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

In the Matter of the Accusation Against: CAL EX TERMITE CONTROL 8709 Spring Canyon Drive Spring Valley, CA 91977 THOMAS JAMES DONAR, QM Operator's License No. OPR 11424, Branch 3 (disassociated 6/9/08) Respondent.	Case No. 2009-50 STIPULATED SETTLEMENT AND DISCIPLINARY ORDER REGARDING THOMAS DONAR ONLY
In the Matter of the Statement of Issues Against: THOMAS DONAR Operator's License No. OPR 11424, Branch 3 Respondent.	Case No. 2010-72

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.

The Decision shall become effective on February 25, 2011.

IT IS SO ORDERED January 26, 2011.

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

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

In the Matter of the Accusation Against: **CAL EX TERMITE CONTROL** 8709 Spring Canyon Drive Spring Valley, California 91977 **LETICIA BELTRAN, Owner** **Company Registration Certificate No. PR 5440, Br. 3** **THOMAS JAMES DONAR, Qualifying Manager** **Operator License No. OPR 11424, Br. 3** **(Disassociated 6/9/08)** **ISRAEL ERNESTO GUERRERO** 8709 Spring Canyon Drive Spring Valley, California 91977 **Field Representative License No. FR 34068, Br. 3** Respondents.	Case No. 2009-50 OAH No. 2009080737 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER REGARDING THOMAS DONAR ONLY**
In the Matter of the Statement of Issues Against: **THOMAS DONAR** **Operator License No. OPR 11424, Br. 3** Respondent.	Case No. 2010-72 OAH No. 2010090933

IT IS HEREBY STIPULATED AND AGREED by and between the parties that the following Stipulated Settlement and Disciplinary Order will be submitted to the Board for approval and adoption as the final disposition of Accusation Case No. 2009-50 solely with respect to Respondent Thomas Donar. The Accusation against Cal Ex Termite Control and Israel Guerrero is being resolved separately. This Stipulated Settlement and Disciplinary Order will be submitted to the Board for approval and adoption as the final disposition of Statement of Issues Case No. 2010-72.

PARTIES

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

2. Thomas Donar (Respondent Donar) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

Company Registration Certificate No. PR 5440

3. On or about September 24, 2007, the Structural Pest Control Board issued Company Registration No. PR 5440 to Cal Ex Termite Control Branch 3, with Leticia Beltran as the owner and Michael D. Edwards as the Qualifying Manager.

4. On November 29, 2007, Michael D. Edwards disassociated as the Qualifying Manager. On January 2, 2008, the registration was suspended for failing to have a Qualifying Manager.

5. On January 23, 2008, David Eugene Poplin became the Qualifying Manager and the registration was reinstated. On January 30, 2008, David Eugene Poplin disassociated as the Qualifying Manager.

6. On January 30, 2008, the registration was suspended pursuant to Business and Professions Code (Code) section 8690 for failing to maintain general liability insurance. On February 6, 2008, the registration was reinstated after posting the general liability insurance.

7. On February 29, 2008, the registration was suspended for failing to have a Qualifying Manager. On March 7, 2008, Thomas James Donar became the Qualifying Manager and the registration was reinstated. On June 9, 2008, Thomas James Donar disassociated as the Qualifying Manager.

8. On June 24, 2008, the registration was suspended for failing to have a Qualifying Manager. On July 18, 2008, John Morgan Quinn became the Qualifying Manager and the registration was reinstated. On August 8, 2008, John Morgan Quinn disassociated as the Qualifying Manager.

9. On August 20, 2008, the registration was suspended pursuant to Code section 8690 for failing to maintain general liability insurance. On August 29, 2008, the registration was reinstated after posting general liability insurance.

10. On September 10, 2008, the registration was suspended for failing to have a Qualifying Manager. On September 26, 2008 Lily Tiffany Wong became the Qualifying Manager and the registration was reinstated.

11. On November 6, 2008, the registration was suspended pursuant to Code section 8690 for failing to maintain general liability insurance.

12. On November 12, 2008, Lily Tiffany Wong disassociated as the Qualifying Manager. On December 15, 2008, the registration was suspended for failing to have a Qualifying Manager.

13. On February 10, 2009, the registration was reinstated after posting general liability insurance, however, remained suspended for no Qualifying Manager.

14. On March 11, 2009, the registration reflected Steve Alfred Hall, Junior as Qualifying Manager.

15. On April 15, 2009, the registration reflected the disassociation of Steve Alfred Hall, Junior as Qualifying Manager.

16. On June 15, 2009, the registration reflected Kroft R. Salmi as Qualifying Manager.

17. On December 14, 2009, the registration reflected the disassociation of Kroft R. Salmi as Qualifying Manager.

Thomas James Donar - Operator's License No. OPR 11424 Branch 3

18. On November 13, 2006, the Board issued Operator's License Number OPR 11424, in Branch 3, to Thomas James Donar (Respondent Donar). On or about March 7, 2008, Respondent Donar became the Qualifying Manager of Respondent Cal Ex. On or about June 9, 2008, Donar disassociated as the Qualifying Manager of Respondent Cal Ex.

Thomas James Donar - Operator's License No. OPR 11424 Branch 2

19. On or about July 16, 2009, the Board received an application from Respondent Donar for an Operator's License in Branch 2. On or about August 25, 2009, the Board denied Respondent Donar's application for an Operator's License in Branch 2 based upon the pending Accusation Case No. 2009-50.

JURISDICTION

20. Accusation No. 2009-50 was filed before the Structural Pest Control Board (Board), Department of Pesticide Regulation, and is currently pending against Respondent Donar. The Accusation and all other statutorily required documents were properly served on Respondent Donar on April 15, 2009. Respondent Donar timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2009-50 is attached as Exhibit A and incorporated herein by reference.

21. Statement of Issues No. 2010-72 was filed before the Structural Pest Control Board (Board), Department of Pesticide Regulation, and is currently pending against Respondent Donar. The Statement of Issues and all other statutorily required documents were properly served on Respondent Donar on April 13, 2010. A copy of Statement of Issues No. 2010-72 is attached as Exhibit B and incorporated herein by reference.

ADVISEMENT AND WAIVERS

22. Respondent Donar has carefully read, and understands the charges and allegations in Accusation No. 2009-50 and Statement of Issues No. 2010-72. Respondent Donar has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

23. Respondent Donar is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation and Statement of Issues; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

24. Respondent Donar voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

25. Respondent Donar admits the truth of each and every charge and allegation in Accusation No. 2009-50.

26. Respondent Donar admits the truth of each and every charge and allegation in Statement of Issues No. 2010-72.

27. Respondent Donar agrees that his Operator's License in Branch 3 is subject to discipline and his application to upgrade his Operator's License to include Branch 2 is subject to denial. Respondent Donar agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

28. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondent Donar understands and agrees that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

30. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Donar's Operator's License will be upgraded to include Branch 2, which shall be immediately revoked.

IT IS HEREBY FURTHER ORDERED that Respondent Donar's Operator's License No. OPR 11424, in Branch 3 will be revoked. However, both revocations will be stayed and Respondent Donar's Operators License in Branches 2 and 3 shall be placed on probation for two years on the following terms and conditions.

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

2. **Quarterly Reports.** Respondent Donar shall file quarterly reports with the Board during the period of probation.

3. **Tolling of Probation.** Should Respondent Donar leave California to reside outside this state, Respondent must notify the Board in writing of the dates of departure and

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return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

4. **Notice to Employers.** Respondent Donar shall notify all present and prospective employers of the decisions in Accusation Case No. 2009-50 and in Statement of Issues Case No. 2010-72 and the terms, conditions and restrictions imposed on Respondent Donar by said decisions. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read the decision in Accusation Case No. 2009-50 and Statement of Issues Case No. 2010-72.

5. **Completion of Probation.** Upon successful completion of probation, Respondent Donar's Operator's License in Branches 2 and 3 will be fully restored.

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

7. **Prohibited from Serving as Officer, Director, Associate, Partner, Qualifying Manager, or Branch Office Manager.** Respondent Donar is prohibited from serving as an officer, director, associate, partner, qualifying manager, or branch office manager of any registered company other than a registered company of which he is currently a 100 percent owner, during the period that discipline is imposed on his Operator's Licenses.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Operator's License in Branches 2 and 3. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

DATED: 12/27/10

THOMAS DONAR all rights reserve
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: 1-3-11

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

Karen Gordon

KAREN L. GORDON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 2009-50

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Attorneys for Complainant

FILED

Date 10/6/09 By Kelli Okuma

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

In the Matter of the First Amended Accusation Against: **CAL EX TERMITE CONTROL** 8709 Spring Canyon Drive Spring Valley, California 91977 **LETICIA BELTRAN, Owner** **Company Registration Certificate No. PR 5440, Br. 3** **THOMAS JAMES DONAR, Qualifying Manager** **Operator License No. OPR 11424, Br. 3** **(Disassociated 6/9/08)** **ISRAEL ERNESTO GUERRERO** 8709 Spring Canyon Drive Spring Valley, California 91977 **Field Representative License No. FR 34068, Br. 3** Respondents.	Case No. 2009-50 **FIRST AMENDED ACCUSATION**

Kelli Okuma ("Complainant") alleges:

PARTIES

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

Company Registration Certificate No. PR 5440

September 24, 2007	The Board issued Company Registration Certificate No. PR 5440 ("registration") to Cal Ex Termite Control ("Respondent Cal Ex") in Branch 3, with Leticia Beltran as the owner and Michael D. Edwards as the Qualifying Manager.
November 29, 2007	Michael D. Edwards disassociated as the Qualifying Manager.
January 2, 2008	The registration was suspended for failing to have a Qualifying Manager.
January 23, 2008	David Eugene Poplin became the Qualifying Manager and the registration was reinstated.
January 30, 2008	David Eugene Poplin disassociated as the Qualifying Manager.
January 30, 2008	The registration was suspended pursuant to Business and Professions Code ("Code") section 8690 for failing to maintain general liability insurance.
February 6, 2008	The registration was reinstated after posting the general liability insurance.
February 29, 2008	The registration was suspended for failing to have a Qualifying Manager.
March 7, 2008	Thomas James Donar became the Qualifying Manager and the registration was reinstated.
June 9, 2008	Thomas James Donar disassociated as the Qualifying Manager.
June 24, 2008	The registration was suspended for failing to have a Qualifying Manager.
July 18, 2008	John Morgan Quinn became the Qualifying Manager and the registration was reinstated.
August 8, 2008	John Morgan Quinn disassociated as the Qualifying Manager.
August 20, 2008	The registration was suspended pursuant to Code section 8690 for failing to maintain general liability insurance.
August 29, 2008	The registration was reinstated after posting general liability insurance.
September 10, 2008	The registration was suspended for failing to have a Qualifying Manager.
September 26, 2008	Lily Tiffany Wong became the Qualifying Manager and the registration was reinstated.
November 6, 2008	The registration was suspended pursuant to Code section 8690 for failing to maintain general liability insurance.
November 12, 2008	Lily Tiffany Wong disassociated as the Qualifying Manager.
December 15, 2008	The registration was suspended for failing to have a Qualifying Manager.
February 10, 2009	The registration was reinstated after posting general liability insurance.

Thomas James Donar - Operator's License No. OPR 11424

2. On or about November 13, 2006, the Board issued Operator's License Number OPR 11424, in Branch 3, to Thomas James Donar ("Respondent Donar"). On or about March 7, 2008, Respondent Donar became the Qualifying Manager of Respondent Cal Ex. On or about June 9, 2008, Donar disassociated as the Qualifying Manager of Respondent Cal Ex. The license will expire on June 30, 2009, unless renewed.

Israel Ernesto Guerrero - Field Representative's License No. FR 34068

3. On or about December 7, 2001, the Board issued Field Representative's License Number FR 34068, in Branch 3, to Israel Guerrero ("Respondent Guerrero"). On or about October 16, 2003, Respondent Guerrero paid a $25 fine levied by the Board for violating Code section 8516 (reporting violations), and California Code of Regulations, title 16, section 1991 (reporting requirements). On or about September 24, 2007, Respondent Guerrero became employed with Respondent Cal Ex. The license will expire on June 30, 2010, unless renewed.

STATUTORY PROVISIONS

4. 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.

5. 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.

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6. 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.

7. Code section 8654 states:

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

8. Code section 8516 states, in pertinent part:

(b) 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.

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

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

. . . .

(10) Recommendations for corrective measures.

9. Code section 8518 states:

When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 working days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

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

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

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

Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

10. Code section 8538 states:

(a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

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(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION — PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions — the County Health Department (telephone number); for Application Information — the County Agricultural Commissioner (telephone number) and for Regulatory Information — the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.
In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.
In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.
(2) Posting in a conspicuous place on the real property.
(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

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11. 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.

12. 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.

13. Code section 8636 states:

Disregard and violation of the buildings laws of the state, or of any of its political subdivisions, or of the safety laws, labor laws, health laws, or compensation insurance laws of the state relating to the practice of structural pest control is a ground for disciplinary action.

14. Code section 8638 states:

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.

15. 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.

16. 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.

17. 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.

18. Code section 8646 states:

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

19. Code section 8652 states:

> Failure of a registered company to make and keep all inspection reports, contracts, documents, 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 registrar during business hours.

20. Code section 8691 states:

> No registered company shall engage in any of the practices for which it is required to be registered by this chapter unless it maintains such insurance policy or bond as specified in this article.

COST RECOVERY

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

WOMACK PROJECT

22. In December 2007, homeowner Candance Womack ("Womack") received a telephone call from Respondent Cal Ex, offering a free termite inspection. Womack accepted the offer. Womack told the caller that she would like fumigation and asked if they performed fumigation. The caller said yes.

23. On or about December 19, 2007, a man arrived at Womack's residence located at 14661 El Monte Road, Lakeside, California ("Womack project"), and introduced himself as "Will." "Will" inspected the windowsill, wooden trim, and sliding glass door track in the living room, the wooden retaining posts, the carport framing on the exterior, and the interior basement/laundry area. "Will" confirmed termite infestations, and told Womack that there was a beetle infestation in the paneling on the ceiling in her kitchen. "Will" also told Womack that because the infestations were spotty, it would be a waste of money to fumigate. "Will" prepared an estimate for the local treatment of drywood termites and beetles for $625. The offer included a three year guarantee. Womack accepted the offer. "Will" requested and received $312.

24. On or about January 2, 2008, "Will" returned to Womack's residence and treated the termite infestations, but he failed to treat the beetle infestation in the kitchen. "Will" requested and received the remaining balance of $312.50.

25. In or about March 2008, Womack began to see evidence of termites at the windowsill and sliding glass door area (the same areas "Will" inspected and treated). Womack telephoned Respondent Cal Ex and spoke with Respondent Guerrero. Womack explained that the termites were back at the same locations and asked if "Will" could return to treat them. Respondent Guerrero scheduled an appointment to return to the Womack residence, but no one showed up for the appointment.

26. The next day Womack called Respondent Cal Ex and spoke with Respondent Guerrero. Respondent Guerrero rescheduled the appointment, but no one showed up for the appointment.

27. Womack called Respondent Cal Ex several times and reached the answering machine. Womack left numerous messages but never received a return call.

28. On or about April 30, 2008, the Board received a complaint from Womack.

29. On or about October 10, 2008, a Board representative met with Womack at her residence. The Board specialist confirmed the infestations and infections of drywood termites.

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FIRST CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Inspection Reports)

30. Respondent Cal Ex's registration is subject to discipline under Code section 8641, in that in or about December 2007, Respondent failed to comply with Code section 8516(b), in that on the Womack project, Respondent failed to report and file with the Board, the address of the property inspected or upon which work was completed, within ten (10) business days after the commencement of an inspection or upon completed work.

SECOND CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Completion Notices)

31. Respondent Cal Ex's registration license is subject to discipline under Code section 8641, in that in or about January 2008, Respondent failed to comply with Code section 8518, in that on the Womack project, Respondent failed to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

THIRD CAUSE FOR DISCIPLINE

(Failure to Make and Keep Inspection Reports)

32. Respondent Cal Ex's registration is subject to discipline under Code section 8652, in that on the Womack project, Respondent failed to make and keep all inspection reports, contracts, documents, and 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.

FOURTH CAUSE FOR DISCIPLINE

(Fraudulent Act)

33. Respondent Cal Ex's registration is subject to discipline under Code section 8642, in that on the Womack project, Respondent committed fraudulent acts by failing to treat the beetle infestation in the kitchen after receiving payment in full.

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FIFTH CAUSE FOR DISCIPLINE

(Failed to Complete Contract for Price Stated in Contract)

34. Respondent Cal Ex's registration is subject to discipline under Code section 8638, in that, on the Womack project, Respondent failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

SIXTH CAUSE FOR DISCIPLINE

(Violation of Law - Consumer Notice)

35. Respondent Cal Ex's registration is subject to discipline under Code section 8646, in that on or about January 2, 2008, regarding the Womack project, Respondent failed to comply with Code section 8538, by failing to provide the owner of the premises with a clear written notice containing the pesticide or pesticides proposed to be used, the active ingredient or ingredients, and the notice required by state law, no later than prior to the application.

LOMBARDO PROJECT

36. On or about February 22, 2008, homeowner Salvatore Lombardo ("Lombardo") received a telephone call from Respondent Cal Ex offering a free termite inspection. Lombardo accepted the offer. Later that same day, Respondent Guerrero arrived at Lombardo's residence, located at 3436 Hugo Street, San Diego, California ("Lombardo project"), and inspected the living room, kitchen, bedroom, behind the closet, and under the exterior stairs. Respondent Guerrero confirmed drywood termite infestations. Respondent Guerrero prepared an estimate for treating the respective areas. The estimate included covering all holes with wood puddy, using XT 2000 (orange oil), and a two year guarantee for $525. Lombardo accepted the offer. Respondent Guerrero requested and received $300.

37. On or about February 23, 2008, Respondent Guerrero returned to Lombardo's residence to treat the infestations. Upon completion of the work, Respondent Guerrero requested and received the remaining balance of $225.

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38. In or about March 2008, Lombardo discovered that Respondent Guerrero failed to treat under the stairs. Lombardo contacted Respondent Guerrero. Respondent Guerrero told Lombardo that he would stop by his residence and treat the area under the stairs. Respondent Guerrero never returned.

39. On or about March 11, 2008, the Board received a complaint from Lombardo.

40. On or about June 27, 2008, a Board specialist met with Lombardo at his residence and inspected the property. The Board specialist confirmed the presence of drywood termites on the interior and exterior of the property.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Inspection Reports)

41. Respondent Cal Ex's registration and Respondent Guerrero's field representative's license are subject to discipline under Code section 8641, in that in or about February 2008, Respondents failed to comply with Code section 8516(b), in that on the Lombardo project, Respondents failed to report and file with the Board the address of the property inspected or upon which work was completed, within ten (10) business days after the commencement of an inspection or upon completed work.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Completion Notices)

42. Respondent Cal Ex's registration and Respondent Guerrero's field representative's license are subject to discipline under Code section 8641, in that in or about February 2008, Respondents failed to comply with Code section 8518, in that on the Lombardo project, Respondents failed to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

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NINTH CAUSE FOR DISCIPLINE

(Failure to Make Inspection Records Available)

43. Respondent Cal Ex's registration is subject to discipline under Code section 8652, in that on the Lombardo project, Respondent failed to make and keep all inspection reports, contracts, documents, and 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.

TENTH CAUSE FOR DISCIPLINE

(Fraudulent Act)

44. Respondent Cal Ex's registration and Respondent Guerrero's field representative's license are subject to discipline under Code section 8642, in that Respondents committed fraudulent acts by failing to complete the Lombardo project after receiving payment in full.

ELEVENTH CAUSE FOR DISCIPLINE

(Failed to Complete Contract for Price Stated in Contract)

45. Respondent Cal Ex's registration is subject to discipline under Code section 8638, in that on the Lombardo project, Respondent failed to complete the contract for the contract price by failing to treat termite infestation under the stairs, and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

TWELFTH CAUSE FOR DISCIPLINE

(Violation of Law - Consumer Notice)

46. Respondent Cal Ex's registration and Respondent Guerrero's field representative's license are subject to discipline under Code section 8646, in that on the Lombardo project, Respondents failed to comply with Code section 8538 by failing to provide the owner of the premises with a clear written notice containing the pesticide or pesticides proposed to be used, the active ingredient or ingredients, and the notice required by state law, no later than prior to the application.

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POTTER PROJECT

47. On or about February 26, 2008, homeowner Robert Potter ("Potter") received a telephone call from Respondent Cal Ex offering a free termite inspection. Potter accepted the offer.

48. On or about February 27, 2008, William Hughes ("Hughes"), an unlicensed individual, representing Respondent Cal Ex, arrived at Potter's residence located at 8776 Crockett Street, La Mesa, California ("Potter project"). Hughes inspected the living room and exterior roof eaves, and confirmed the presence of drywood termites. Hughes recommended a local treatment using orange oil. Hughes also stated that there was fungus and termite damage at the roof eaves. Hughes prepared an estimate to locally treat and repair the damaged wood for $850. Potter accepted the offer. Hughes requested and received $425.

49. Respondent Cal Ex never performed any termite treatments or made any repairs on the Potter project.

50. On or about April 11, 2008, the Board received a complaint from Potter.

51. On or about June 25, 2008, a Board specialist met with Potter at his residence and inspected the property. The Board specialist confirmed the presence of drywood termites on the interior, and drywood termites/decay fungi/termite damage on the exterior roof eaves.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Inspection Reports)

52. Respondent Cal Ex's registration is subject to discipline under Code section 8641, in that in or about February 2008, Respondent failed to comply with Code section 8516(b), in that on the Potter project, Respondent failed to report and file with the Board, the address of the property inspected or upon which work was completed, within ten (10) business days after the commencement of an inspection or upon completed work.

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FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Completion Notices)

53. Respondent Cal Ex's registration license is subject to discipline under Code section 8641, in that in or about February 2008, Respondent failed to comply with Code section 8518, in that on the Potter project, Respondent failed to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Make or Keep Inspection Reports)

54. Respondent Cal Ex's registration is subject to discipline under Code section 8652, in that on the Potter project, Respondent failed to make and keep all inspection reports, contracts, documents, and 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.

SIXTEENTH CAUSE FOR DISCIPLINE

(Fraudulent Act)

55. Respondent Cal Ex's registration is subject to discipline under Code section 8642, in that on the Potter project, Respondent committed the following fraudulent acts:

a. On or about February 27, 2008, on behalf of Respondent Cal Ex, Hughes performed a pest control evaluation, made pest identification, treatment recommendations, claims of pest control safety or pest control efficacy, and offered price quotes other than what was provided and printed on the company advertising or literature, or both, without being licensed to do so, as defined in Code section 8550.

b. Respondent failed to perform any work on the Potter project after receiving $425.

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SEVENTEENTH CAUSE FOR DISCIPLINE

(Aiding and Abetting)

56. Respondent Cal Ex's registration is subject to discipline under Code section 8639, in that on or about February 27, 2008, on the Potter project, Respondent aided or abetted an unlicensed individual or knowingly combined or conspired with an unlicensed individual, William Hughes, to evade the provisions of the Structural Pest Control Act.

VAN DORN PROJECT

57. On or about April 5, 2008, homeowner Jack Van Dorn ("Van Dorn") received a telephone call from Leticia Beltran, owner of Respondent Cal Ex, who offered Van Dorn a free termite inspection. Van Dorn accepted the offer. Leticia Beltran scheduled the appointment on April 7, 2008. Leticia Beltran told Van Dorn that he would be meeting with a man by the name of "AJ."

58. On or about April 7, 2008, a man arrived at Van Dorn's residence located at 5251 Mount Ariane Court, San Diego, California ("Van Dorn project"). Van Dorn asked the man if he was "AJ." The man said no. The man did not identify himself, but handed Van Dorn a business card with the name Israel Guerrero on it. The man inspected two areas on the interior and a few areas on the exterior of the property, and confirmed the presence of drywood termite infestations, subterranean termite infestations, and termite damage. The man prepared an estimate for local treatment of the termites and subterranean termites, replacing the second story fascia board, and a three year guarantee on the entire structure for $700. Van Dorn accepted the offer. The man requested and received $350. The check was made payable to Israel Guerrero.

59. On or about April 29, 2008, three men arrived at Van Dorn's residence. Van Dorn recognized one of the men as the man who came to his residence on April 7, 2008. One of the other two men approached Van Dorn and identified himself as Israel Guerrero. All three men performed work on the residence. Upon completion of the work, Respondent Guerrero requested and received the remaining balance of $350.

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60. In or about June 2008, Van Dorn found evidence of termite infestations. Van Dorn called Respondent Cal Ex several times and left messages on the answering machine. Subsequently, Van Dorn received a telephone call from Respondent Guerrero. Respondent Guerrero scheduled an appointment with Van Dorn on June 6, 2008. Respondent Cal Ex never returned to the property.

61. On or about July 9, 2008, the Board received a complaint from Van Dorn.

62. On or about September 24, 2008, a Board specialist met with Mr. and Mrs. Van Dorn at their residence. The Board specialist confirmed evidence of subterranean termites on the interior, and live subterranean termites, live drywood termites, and termite damage on the exterior of the property.

63. On or about September 29, 2008, the Board sent a Report of Findings to Respondent Cal Ex and Respondent Donar notifying them of the complaint filed by Van Dorn and violations of Code sections 8516 and 8518.

64. On or about October 4, 2008, Respondent Donar, Qualifying Manager of Respondent Cal Ex, and Leticia Beltran, owner of Respondent Cal Ex, signed and received the notice of the Report of Findings.

65. Respondent Cal Ex failed to respond.

66. On or about November 4, 2008, Respondent Donar reimbursed Van Dorn in full for $700.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Inspection Reports)

67. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8641, in that in or about April 2008, Respondents failed to comply with Code section 8516(b), in that on the Van Dorn project, Respondents failed to report and file with the Board, the address of the property inspected or upon which work was completed, within ten (10) business days after the commencement of an inspection or upon completed work.

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NINETEENTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Completion Notices)

68. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8641, in that in or about April 2008, Respondents failed to comply with Code section 8518, in that on the Van Dorn project, Respondents failed to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

TWENTIETH CAUSE FOR DISCIPLINE

(Failure to Make Inspection Records Available)

69. Respondent Cal Ex's registration is subject to discipline under Code section 8652, in that on the Van Dorn project, Respondent failed to make and keep all inspection reports, contracts, documents, and 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.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Fraudulent Act)

70. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8642, in that on the Van Dorn project, Respondents committed fraudulent acts by failing to treat the beetle infestation in the kitchen after receiving payment in full.

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TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failed to Complete Contract for Price Stated in Contract)

71. Respondent Cal Ex's registration is subject to discipline under Code section 8638, in that on the Van Dorn project, Respondent failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violation of Law - Consumer Notice)

72. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8646, in that on the Van Dorn project, Respondents failed to comply with Code section 8538, by failing to provide the owner of the premises with a clear written notice containing the pesticide or pesticides proposed to be used, the active ingredient or ingredients, and the notice required by state law, no later than prior to the application.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

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

73. Respondent Cal Ex's company registration is subject to discipline under Code section 8641, in that Respondent failed to comply with Code section 8571 by failing to notify the Board within ten (10) days of the disassociation of Qualifying Manager, Thomas James Donar.

ECHELBERGER PROJECT

74. On or about July 25, 2008, homeowner Jean Echelberger ("Echelberger") received a telephone call from Respondent Cal Ex, who offered Echelberger a free termite inspection. Echelberger accepted the offer.

75. On or about July 26, 2008, a man arrived at Echelberger's residence located at 13222 Idyl Drive, Lakeside, California ("Echelberger project"). The man did not identify himself, but stated that he was from Cal Ex. He asked Echelberger where she had seen termites. The man inspected the areas and confirmed drywood termite infestations. The man stated that

fumigation was not necessary stating that, "Orange oil will take care of the termites." Echelberger understood that she would not be required to leave her home for 3-4 days, unlike fumigations. The man did not go under the house or in the attic. The man prepared an estimate/contract entitled "Cal Ex Termite service agreement." The contract amount was $1,220.00. Echelberger accepted the offer. The man requested and received $610. The check was made payable to Israel Guerrero.

76. On or about July 28, 2008, two men arrived at Echelberger's residence. One of the men identified himself as Israel Guerrero. A man named Hector accompanied Guerrero. Guerrero asked Echelberger where the termites were. She showed him the areas she knew to have termites. Guerrero looked inside the home and into the attic, at the shop Echelberger wanted fumigated and at the exterior perimeter of the property. Guerrero told her fumigation was not necessary, that orange oil would take care of the termites. Guerrero told her there is dryrot at the roof eave near the front door. Guerrero said he needed an additional $400.00 to complete the repairs. Echelberger wrote a check to Israel Guerrero for an additional $400.00.

77. On or about July 29, 2008, Guerrero and Hector returned to the property. Guerrero requested and received an additional $1,035.00 for lumber and roofing material.

78. On or about July 30, 2008, Guerrero and Hector returned to the property. Guerrero requested and received an additional $350.00 for repairs.

79. Guerrero was expected to return and continue working the following day, however, he did not return as scheduled. Echelberger made numerous telephone calls to Guerrero who repeatedly promised to return. Respondent Cal Ex never returned to the property.

80. At some point, the original contract was replaced with a document entitled Cal Ex Termite service agreement dated July 26, 2008 and containing notations regarding additional charges for material, labor, and replacing the side patio cover with fiberglass paneling.

81. On or about October 9, 2008, the Board received a complaint from Echelberger. Echelberger paid a total of $2,395.00 to Guerrero.

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TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Inspection Reports)

82. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8641, in that in or about July 2008, Respondents failed to comply with Code section 8516 (b), in that on the Echelberger project, Respondents failed to report and file with the Board, the address of the property inspected or upon which work was completed, within ten (10) business days after the commencement of an inspection or upon completed work.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Failure to File Work Activity Reports with the Board - Completion Notices)

83. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8641, in that in or about July 2008, Respondents failed to comply with Code section 8518, in that on the Echelberger project, Respondents failed to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Make Inspection Records Available)

84. Respondent Cal Ex's registration is subject to discipline under Code section 8652, in that on the Echelberger project, Respondent failed to make and keep all inspection reports, contracts, documents, and 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.

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TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Fraudulent Act)

85. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8642, in that on the Echelberger project, Respondents committed fraudulent acts by failing to treat the drywood termites and replace termite and fungus damage after receiving payment.

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Failed to Complete Contract for Price Stated in Contract)

86. Respondent Cal Ex's registration is subject to discipline under Code section 8638, in that on the Echelberger project, Respondent failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

THIRTIETH CAUSE FOR DISCIPLINE

(Failure to Complete Repairs in a Workmanlike Manner)

87. Respondent Cal Ex's company registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8636, in that on the Echelberger project, Respondents failed to complete repairs in a workmanlike manner.

THIRTY-FIRST CAUSE FOR DISCIPLINE

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

88. Respondent Cal Ex's company registration is subject to discipline under Code section 8641, in that Respondent failed to comply with Code section 8571 by failing to notify the Board within ten (10) days of the disassociation of Qualifying Manager, Thomas James Donar.

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THIRTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Make a Proper Treatment Recommendation)

89. Respondent Cal Ex's registration, Respondent Donar's operator's license, and Respondent Guerrero's field representative license are subject to discipline under Code section 8641, in that in or about July 2008, Respondents failed to comply with Code section 8516 (b)(10), in that on the Echelberger project, Respondents failed to make a proper treatment recommendation.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain an Insurance Policy)

90. Respondent Cal Ex's registration is subject to discipline under Code section 8641, in that in or about March 2008 through August 2008, Respondents failed to comply with Code section 8691, in that it failed to maintain an insurance policy.

OTHER MATTERS

91. 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.

92. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, likewise constitute cause for discipline against Operator's License Number OPR 11424, issued to Thomas James Donar, who served as the Qualifying Manager of Cal Ex Termite Control[1], regardless of whether Thomas James Donar had knowledge of or participated in the acts or omissions which constitute cause for discipline against Cal Ex Termite Control.

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1. Thomas James Donar served the Qualifying Manager of Cal Ex Termite Control between March 7, 2008, and June 9, 2008.

93. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, then Thomas James Donar, who served as the Qualifying Manager of Cal Ex Termite 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.

94. Israel Ernesto Guerrero, a field representative employed by Cal Ex Termite Control had knowledge of and participated in the acts or omissions which constitute cause for discipline against Cal Ex Termite Control.

95. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, then Israel Ernesto Guerrero, a field representative employed by Cal Ex Termite Control, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of him by a registered company is a ground for disciplinary action.

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

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 5440, issued to Cal Ex Termite Control with Leticia Beltran as the owner;

2. Revoking or suspending Operator's License Number OPR 11424, issued to Thomas James Donar;

3. Revoking or suspending any other license for which Thomas James Donar is furnishing the qualifying experience or appearance;

4. Revoking or suspending Field Representative License No. FR 34068, issued to Israel Ernesto Guerrero;

5. Prohibiting Thomas James Donar 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 5440, issued to Cal Ex Termite Control;

6. Prohibiting Israel Ernesto Guerrero 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 5440, issued to Cal Ex Termite Control;

7. Ordering restitution of all damages according to proof suffered by any person as a result of an operation or construction repairs as a condition of probation in the event probation is ordered.

8. Ordering Cal Ex Termite Control, Thomas James Donar, and Israel Ernesto Guerrero 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,

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

DATED: 10-6-09

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

SD2009308353

Exhibit B

Statement of Issues No. 2010-72

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FILED
Date 4/5/10 By Kelli Okuma

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

In the Matter of the Statement of Issues Against: **THOMAS JAMES DONAR** **32385 Ricks Drive** **Wildomar, CA 92595** **Operator's License No. OPR 11424, Branch 3** Respondent.	Case No. 2010-72 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Kelli Okuma (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation.

2. On or about July 16, 2009, the Structural Pest Control Board, Department of Pesticide Regulation received an application from Thomas James Donar (Respondent) to upgrade his Operator's License No. OPR 11424 to include Branch 2 general pest. On or about July 1, 2009, Thomas James Donar certified under penalty of perjury to the truthfulness of all statements,

answers, and representations in the application. The Board denied the application on August 25, 2009.

JURISDICTION

3. This Statement of Issues is brought before the Structural Pest Control Board (Board), Department of Pesticide Regulation, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 475 states, in pertinent part, as follows:

> (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:
>
> . . . .
>
> (3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.
>
> (4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of the license.

5. Code section 480 states, in pertinent part, as follows:

> (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
>
> . . . .
>
> (3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of the license.
>
> The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made . . .

6. Code section 8568 provides, in pertinent part, that the Board may deny a license or registration if the applicant, while unlicensed or not registered, knowingly committed or aided or abetted the commission of any act for which a license or company registration is required, or has committed any act or omissions constituting grounds for discipline under section 480 of that code.

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STATUTORY PROVISIONS

7. Code section 8516 states, in pertinent part:

(b) 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.

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

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

. . . .

(10) Recommendations for corrective measures.

8. Code section 8518 states:

When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 working days after completing the work. The notice shall include

a statement of the cost of the completed work and estimated cost of work not completed.

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

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

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

Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days.

9. Code section 8538 states:

(a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION — PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that, based on existing scientific evidence, there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately."

(This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions — the County Health Department (telephone number); for Application Information — the County Agricultural Commissioner (telephone number) and for Regulatory Information — the Structural Pest Control Board (telephone number and address)."

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.
In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.
In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.
(2) Posting in a conspicuous place on the real property.
(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

10. Code section 8568 states, in pertinent part:

After a hearing the board may deny a license . . . unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not . . .:

(a) Committed any act or crime constituting grounds for denial of licensure under Section 480.

. . . .

(c) While acting as a partner, officer, managing employee, or qualifying manager of a firm, partnership, or corporation, had knowledge of and participated in the commission of any act resulting in the suspension or revocation of a license or company registration.

. . .

11. 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.

12. Code section 8638 states:

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.

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.

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15. Code section 8646 states:

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

16. Code section 8652 states:

Failure of a registered company to make and keep all inspection reports, contracts, documents, 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 registrar during business hours.

17. Code section 8654 states:

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

18. Government Code section 11519(d) states, in pertinent part:

(d) As used in subdivision (b), specified terms of probation may include an order of restitution. Where restitution is ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited to any subsequent judgment in a civil action.

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VAN DORN PROJECT

19. On or about April 5, 2008, homeowner Jack Van Dorn (Van Dorn) received a telephone call from Leticia Beltran, owner of Cal Ex Termite Control (Cal Ex), who offered Van Dorn a free termite inspection. Van Dorn accepted the offer. Leticia Beltran scheduled the appointment on April 7, 2008. Leticia Beltran told Van Dorn that he would be meeting with a man by the name of "AJ."

20. On or about April 7, 2008, a man arrived at Van Dorn's residence located at 5251 Mount Ariane Court, San Diego, California (Van Dorn project). Van Dorn asked the man if he was "AJ." The man said no. The man did not identify himself, but handed Van Dorn a business card with the name Israel Guerrero on it. Israel Guerrero was a Cal Ex employee. The man inspected two areas on the interior and a few areas on the exterior of the property, and confirmed the presence of drywood termite infestations, subterranean termite infestations, and termite damage. The man prepared an estimate for local treatment of the termites and subterranean termites, replacing the second story fascia board, and a three year guarantee on the entire structure for $700. Van Dorn accepted the offer. The man requested and received $350. The check was made payable to Israel Guerrero.

21. On or about April 29, 2008, three men arrived at Van Dorn's residence. Van Dorn recognized one of the men as the man who came to his residence on April 7, 2008. One of the other two men approached Van Dorn and identified himself as Israel Guerrero. All three men performed work on the residence. Upon completion of the work, Guerrero requested and received the remaining balance of $350.

22. In or about June 2008, Van Dorn found evidence of termite infestations. Van Dorn called Cal Ex several times and left messages on the answering machine. Subsequently,

Van Dorn received a telephone call from Guerrero. Guerrero scheduled an appointment with Van Dorn on June 6, 2008. Cal Ex never returned to the property.

23. On or about July 9, 2008, the Board received a complaint from Van Dorn.

24. On or about September 24, 2008, a Board specialist met with Mr. and Mrs. Van Dorn at their residence. The Board specialist confirmed evidence of subterranean termites on the interior, and live subterranean termites, live drywood termites, and termite damage on the exterior of the property.

25. On or about September 29, 2008, the Board sent a Report of Findings to Cal Ex and Respondent Donar notifying them of the complaint filed by Van Dorn and violations of Code sections 8516 and 8518.

26. On or about October 4, 2008, Respondent Donar, Qualifying Manager of Cal Ex, and Leticia Beltran, owner of Cal Ex, signed and received the notice of the Report of Findings.

27. Cal Ex failed to respond.

28. On or about November 4, 2008, Respondent Donar reimbursed Van Dorn in full for $700.

FIRST CAUSE FOR DENIAL

(Committed Acts Which Are Grounds for Discipline of His License)

29. Respondent Donar's application for an operator's license in Branch 2 is subject to denial pursuant to Code sections 8568, 475 (a)(4), and 480 (a)(3), in that Respondent committed acts which are grounds for suspension or revocation of his operator's license in Branch 3 as alleged in First Amended Accusation Case No. 2009-50.

30. Respondent Donar who served as Qualifying Manager of Cal Ex Termite Control (Cal Ex) from March 7, 2008 through June 9, 2008 during the time period that Cal Ex entered

into a contract with Mr. Van Dorn, took $700.00 from Mr. Van Dorn, but failed to perform the work in accordance with the contract, as set forth above.

SECOND CAUSE FOR DENIAL

(Failure to File Work Activity Reports with the Board - Inspection Reports)

31. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8568, 475 (a)(4), and 480 (a)(3), in that in or about April of 2008, Cal Ex, the company for whom Respondent was the qualifying manager, failed to comply with Code section 8516(b) on the Van Dorn project by failing to report and file with the Board, the address of the property inspected or upon which work was completed, within ten (10) business days after the commencement of an inspection or upon completed work, as set forth above.

THIRD CAUSE FOR DENIAL

(Failure to File Work Activity Reports with the Board - Completion Notices)

32. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8568, 475 (a)(4), and 480 (a)(3), in that in or about April 2008, Cal Ex, the company for whom Respondent was the qualifying manager, failed to comply with Code section 8518 on the Van Dorn project by failing to report and file with the Board, the address of the property upon which work was completed, within ten (10) working days after work was completed.

FOURTH CAUSE FOR DENIAL

(Failure to Make Inspection Records Available)

33. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8568, 475 (a)(4), and 480 (a)(3), in that in or about April 2008, Cal Ex, the company for whom Respondent was the qualifying manager, failed to make and keep all

inspection reports, contracts, documents, and 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.

FIFTH CAUSE FOR DENIAL

(Fraudulent Act)

34. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8568, 475 (a)(3), (4), and 480 (a)(3), in that on the Van Dorn project, Cal Ex, the company for whom Respondent was the qualifying manager, committed fraudulent acts by failing to treat the beetle infestation in the kitchen after receiving payment in full.

SIXTH CAUSE FOR DENIAL

(Failed to Complete Contract for Price Stated in Contract)

35. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8638, 475 (a)(4), and 480 (a)(3), in that on the Van Dorn project, Cal Ex, the company for whom Respondent was the qualifying manager, failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

SEVENTH CAUSE FOR DENIAL

(Violation of Law - Consumer Notice)

36. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8646, 475 (a)(4), and 480 (a)(3), in that on the Van Dorn project, Cal Ex, the company for whom Respondent was the qualifying manager, failed to provide the owner of the premises with a clear written notice containing the pesticide or pesticides proposed to be used, the active ingredient or ingredients, and the notice required by state law, no later than prior to the application.

GRAVES PROJECT

37. On or about April 11, 2008, homeowner Pauline Graves (Graves) entered into a contract with Cal Ex to repair termite damage at her residence located at 5125 Alumni Place, San Diego, California (Graves project). The contract provided a three year service guarantee. Graves paid Cal Ex $600.00. No services were provided to Graves by Cal Ex.

EIGHTH CAUSE FOR DENIAL

(Committed Acts Which Are Grounds for Discipline of His License)

38. Respondent Donar's application for an operator's license in Branch 2 is subject to denial pursuant to Code sections 8568, 475 (a)(4), and 480 (a)(3), in that Respondent committed acts which are grounds for suspension or revocation of his operator's license in Branch 3.

39. Respondent Donar served as Qualifying Manager of Cal Ex Termite Control (Cal Ex) from March 7, 2008 through June 9, 2008 during the time period that Cal Ex entered into a contract with Ms. Graves, took $600.00 from Ms. Graves, but failed to perform the work in accordance with the contract.

NINTH CAUSE FOR DENIAL

(Fraudulent Act)

40. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8568, 475 (a)(3), (4), and 480 (a)(3), in that on the Graves project, Cal Ex, the company for whom Respondent was the qualifying manager, committed fraudulent acts by failing to perform the work under the contract with Graves after receiving payment.

TENTH CAUSE FOR DENIAL

(Failed to Complete Contract for Price Stated in Contract)

41. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8638, 475 (a)(4), and 480 (a)(3), in that on the Graves project, Cal Ex,

the company for whom Respondent was the qualifying manager, failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

LUTACK PROJECT

42. On or about May 21, 2008, homeowner Dorothy Lutack (Lutack) entered into a contract with Cal Ex for termite services at her residence located in San Diego, California (Lutack project). Lutack paid Cal Ex $375.00. No services were provided to Lutack by Cal Ex.

ELEVENTH CAUSE FOR DENIAL

(Committed Acts Which Are Grounds for Discipline of His License)

43. Respondent Donar's application for an operator's license in Branch 2 is subject to denial pursuant to Code sections 8568, 475 (a)(4), and 480 (a)(3), in that Respondent committed acts which are grounds for suspension or revocation of his operator's license in Branch 3.

44. Respondent Donar served as Qualifying Manager of Cal Ex Termite Control (Cal Ex) from March 7, 2008 through June 9, 2008 during the time period that Cal Ex entered into a contract with Ms. Lutack, took $375.00 from Ms. Lutack, but failed to perform the work in accordance with the contract.

TWELFTH CAUSE FOR DENIAL

(Fraudulent Act)

45. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8568, 475 (a) (3), (4), and 480 (a)(3), in that on the Lutack project, Cal Ex, the company for whom Respondent was the qualifying manager, committed fraudulent acts by failing to perform the work under the contract with Lutack after receiving payment.

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THIRTEENTH CAUSE FOR DENIAL

(Failed to Complete Contract for Price Stated in Contract)

46. Respondent Donar's application for an operator's license in Branch 2 is subject to denial under Code section 8638, 475 (a)(4), and 480 (a)(3), in that on the Lutack project, Cal Ex, the company for whom Respondent was the qualifying manager, failed to complete the contract for the contract price and the homeowner will be required to spend a sum in excess of the contract price to complete the project in accordance with the contract.

OTHER MATTERS

47. 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.

48. Pursuant to Code section 8624, the causes for discipline established in First Amended Accusation Case No. 2009-50 as to Company Registration Certificate Number PR 5440, issued to Cal Ex Termite Control, likewise constitute cause for discipline against Operator's License Number OPR 11424 in Branch 3, issued to Thomas James Donar, who served as the Qualifying Manager of Cal Ex Termite Control[1], regardless of whether Thomas James Donar had knowledge of or participated in the acts or omissions which constitute cause for discipline against Cal Ex Termite Control.

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1. Thomas James Donar served the Qualifying Manager of Cal Ex Termite Control between March 7, 2008, and June 9, 2008.

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

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. Denying the application of Thomas James Donar to upgrade his Operator's License OPR 11424 to include Branch 2, general pest control;

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

DATED: 4/5/10

Kelli Okuma

KELLI OKUMA
Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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