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**FILED**

Date 5/23/11 By William H. Douglas

7  
8 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
9 **DEPARTMENT OF PESTICIDE REGULATION**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-63

11 **RAIDEN EXTERMINATING COMPANY**  
12 **5007 Heleo Avenue**  
**Temple City, CA 91780**  
13 **KAM LUN SITO, QUALIFYING MANAGER**

**A C C U S A T I O N**

14 **Company Registration Certificate No. PR 5623,**  
15 **Branches 2 and 3**  
16 **Operator's License No. OPR 11678,**  
**Branches 2 and 3**

17 Respondents.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. William H. Douglas ("Complainant") brings this Accusation solely in his official  
22 capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board  
23 ("Board"), Department of Pesticide Regulation.

24 **Company Registration Certificate**

25 2. On or about May 30, 2008, the Board issued Company Registration Certificate  
26 Number PR 5623 in Branch 3 ("registration") to Raiden Exterminating Company with Kam Lun  
27 Sito ("Respondent") as the Owner and Qualifying Manager. On July 18, 2008, the registration  
28

1 was upgraded to include Branches 2 and 3, reflecting Kam Lun Sito as the Branch 2 Qualifying  
2 Manager.

### 3 Operator's License

4 3. On or about April 11, 2008, the Board issued Operator's License Number OPR 11678  
5 in Branch 3 ("license") to Respondent. On May 30, 2008, Respondent became the Owner and  
6 Qualifying Manager of Raiden Exterminating Company. On June 17, 2008, the license was  
7 upgraded to include Branches 2 and 3. On July 18, 2008, Respondent became the Branch 2  
8 Qualifying Manager for Raiden Exterminating Company. The license was in full force and effect  
9 at all times relevant to the charges brought herein and will expire on June 30, 2013, unless  
10 renewed.

### 11 JURISDICTION

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

16 5. Code section 8624 states:

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

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

21 The performance by any partnership, corporation, firm, association, or  
22 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  
23 time the act or omission occurred, was the qualifying manager, a partner, responsible  
officer, or owner of the partnership, corporation, firm, association, or registered  
24 company whether or not he or she had knowledge of, or participated in, the prohibited  
act or omission.

25 6. Code section 8625 states:

26 The lapsing or suspension of a license or company registration by operation of law or  
27 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  
28

1 investigation of or action or disciplinary proceeding against such licensee or company, or to  
2 render a decision suspending or revoking such license or registration.

### 3 STATUTORY PROVISIONS

4 7. Code section 8516 states, in pertinent part:

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

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

16 Failure of a registered company to report and file with the board the  
17 address of any property inspected or work completed pursuant to Section 8516.1,  
18 Section 8518, or this section are grounds for disciplinary action and shall subject the  
19 registered company to a fine of not more than two thousand five hundred dollars  
20 (\$2,500).

21 A written inspection report conforming to this section and on a form  
22 approved by the board shall be prepared and delivered to the person requesting the  
23 inspection or to the person's designated agent within 10 business days of the  
24 inspection, except that an inspection report prepared for use by an attorney for  
25 litigation purposes is not required to be reported to the board. The report shall be  
26 delivered before work is commenced on any property. The registered company shall  
27 retain for three years all original inspection reports, filed notes, and activity forms.

28 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:

(1) The date of the inspection and the name of the licensed field  
representative or operator making the inspection.

(2) The name and address of any person or firm ordering the report.

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

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

(7) Information regarding the substructure, foundation walls and  
footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing  
that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling

1 joists, and attic walls, or other parts subject to attack by wood destroying pests or  
2 organisms. Conditions usually deemed likely to lead to infestation or infection, such  
3 as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive  
4 moisture conditions, evidence of roof leaks, and insufficient ventilation are to be  
5 reported.

6 (10) Recommendations for corrective measures.

7 8. Code section 8518 states, in pertinent part:

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

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

18 9. Code section 8519 states, in pertinent part:

19 Certification as used in this section means a written statement by the  
20 registered company attesting to the statement contained therein relating to the absence  
21 or presence of wood-destroying pests or organisms and, listing such  
22 recommendations, if any, which appear on an inspection report prepared pursuant to  
23 Code section 8516, and which relate to (1) infestation or infection of wood-destroying  
24 pests or organisms found, or (2) repair of structurally weakened members caused by  
25 such infestation or infection, and which recommendations have not been completed at  
26 the time of certification.

27 10. Code section 8622 states:

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

The notice sent to the registered company shall inform the registered  
company that if it desires a hearing to contest the finding of noncompliance, the  
hearing shall be requested by written notice to the board within 20 days of receipt of

1 the notice of noncompliance from the board. Where a hearing is not requested  
2 pursuant to this section, payment of any assessment shall not constitute an admission  
3 of any noncompliance charged.

4 11. Code section 8638 states:

5 Failure on the part of a registered company to complete any  
6 operation or construction repairs for the price stated in the contract for such operation  
7 or construction repairs or in any modification of such contract is a ground for  
8 disciplinary action.

9 12. Code section 8641 states:

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

15 13. Code section 8642 states:

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

### 19 REGULATORY PROVISIONS

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

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

26 (3) Infestations, infections or evidence thereof.

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

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

(2) Inaccessible subareas or portions thereof and areas where there is less  
than 12 inches clear space between the bottom of the floor joists and the unimproved  
ground area.

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

(4) Earth-wood contacts.

1 (5) Commonly controllable moisture conditions which would foster the  
growth of a fungus infection materially damaging to woodwork.

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

5 15. California Code of Regulations, title 16, section 1991, states, in pertinent part:

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

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

16 16. California Code of Regulations, title 16, section 1992, states:

17 In addition to the recommendations required in section 1991, the report  
18 may suggest secondary recommendations. When secondary recommendations are  
made, they shall be labeled as secondary recommendations and included as part of the  
19 inspection report with a full explanation of why they are made, with the notation that  
they are below standard measures. If secondary recommendations are performed, any  
20 letter of completion, billing or other document referring to the work completed, must  
state specifically the name of the person or agency requesting completion of the  
21 secondary recommendations.

22 17. California Code of Regulations, title 16, section 1993, states, in pertinent part:

23 All of the following reports must be in compliance with the requirements  
24 of Section 8516 of the code. All reports must be on the form prescribed by the Board.

25 (d) A supplemental report is the report on the inspection performed on  
26 inaccessible areas that have been made accessible as recommended on a previous  
report. Such report shall indicate the absence or presence of wood-destroying pests or  
27 organisms or conditions conducive thereto. This report can also be used to correct,  
add, or modify information in a previous report. A licensed contractor or field  
representative shall refer to the original report in such a manner to identify it clearly.

28

1 (e) A reinspection report is the report on the inspections of item(s)  
2 completed as recommended on an original report or subsequent report(s). The areas  
3 reinspected can be limited to the items requested by the person ordering the original  
4 inspection report. A licensed contractor or field representative shall refer to the  
5 original report in such a manner to identify it clearly.

6 18. California Code of Regulations, title 16, section 1996.3, subdivision (a) states:

7 (a) The address of each property inspected and/or upon which work was  
8 completed shall be reported on a form prescribed by the Board and designated as the  
9 WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev.  
10 5/09) at the end of this section. This form shall be prepared by each registered  
11 company and shall comply with all of the requirements pursuant to Section 8516,  
12 subdivision (b) and 8518.

### 13 COST RECOVERY/RESTITUTION

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

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

### 21 IOWA STREET PROPERTY

22 21. On or about June 7, 2010, Steven R. Smith, a Specialist with the Board, went to  
23 Respondent's office to follow up on a Compliance Inspection. The Specialist reviewed reports  
24 regarding a property located at 4654 Iowa Street, San Diego, California ("Iowa Property") and  
25 found a Wood Destroying Pests and Organisms Inspection Report No. W8034 ("Report No.  
26 W8034") and that on or about May 28, 2010, Respondent issued Standard Notice of Work  
27 Completed and Not Completed No. W8034 ("Completion Notice No. W8034"), for the Iowa  
28 property. Report No. W8034 disclosed that Respondent made findings, which included evidence  
of drywood termite infestations at the exterior siding, door trimming, and at the fence/gate.  
Respondent made primary a recommendation to fumigate the property and a secondary  
recommendation to chemically treat visible and accessible infestations. Respondent documented  
evidence of subterranean termite infestation at the fence/gate with recommendations to pressure

1 "ROD" treat trench application or low pressure spot spray. Respondent also made findings of  
2 excessive moisture at the fence/gate and at the window trimming. Respondent recommended  
3 contacting a proper tradesman to correct the moisture conditions.

4 22. The secondary recommendations made by Respondent failed to include a full  
5 explanation of why they were made and that those recommendations were below standard  
6 measures. The Standard Notice of Work Completed and Not Completed No. W8034 ("Report  
7 W8034") failed to state that the primary recommendation of fumigation was not completed, failed  
8 to include an estimated cost of the work not completed, and that the buyer was the one who  
9 requested that Respondent perform the secondary recommendations stated in Report No. W8034.  
10 The Specialist informed Respondent that performing secondary recommendations on a  
11 freestanding single-family residence during an escrow transaction is typically not allowed  
12 because the lender will not allow it. The Specialist also informed Respondent that because the  
13 reports were not in compliance, the lenders and others who read the reports did not have a clear  
14 understanding of the findings and recommendations and the work performed. The Specialist told  
15 Respondent to return to the Iowa Property and clarify his findings and recommendations, then  
16 provide him with new inspection report and completion notice.

17 23. On or about June 17, 2010, Respondent reinspected the Iowa Property and issued  
18 Wood Destroying Pests and Organisms Inspection Report-Supplemental No. W8038 ("Report  
19 No. W8038"), with findings and recommendations. Respondent reported evidence of drywood  
20 termite infestations at the exterior siding and door trimming and recommended fumigating the  
21 structure. A cover letter that accompanied Report No. W8038 informed the Specialist that both  
22 the seller and buyer were made aware of the mistake on the initial inspection report regarding the  
23 secondary treatment option and both decided not to fumigate the property. The property  
24 subsequently closed escrow in early June 2010.

25 24. On August 25, 2010, the Board Specialist inspected and photographed the Iowa  
26 Property and made the following findings:

- 27 a. Cellulose debris in the substructure.
- 28 b. Form boards in the substructure.

- 1 c. Evidence of drywood termites and drywood termite damage in the substructure.
- 2 d. Insufficient substructure ventilation.
- 3 e. Decay fungus and dry rot at the substructure framing.
- 4 f. Earth-to-wood contacts in the substructure and at all sides of the detached storeroom.
- 5 g. Substandard substructure supports
- 6 h. Evidence of live drywood termites and drywood termite damage in the attic.
- 7 i. Inaccessible attic areas and below the floor of the detached storeroom.
- 8 j. Decay fungi and decay fungi damage at the carport framing.
- 9 k. Decay fungi damage at the balustrade framing.
- 10 l. Decay fungi damage at the second floor corbel.

11 25. On or about September 8, 2010, the Board Specialist prepared a Report of Findings  
12 (“ROF”) outlining numerous violations of the Code, based on his inspection of August 25, 2010.  
13 That same day, the Board sent a notice with a copy of the ROF report to Respondent directing  
14 him to bring the Iowa Property into compliance by correcting the items described in the ROF and  
15 to submit a corrected inspection report and a completion notice to the Board within thirty (30)  
16 calendar days from the receipt of the notice.

17 26. On or about September 24, 2010, Respondent reinspected the Iowa Property and  
18 issued Wood Destroying Pests and Organisms Inspection Report #W8047 (“Report No. W8047”),  
19 dated October 13, 2010. Respondent made the following findings:

20 **Structure**

- 21 a. Evidence of drywood termite infestation at the wood member and floor joist (Item  
22 1A). Respondent recommended fumigation.
- 23 b. Evidence of termite damaged wood members noted at the time of inspection at crawl  
24 area and floor joist (Item 1B). Respondent recommended replacing or repairing the termite  
25 damaged wood members as necessary.
- 26 c. Dry-rot wood members (Item 1C). Respondent recommended replacing the dry-rot  
27 damaged wood members as necessary.

28

1 d. Cellulose debris in the sub area (Item 1D). Respondent recommended cleaning and  
2 removing the cellulose debris from the premises.

3 e. Earth-to-wood contacts were visible at form board (Item 1E). Respondent  
4 recommended breaking the earth-to-wood contact and/or heavily treat wood members where  
5 conditions are deemed likely to lead to infestation.

6 f. Inaccessible areas at the storeroom due to construction and/or storage, or other  
7 conditions preventing inspection (Item 1F). Respondent recommended that the owner make the  
8 areas accessible for further inspection.

9 **Attic Spaces**

10 g. Evidence of drywood termite infestations at attic framing (Item 7A). Respondent  
11 recommended fumigation.

12 h. Inaccessible areas at attic due to construction and/or storage, or other conditions  
13 preventing inspection (Item 7B). Respondent recommended that the owner make the areas  
14 accessible for further inspection.

15 **Garages**

16 i. Dry-rot wood members at the carport (Item 8A). Respondent recommended replacing  
17 or repairing the dry-rot damaged wood members as necessary.

18 **Other Exterior**

19 j. Evidence of drywood termite infestations at the rafter tail and attached carport (Item  
20 11A). Respondent recommended fumigation.

21 k. Evidence of drywood termite infestations at the door jamb (Item 11B). Respondent  
22 recommended fumigation.

23 l. Evidence of termite damaged wood members at the door jamb (Item 11C).  
24 Respondent recommended replacing or repairing the termite damaged window. Respondent  
25 recommended repairing the door jamb.

26 m. Dry-rot wood members found at the corbel (Item 11D). Respondent recommended  
27 replacing or repairing the dry-rot damaged wood members as necessary.

28

1 n. Dry-rot members found at the balustrade (Item 11E). Respondent recommended  
2 replacing or repairing the dry-rot damaged wood members as necessary.

3 o. Dry-rot wood members at the door jamb (Item 11F). Respondent recommended  
4 replacing or repairing the dry-rot damaged wood members as necessary.

5 27. Respondent failed to submit a Standard Notice of Work Completed and Not  
6 Completed to the Board for the inspection date of September 24, 2010. Four months after the  
7 Board Specialist issued the ROF, Respondent still had not brought the Iowa Property into  
8 compliance and had committed additional violations while attempting to do so.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Code - Improper Inspections)**

11 28. Respondent's registration and license are subject to discipline pursuant to Code  
12 section 8641, in that concerning the Iowa Property, Respondent failed to comply with the  
13 following sections of that Code:

14 **April 30, 2010, Inspection**

15 **Section 8516, subdivisions (b)(6) and (7):**

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

18 b. Respondent failed to report the form boards in the substructure, as defined by  
19 California Code of Regulations, title 16, section 1990, subdivision (b)(3).

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

23 d. Respondent failed to report the decay fungi and decay fungi damage in the  
24 substructure, as defined by California Code of Regulations, title 16, section 1990, subdivisions  
25 (a)(3) and (4).

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

28

1 f. Respondent failed to report the substandard support framing (girders and piers) in the  
2 substructure, as defined by California Code of Regulations, title 16, section 1990, subdivision (e).

3 g. Respondent failed to report the inadequate substructure ventilation, as defined by  
4 California Code of Regulations, title 16, section 1990, subdivision (b)(5), and section 1990,  
5 subdivision (e).

6 h. Respondent failed to report evidence of drywood termites and drywood termite  
7 damage in the attic, as defined by California Code of Regulations, title 16, section 1990,  
8 subdivisions (a)(3) and (4).

9 i. Respondent failed to report the decay fungi and decay fungi damage at the carport  
10 framing, as defined in California Code of Regulations, title 16, section 1990, subdivisions (a)(3)  
11 and (4).

12 j. Respondent failed to report the inaccessible area below the detached storeroom, as  
13 defined in California Code of Regulations, title 16, section 1990, subdivision (b)(2).

14 k. Respondent failed to report the earth-to-wood contact at the detached storeroom, as  
15 defined in California Code of Regulations, title 16, section 1990, subdivision (b)(4).

16 l. Respondent failed to report the drywood termite damage at the door jamb, as defined  
17 in California Code of Regulations, section 1990, subdivision (b)(4).

18 m. Respondent failed to report the decay fungi damage at the door jamb, as defined in  
19 California Code of Regulations, title 16, section 1990, subdivision (a)(4).

20 n. Respondent failed to report the decay fungi damage at the balustrade, above the front  
21 porch, as defined in California Code of Regulations, title 16, section 1990, subdivision (a)(4).

22 o. Respondent failed to report the decay fungi damage at the corbel, above the front  
23 porch, as defined in California Code of Regulations, title 16, section 1990, subdivision (a)(4).

24 **June 17, 2010, Inspection**

25 **Section 8516, subdivisions (b)(6) and (7):**

26 p. Respondent failed to issue a proper "supplemental" inspection report (Report No.  
27 W8038). The "supplemental", "separated" inspection report failed to contain a statement that  
28 referred to the original inspection report (Report No. W8034) explaining why Supplemental

1 Report No. W8038 was issued, in violation of California Code of Regulations, title 16, section  
2 1993, subdivision (d).

3 **Section 8516, subdivisions (b)(2) and (3):**

4 q. Respondent failed to prepare and deliver an inspection report (Report No. W8038)  
5 that contained the proper name and address of the person or firm ordering the report and of the  
6 property owner or any person who is a party in interest, in that the June 17, 2010 "supplemental,"  
7 "separated" inspection report (Report No. W8038) contained the same "ordered by" and  
8 "property owner/party in interest" information as stated on the April 30, 2010, "complete"  
9 "separated" inspection report (Report No. W8034); however, on June 10, 2010, the escrow closed  
10 and the Iowa Property had changed hands.

11 **October 13, 2010, Inspection**

12 **Section 8516, subdivisions (b)(2) and (3):**

13 r. Respondent failed to make proper findings and recommendations regarding the loose  
14 pier posts and poor ventilation noted on Report No. W8047, as defined in California Code of  
15 Regulations, title 16, section 1990, subdivision (b)(5).

16 s. Respondent failed to identify the source of infections of the decay fungi damage and  
17 failed to include recommendations to correct the excessive moisture conditions responsible for  
18 the infections, as defined in California Code of Regulations, title 16, section 1991, subdivision  
19 (a)(5).

20 t. Respondent failed to report the decay fungi in the substructure, as defined in  
21 California Code of Regulations, title 16, section 1990, subdivision (a)(3).

22 u. Respondent failed to report the full extent of the earth-to-wood contacts in the  
23 substructure, as defined in California Code of Regulations, title 16, section 1990, subdivision  
24 (a)(4).

25 v. Respondent failed to report the full extent of the evidence of drywood termites and  
26 the drywood termite damage in the attic, as defined in California Code of Regulations, section  
27 1990, subdivisions (a)(3) and (4).

28

1 w. Respondent failed to report the full extent of the decay fungi damage at the carport, as  
2 defined in California Code of Regulations, section 1990, subdivision (a)(4).

3 x. Respondent failed to report the inaccessible area and the earth-to-wood contacts at the  
4 detached storeroom, as defined in California Code of Regulations, title 16, section 1990,  
5 subdivisions (b)(2) and (4).

6 **Section 8516, Subdivision (b)(1):**

7 y. Respondent failed to issue an inspection report that contained the correct date of  
8 inspection. The subject performed the wood destroying pests and organisms inspection on  
9 September 24, 2010; however, the inspection report (Report No. W8047) was dated October 13,  
10 2010.

11 **Section 8516, Subdivision (b):**

12 z. Failed to prepare and deliver an inspection report (Report No. W8047) to the Board  
13 Specialist prior to commencement of the work. The Board Specialist received Respondent's  
14 October 13, 2010, "complete," "separated" inspection report (Report W8047) on October 18,  
15 2010. The cover letter that accompanied the inspection report stated the corrections were  
16 completed the prior week.

17 aa. Respondent failed to file the completion notice dated May 28, 2010, (Report No.  
18 W8034) with the Board, as defined in California Code of Regulations, title 16, section 1996.3,  
19 subdivision (a).

20 bb. Respondent failed to issue a "reinspection" report for the work completed as stated on  
21 the completion notice (Report No. W8034) that reported said work as being completed by others,  
22 as defined in California Code of Regulations, title 16, section 1993, subdivision (e).

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Code – Completion Notices)**

25 29. Respondent's registration and license are subject to discipline pursuant to Code  
26 section 8641, in that as to the Iowa Property, he failed to comply with Code section 8518 by  
27 failing to issue a reinspection report for the work regarding the excessive moisture conditions at  
28

1 the fence/gate and window trimming as noted on the completion notice (Report No. W8034),  
2 which was reported as being completed by others.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Notice Issued by the Board)**

5 30. Respondent's registration and license are subject to discipline pursuant to Code  
6 section 8641, in that Respondent failed to comply with Code section 8622. Respondent failed to  
7 bring the Iowa Property into compliance by failing to correct all of the items described in the  
8 Report of Findings and submit a corrected inspection report to the Board within thirty (30)  
9 calendar days from receipt of the Board's notice dated September 8, 2010.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Regulations – Proper Secondary Recommendations)**

12 31. Respondent's registration and license are subject to discipline pursuant to Code  
13 section 8641, in that Respondent failed to comply with California Code of Regulations, title 16,  
14 section 1992. Respondent failed to make proper secondary recommendations on Inspection  
15 Report No. W8034. The secondary recommendations failed to include a full explanation as to  
16 why they were made, and failed to indicate that they were below standard measures.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Violation of Contract)**

19 32. Respondent's registration and license are subject to discipline pursuant to Code  
20 section 8638, in that concerning the Iowa Property, Respondent failed to chemically treat the  
21 drywood termites at the doorjamb, as stated in the Standard Notice of Work Completed and Not  
22 Completed, dated May 28, 2010 (Report No. W8034).

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Gross Negligence or Fraud)**

25 33. Respondent's registration and license are subject to discipline pursuant to Code  
26 section 8642, in that on the Iowa Property, Respondent committed grossly negligent or fraudulent  
27 acts, as follows:  
28

1 a. Respondent falsified the completion notice dated May 28, 2010 (Report No. W8034)  
2 by stating that the buyer had requested the secondary recommendation performed when, in fact,  
3 he did not.

4 b. Respondent failed to document the primary recommendation for fumigation on the  
5 completion notice dated May 28, 2010 (Report No. W8034).

6 c. Respondent failed to include an estimated cost for the work not completed on the  
7 completion notice dated May 28, 2010 (Report No. W8034).

#### 8 OTHER MATTERS

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

15 35. Pursuant to Code section 8624, the causes for discipline established as to Company  
16 Registration Certificate Number PR 5623, issued to Raiden Exterminating Company, likewise  
17 constitute cause for discipline against Operator's License Number OPR 11678, issued to Kam Lun  
18 Sito, who serves as the Qualifying Manager of Raiden Exterminating Company, regardless of  
19 whether Kam Lun Sito had knowledge of or participated in the acts or omissions which constitute  
20 cause for discipline against Raiden Exterminating Company.

21 36. Pursuant to Code section 8654, if discipline is imposed on Company Registration  
22 Certificate Number PR 5623, issued to Raiden Exterminating Company, then Kam Lun Sito, who  
23 serves as the Qualifying Manager of Raiden Exterminating Company, shall be prohibited from  
24 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
25 employee for any registered company during the time the discipline is imposed, and any  
26 registered company which employs, elects, or associates him, shall be subject to disciplinary  
27 action.

28

PRAYER

1  
2       WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Structural Pest Control Board issue a decision:

4       1.    Revoking or suspending Company Registration Certificate Number PR 5623, issued  
5 to Raiden Exterminating Company;

6       2.    Revoking or suspending Operator's License Number OPR 11678, issued to Kam Lun  
7 Sito;

8       3.    Revoking or suspending any other license for which Kam Lun Sito is furnishing the  
9 qualifying experience or appearance;

10       4.    Ordering restitution of all damages according to proof suffered by David Fitzgerald as  
11 a condition of probation in the event probation is ordered;

12       5.    Prohibiting Kam Lun Sito from serving as an officer, director, associate, partner,  
13 qualifying manager or responsible managing employee of any registered company during the  
14 period that discipline is imposed on Company Registration Certificate Number PR 5623, issued to  
15 Raiden Exterminating Company;

16       6.    Ordering Kam Lun Sito and Raiden Exterminating Company to pay the Structural  
17 Pest Control Board the reasonable costs of the investigation and enforcement of this case,  
18 pursuant to Business and Professions Code section 125.3; and,

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

20  
21 DATED: 5/23/11

William H. Douglas  
WILLIAM H. DOUGLAS  
Interim Registrar/Executive Officer  
Structural Pest Control Board  
Department of Pesticide Regulation  
State of California  
*Complainant*

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