On or about June 30, 2008, escrow closed.
27
28

1 21. On or about December 12, 2008, at the request of Don and Sue Varga
2 (“homeowners”), Respondent reinspected the Varga property and issued a Supplemental Wood
3 Destroying Pests and Organisms Inspection Report No. 12126 (“Inspection Report No. 12126”).

4 22. Respondent’s findings involved evidence of drywood termites in the substructure,
5 decking, and master bathroom wall; and decay fungi damage at the siding and/or skirting, fascia
6 board, and window molding.

7 23. Respondent’s recommendations were to locally treat for the control of drywood
8 termites; remove or cover the accessible evidence; remove and replace the decay fungi damage;
9 and treat the adjacent wood members with a registered fungicide or wood preservative.

10 24. On or about March 5, 2009, the Board received a complaint from the homeowners.

11 25. On or about April 20, 2009, a Board specialist inspected the Varga property and noted
12 violations.

13 26. On or about April 23, 2009, the Board specialist prepared and issued a Report of
14 Findings along with a Notice ordering Respondent to bring the property into compliance by
15 correcting the items described in the Report of Findings and to submit a corrected inspection
16 report and Notice of Work Completed and Not Completed to the Board within thirty (30) days
17 with respect to the inspections performed on April 3, 2008, and December 12, 2008.

18 27. On or about May 7, 2009, Respondent re-inspected the Varga property and thereafter
19 issued a Limited Wood Destroying Pests and Organisms Inspection Report No. 12182
20 (“Inspection Report No. 12182”), consisting of certain findings and recommendations.

21 28. On or about May 20, 2009, a Board specialist met with Respondent at the Varga
22 property and discussed the required repairs. On that same day, Respondent re-inspected the
23 Varga property and thereafter issued a Reinspection Wood Destroying Pests and Organisms
24 Inspection Report No. 12192 (“Inspection Report No. 12192”), consisting of certain findings and
25 recommendations.

1 29. On or about May 26, 2009, the Board specialist received Inspection Report No.
2 12192, and contacted the Respondent to discuss problems with the report. Respondent told the
3 Board specialist that he would return to the Varga property on May 27, 2009.

4 30. On or about May 27, 2009, Respondent re-inspected the Varga property and
5 thereafter issued a Supplemental Wood Destroying Pests and Organisms Inspection Report No.
6 12193 ("Inspection Report No. 12193"), consisting of certain findings and recommendations.

7 31. On or about May 28, 2009, the Board specialist received Inspection Report No.
8 12193, and contacted the Respondent to discuss the problems with the report. The Board
9 specialist agreed to meet with Respondent at the Varga property on June 3, 2009, to discuss a
10 number of issues. Respondent told the Board specialist that his insurance adjustor would be
11 present during the meeting.

12 32. On or about June 3, 2009, the Board specialist met with Respondent and
13 Respondent's insurance adjustor at the Varga property and discussed problems with the report.
14 On that same day, Respondent re-inspected the Varga property and thereafter issued a
15 Supplemental Wood Destroying Pests and Organisms Inspection Report No. 12198 ("Inspection
16 Report No. 12198"), consisting of certain findings and recommendations.

17 33. Respondent failed to bring the property into compliance.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Violation of Contract)**

20 34. Respondent's registration and operator's license are subject to discipline under Code
21 section 8638, in that, concerning the Varga property, Respondent failed to complete the decay
22 fungi damage repairs at the carport, which had been reported as having been completed on the
23 Standard Notice of Work Completed and Not Completed, dated April 22, 2008.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Failed to Comply with Report of Findings)**

26 35. Respondent's registration and operator's license are subject to discipline under Code
27 section 8641, in that he failed to comply with Code section 8622, by failing to correct the items
28 described in the Report of Findings within thirty (30) calendar days of receipt of the Notice,

1 bringing the Varga property into compliance with the Board's Notice and Report of Findings,
2 dated April 23, 2009.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Inspection Report Violations)**

5 36. Respondent's registration and operator's license are subject to discipline under Code
6 section 8641, in that, concerning the Varga property, Respondent failed to comply with Code
7 section 8516(b) and 8518, in that Inspection Report Nos. 12126, 12182, 12192, 12193, 12198,
8 and 12007 (including the Notice of Completion), failed to contain the correct address for the
9 Board.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with the Code - Improper Inspection)**

12 37. Respondent's registration and operator's license is subject to discipline under Code
13 section 8641, in that, concerning the Varga property, Respondent failed to comply with the
14 following Code sections:

15 **APRIL 3, 2008, INSPECTION**

16 **Section 8516(b)(6)(7):**

17 a. Respondent failed to report evidence of subterranean termites and subterranean
18 termite damage in the substructure, as defined by California Code of Regulations, title 16, section
19 1990(a)(3) and (4).

20 b. Respondent failed to report evidence of drywood termites and drywood termite
21 damage in the substructure, as defined by California Code of Regulations, title 16, section
22 1990(a)(3) and (4).

23 c. Respondent failed to report evidence of the drywood termite damage in the
24 substructure, as defined by California Code of Regulations, title 16, section 1990(a)(3) and (4).

25 d. Respondent failed to report cellulose debris in the substructure, as defined by
26 California Code of Regulations, title 16, section 1990(b)(3).

27 e. Respondent failed to report earth-to-wood contact in the substructure, as defined by
28 California Code of Regulations, title 16, section 1990(b)(4).

- 1 f. Respondent failed to report decay fungi and decay fungi damage in the substructure,
2 as defined by California Code of Regulations, title 16, section 1990(a)(4).
- 3 g. Respondent failed to report the full extent of the decay fungi damage at the wood
4 decks and parapet, as defined by California Code of Regulations, title 16, section 1990(a)(3) and
5 (4).
- 6 h. Respondent failed to report decay fungi damage at the exterior wood trim on the rear
7 of the structure, as defined by California Code of Regulations, title 16, section 1990(a)(3) and (4).
- 8 i. Respondent failed to report evidence of subterranean termites, subterranean termite
9 damage, evidence of drywood termites, drywood termite damage, and the full extent of the decay
10 fungi damage at the skirting, as defined by California Code of Regulations, title 16, section
11 1990(a)(3) and (4).
- 12 j. Respondent failed to report the full extent of the decay fungi damage at the carport, as
13 defined by California Code of Regulations, title 16, section 1990(a)(4).
- 14 k. Respondent failed to report the full extent of the evidence of drywood termites and
15 drywood termite damage at the wood decks, as defined by California Code of Regulations, title
16 16, section 1990(a)(3) and (4).
- 17 l. Respondent failed to report evidence of subterranean termites and subterranean
18 termite damage at the wood decks and deck covering, as defined by California Code of
19 Regulations, title 16, section 1990(a)(3)(4), and (e).
- 20 m. Respondent failed to report an inaccessible area, due to a boxed eave, as defined by
21 California Code of Regulations, title 16, section 1990(d).
- 22 n. Respondent failed to report earth-to-wood contact at the skirting and wood decks and
23 deck covering, as defined by California Code of Regulations, title 16, section 1990(b)(4).
- 24 o. Respondent failed to report excessive moisture conditions at the wood decks and deck
25 covering.
- 26 **Section 8516(b)(10):**
- 27 p. Respondent failed to make a proper recommendation regarding the reported decay
28 fungi damage, in that the recommendation failed to include a recommendation to correct the

1 excessive moisture condition responsible for the infections, as defined by California Code of
2 Regulations, title 16, section 1991(a)(5).

3 q. Respondent failed to make a proper recommendation regarding the reported evidence
4 of drywood termites at the deck, in that the evidence clearly indicated the infestations extended
5 into an inaccessible area, yet, the recommendations were to locally treat the infestations, instead
6 of recommending an all-compassing treatment, as defined by California Code of Regulations, title
7 16, section 1991(a)(8).

8 **Section 8516(c):**

9 r. Respondent failed to properly record on Inspection Report No. 12007, the water
10 stains at the carport eaves, as a Section I finding, as defined by California Code of Regulations,
11 title 16, section 1990(f).

12 **DECEMBER 12, 2008, INSPECTION**

13 **Section 8516(b)(6)(7):**

14 a. Respondent failed to report the evidence of subterranean termites and subterranean
15 termite damage in the substructure, as defined by California Code of Regulations, title 16, section
16 1990(a)(3) and (4).

17 b. Respondent failed to report the full extent of the evidence of drywood termites and
18 drywood termite damage in the substructure, as defined by California Code of Regulations, title
19 16, section 1990(a)(3) and (4).

20 c. Respondent failed to report decay fungi and decay fungi damage in the substructure,
21 as defined by California Code of Regulations, title 16, section 1990(a)(4).

22 d. Respondent failed to report the full extent of the decay fungi damage at the wood
23 decks and parapet, as defined by California Code of Regulations, title 16, section 1990(a)(3) and
24 (4).

25 e. Respondent failed to report evidence of drywood termites, drywood termite damage,
26 and decay fungi damage at the wood trim on the front of the structure, as defined by California
27 Code of Regulations, title 16, section 1990(a)(3) and (4).

28

1 f. Respondent failed to report evidence of subterranean termites, subterranean termite
2 damage, and decay fungi damage at the skirting, as defined by California Code of Regulations,
3 title 16, section 1990(a)(3) and (4).

4 g. Respondent failed to report cellulose debris in the substructure, as defined by
5 California Code of Regulations, title 16, section 1990(b)(3).

6 h. Respondent failed to report earth-to-wood contact in the substructure and skirting, as
7 defined by California Code of Regulations, title 16, section 1990(b)(4).

8 i. Respondent failed to report an inaccessible area, due to a boxed eave, as defined by
9 California Code of Regulations, title 16, section 1990(d).

10 **Section 8516(b)(10):**

11 j. Respondent failed to make a proper recommendation regarding the reported decay
12 fungi damage, in that the recommendation failed to include a recommendation to correct the
13 excessive moisture condition responsible for the infections, as defined by California Code of
14 Regulations, title 16, section 1991(a)(5).

15 k. Respondent failed to make a proper recommendation regarding the reported evidence
16 of drywood termites in the substructure and bathroom wall, in that the evidence clearly indicated
17 the infestations extended into an inaccessible area, yet, the recommendations were to locally treat
18 the infestations; instead of recommending an all-compassing treatment, as defined by California
19 Code of Regulations, title 16, section 1991(a)(8).

20 l. Respondent failed to include a "limited" report statement on Inspection Report No.
21 12126, as defined by California Code of Regulations, title 16, section 1993(c).

22 **MAY 7, 2009, INSPECTION**

23 **Section 8516(b)(6)(7):**

24 a. Respondent failed to report earth-to-wood contact in the substructure, as defined by
25 California Code of Regulations, title 16, section 1990(b)(4).

26 b. Respondent failed to report evidence of subterranean termites at the wood decks and
27 deck covering, as defined by California Code of Regulations, title 16, section 1990(a)(3)(4), and
28 (e).

1 c. Respondent failed to report the full extent of the decay fungi damage at the exterior
2 framing, as defined by California Code of Regulations, title 16, section 1990(a)(3) and (4).

3 d. Respondent failed to report earth-to-wood contact at the wood decks and deck
4 covering, as defined by California Code of Regulations, title 16, section 1990(b)(4).

5 e. Respondent failed to report an inaccessible area, due to a boxed eave, as defined by
6 California Code of Regulations, title 16, section 1990(d).

7 f. Respondent failed to report excessive moisture conditions at the wood decks and deck
8 covering.

9 **Section 8516(b)(10):**

10 g. Respondent failed to make a proper recommendation regarding the reported decay
11 fungi damage, in that the recommendation failed to include a recommendation to correct the
12 excessive moisture condition responsible for the infections, as defined by California Code of
13 Regulations, title 16, section 1991(a)(5).

14 **MAY 20, 2009, INSPECTION**

15 **Section 8516(b)(6)(7):**

16 a. Respondent failed to report evidence of earth-to-wood contact in the substructure, as
17 defined by California Code of Regulations, title 16, section 1990(b)(4).

18 b. Respondent failed to report evidence of subterranean termites, drywood termites, and
19 drywood termite damage at the wood deck under the carport, as defined by California Code of
20 Regulations, title 16, section 1990(a)(3)(4), and (e).

21 c. Respondent failed to report an inaccessible area, due to a boxed eave, as defined by
22 California Code of Regulations, title 16, section 1990(d).

23 **Section 8516(b)(10):**

24 d. Respondent failed to make a proper recommendation regarding the reported decay
25 fungi damage, in that the recommendation failed to include a recommendation to correct the
26 excessive moisture condition responsible for the infections, as defined by California Code of
27 Regulations, title 16, section 1991(a)(5).

28

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

MAY 27, 2009, INSPECTION

Section 8516(b)(6)(7):

e. Respondent failed to report evidence of subterranean termites, drywood termites, and drywood termite damage at the wood deck under the carport, as defined by California Code of Regulations, title 16, section 1990(a)(3)(4), and (e).

OTHER MATTERS

38. 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.

39. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 2790, issued to Suppress Pest Control, likewise constitute cause for discipline against Operator's License Number OPR 9446, issued to Salvador Monarrez, who serves as the Qualifying Manager of Suppress Pest Control, regardless of whether Salvador Monarrez had knowledge of or participated in the acts or omissions which constitute cause for discipline against Suppress Pest Control.

40. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 2790, issued to Suppress Pest Control, then Salvador Monarrez, who serves as the Qualifying Manager of Suppress Pest Control, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, 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 1. Revoking or suspending Company Registration Certificate Number PR 2790, issued
- 2 to Suppress Pest Control;
- 3 2. Revoking or suspending Operator's License Number OPR 9446, issued to Salvador
- 4 Monarrez;
- 5 3. Revoking or suspending any other license for which Salvador Monarrez is furnishing
- 6 the qualifying experience or appearance;
- 7 4. Ordering restitution of all damages according to proof suffered by Don and Sue
- 8 Varga as a condition of probation in the event probation is ordered;
- 9 5. Prohibiting Salvador Monarrez from serving as an officer, director, associate, partner,
- 10 qualifying manager or responsible managing employee of any registered company during the
- 11 period that discipline is imposed on Company Registration Certificate Number PR 2790, issued to
- 12 Suppress Pest Control;
- 13 6. Ordering Suppress Pest Control and Salvador Monarrez to pay the Structural Pest
- 14 Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to
- 15 Business and Professions Code section 125.3; and,
- 16 7. Taking such other and further action as deemed necessary and proper.

17 DATED: 3/1/10

Kelli Okuma
KELLI OKUMA
Registrar/Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

21
22 LA2009604537(kdg)
10537947.doc