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

In the Matter of the Accusation Against:

**SHERIDAN PEST CONTROL
CHRISTOPHER M. SHERIDAN, OWNER
PAUL C. RIGHTLER, QUALIFYING
MANAGER
68 Coombs Street
Napa, California 94558
Company Registration Certificate No. PR 5852**

**CHRISTOPHER M. SHERIDAN
68 Coombs Street
Napa, California 94558
Mailing Address:
P.O. Box 6192
Napa, California 94581
Field Representative's License No. FR 45526
Applicator License No. RA 47811**

**PAUL C. RIGHTLER
68 Coombs Street
Napa, California 94559
Mailing Address:
9550 Avenue B
Niland, California 92257
Operator's License No. OPR 9068**

and

**CLEVELAND MOORE, JR.
2120 University Park Drive
Sacramento, California 95825
Operator's License No. OPR 9548**

Respondents.

Case No. 2011-71

**DEFAULT DECISION AND ORDER:
RESPONDENTS SHERIDAN PEST
CONTROL, CHRISTOPHER M.
SHERIDAN, AND CLEVELAND
MOORE, JR.**

[Gov. Code §§ 11504, 11505(b)]

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FINDINGS OF FACT

1. On or about June 6, 2011, Complainant William H. Douglas, in his official capacity as the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide Regulation, filed Accusation No. 2011-71 against Respondents Sheridan Pest Control, Christopher M. Sheridan, Cleveland Moore, Jr. and Paul C. Rightler before the Structural Pest Control Board. (Accusation attached as Exhibit A.)

1 2. On or about May 27, 2009, the Structural Pest Control Board (Board) issued
2 Company Registration Certificate No. PR 5852 in Branch 2 to Respondent Sheridan Pest Control,
3 with Respondent Christopher M. Sheridan as owner and Cleveland Moore, Jr. as the qualifying
4 manager. On January 28, 2010, the company registration was upgraded to include Branches 2
5 and 3 (termite) with Respondent Cleveland Moore Jr. as the Branch 3 qualifying manager. On
6 June 3, 2010, the company registration was suspended for failing to maintain general liability
7 insurance as required by Business & Professions Code section 8690. On June 23, 2010,
8 Respondent Cleveland Moore, Jr. disassociated as the qualifying manager. On June 29, 2010, the
9 company registration was reinstated after posting general liability insurance. On July 9, 2010, the
10 company registration was suspended for failing to replace the qualifying manager. On or about
11 March 3, 2011, Respondent Paul C. Rightler became the Branch 2 qualifying manager, the
12 company registration was reinstated and the company registration was downgraded to include
13 Branch 2 only.

14 3. On or about August 6, 2007, the Board issued Applicator License No. RA 47811 in
15 Branches 2 and 3 to Respondent Christopher M. Sheridan, an employee of Respondent Sheridan
16 Pest Control. On May 17, 2010, the license was downgraded to a Branch 3 due to issuance of a
17 Field Representative License to Respondent Christopher M. Sheridan. On August 6, 2010,
18 Applicator License No. RA 47811 expired and was canceled.

19 4. On or about May 17, 2010, the Board issued Field Representative License No.
20 FR 45526 in Branch 2 to Respondent Christopher M. Sheridan, an employee of Respondent
21 Sheridan Pest Control. The license will expire on June 30, 2012, unless renewed.

22 5. On or about June 19, 1996, the Board issued Operator's License No. OPR 9548 in
23 Branch 2 to Respondent Cleveland Moore, Jr. On September 29, 1998, the license was upgraded
24 to Branches 2 and 3. On May 27, 2009, Respondent became the Branch 2 qualifying manager for
25 Respondent Sheridan Pest Control. On January 28, 2010, Respondent became the Branch 3
26 qualifying manager. On June 3, 2010, Respondent's license was suspended for failing to
27 maintain general liability insurance as required by Business & Professions Code section 8690. On
28 June 23, 2010, Respondent disassociated as the Branches 2 and 3 qualifying manager for

1 Respondent Sheridan Pest Control, his license was reinstated and placed on inactive status.
2 Respondent Cleveland Moore Jr.'s operator's license will expire on June 30, 2013, unless
3 renewed.

4 3. On or about July 5, 2011, and again on July 19, 2011, Respondents were served by
5 Certified Mail and United States First Class Mail with copies of the Accusation No. 2011-71,
6 Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes
7 (Government Code sections 11507.5, 11507.6, and 11507.7) at their respective addresses of
8 record and mailing addresses. Respondent Sheridan Pest Control's address of record was and now
9 is, pursuant to Business and Professions Code section 136, at 68 Coombs Street, Napa, California
10 94558. Respondent Christopher M. Sheridan's address of record was and now is 68 Coombs
11 Street, Napa, California 94558, and his mailing address is P.O. Box 6192, Napa, CA 94581.
12 Respondent Cleveland Moore, Jr.'s address of record was and now is 2120 University Park Drive,
13 Sacramento, California 95825.

14 4. On August 9, 2011, Respondent Christopher M. Sheridan was served again by
15 Certified Mail and United States First Class Mail with copies of the Accusation No. 2011-71,
16 Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes
17 (Government Code sections 11507.5, 11507.6, and 11507.7).

18 5. Service of the Accusation was effective as a matter of law under the provisions of
19 Government Code section 11505, subdivision (c) and/or Business & Professions Code
20 section 124.

21 6. On or about July 11, 2011, the Board received a Return Receipt for Certified Mail of
22 the aforementioned documents addressed to Respondent Christopher M. Sheridan, owner of
23 Respondent Sheridan Pest Control, at P.O. Box 6192, Napa, California 94581. The Certified
24 Mail and First Class mailings of the aforesaid documents to Respondent Christopher M. Sheridan,
25 at 68 Coombs Street, Napa, California were returned by the United States Postal Service on or
26 about July 20, 2011, as "undeliverable." The Certified Mail and First Class mailings to
27 Christopher M. Sheridan of August 9, 2011, were not returned and in fact, a Return Receipt for
28 the Certified Mail was received on August 16, 2011, signed by Respondent Christopher M.

1 Sheridan. The Certified Mail and First Class Mail of the aforesaid documents addressed to
2 Respondent Cleveland Moore, Jr. at 2120 University Park Drive, Sacramento, California 95825
3 have not been returned by the U.S. Postal Service.

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

5 (c) The respondent shall be entitled to a hearing on the merits if the respondent
6 files a notice of defense, and the notice shall be deemed a specific denial of all parts
7 of the accusation not expressly admitted. Failure to file a notice of defense shall
8 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
9 may nevertheless grant a hearing.

8 8. Respondents Sheridan Pest Control, Christopher M. Sheridan and Cleveland Moore,
9 Jr., failed to file a Notice of Defense within 15 days after service upon them of the Accusation,
10 and therefore waived their right to a hearing on the merits of Accusation No. 2011-71.

11 Respondent Paul C. Rightler timely submitted Notice of Defense.

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

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

16 10. Pursuant to its authority under Government Code section 11520, the Board finds that
17 Respondents Sheridan Pest Control, Christopher M. Sheridan and Cleveland Moore, Jr., and each
18 of them, are in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
20 as well as taking official notice of all the investigatory reports, exhibits and statements contained
21 therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-
22 71, finds that the charges and allegations in Accusation No. 2011-71, are separately and severally,
23 found to be true and correct by clear and convincing evidence as against Respondents Sheridan
24 Pest Control, Christopher M. Sheridan and Cleveland Moore, Jr.

25 11. Taking official notice of its own internal records, pursuant to Business and
26 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
27 and Enforcement is \$7,361.64 as of August 26, 2011.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Sheridan Pest Control has
3 subjected its Company Registration Certificate No. PR 5852 to discipline, Respondent
4 Christopher M. Sheridan has subjected his Field Representative License No. FR 45526 and
5 canceled Applicator License No. RA 47811 to discipline, and Cleveland Moore, Jr. has subjected
6 his Operator's License No. OPR 9548 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Structural Pest Control Board is authorized to revoke the Company Registration
9 issued to Respondent Sheridan Pest Control, the Field Representative License and canceled
10 Operator License issued to Respondent Christopher M. Sheridan, and the Operator's License
11 issued to Respondent Cleveland Moore, Jr. based upon the violations alleged in the Accusation,
12 all of which are supported by the evidence contained in the Default Decision Investigatory
13 Evidence Packet in this case, as follows:

- 14 a. Business & Professions Code section 8550 for unlicensed activities;
- 15 b. Business & Professions Code section 8639 for aiding and betting unlicensed activities
16 by others;
- 17 c. Business & Professions Code section 8641 for submitting bids and contracting for
18 pest control work without inspections by a licensed field representative or operator;
- 19 d. Business & Professions Code section 8652 for failure to maintain or make available
20 for inspection records of all pest control operations and activities;
- 21 e. Section 1970, title 16, California Code of Regulations for failure to compile/retain a
22 log for pesticide control operations in which pesticides were used;
- 23 f. Business & Professions Code sections 8516 and 8518 for failure to file addresses of
24 all properties inspected or where work was performed;
- 25 g. Business & Professions Code section 8610 for failure to supervise registered
26 company's daily business; and

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1 h. As to Respondents Sheridan Pest Control and Christopher M. Sheridan only, Section
2 1983, title 16, California Code of Regulations for failure to properly store, maintain
3 and label all pesticides.

4 ORDER

5 IT IS SO ORDERED that Company Registration Certificate No. PR 5852 issued to
6 Respondent Sheridan Pest Control, Field Representative License No. FR 45526 and canceled
7 Applicator License No. RA 47811 issued to Respondent Christopher M. Sheridan, and Operator
8 License No. OPR 9548 issued to Respondent Cleveland Moore, Jr., and each of them, are
9 revoked.

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

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15 This Decision shall become effective on November 18, 2011.

16 It is so ORDERED October 19, 2011

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FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

Attachment: Exhibit A: Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 Attorneys for Complainant

FILED

Date 6/16/11

By William H. Douglas

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

11 In the Matter of the Accusation Against:

Case No. 2011-71

12 **SHERIDAN PEST CONTROL**
13 **CHRISTOPHER M. SHERIDAN, OWNER**
14 **PAUL C. RIGHTLER, QUALIFYING MANAGER**
15 **68 Coombs Street**
16 **Napa, California 94558**
17 **Company Registration Certificate No. PR 5852,**

ACCUSATION

18 **CHRISTOPHER M. SHERIDAN**
19 **68 Coombs Street**
20 **Napa, California 94558**
21 **Mailing Address:**
22 **P.O. Box 6192**
23 **Napa, California 94581**
24 **Field Representative's License No. FR 45526,**

25 **PAUL C. RIGHTLER**
26 **68 Coombs Street**
27 **Napa, California 94559**
28 **Mailing Address:**
9550 Avenue B
Niland, California 92257
Operator's License No. OPR 9068,

and

CLEVELAND MOORE, JR.
2120 University Park Drive
Sacramento, California 95825
Operator's License No. OPR 9548

Respondents.

1 Complainant alleges:

2 PARTIES/LICENSE INFORMATION

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

6 **Sheridan Pest Control**

7 2. On or about May 27, 2009, the Board issued Company Registration Certificate
8 Number PR 5852 ("company registration") in Branch 2 (general pest) to Sheridan Pest Control
9 ("Respondent Sheridan Pest Control"), with Christopher M. Sheridan ("Respondent Sheridan" or
10 "Sheridan") as the owner and Cleveland Moore, Jr. ("Respondent Moore" or "Moore") as the
11 qualifying manager. On January 28, 2010, the company registration was upgraded to include
12 Branches 2 and 3 (termite) with Moore as the Branch 3 qualifying manager. On June 3, 2010, the
13 company registration was suspended for failing to maintain general liability insurance as required
14 by Business and Professions Code ("Code") section 8690. On June 23, 2010, Moore
15 disassociated as the qualifying manager. On June 29, 2010, the company registration was
16 reinstated after posting the general liability insurance. On July 9, 2010, the company registration
17 was suspended for failing to replace the qualifying manager. On March 3, 2011, Paul C. Rightler
18 ("Respondent Rightler" or "Rightler") became the Branch 2 qualifying manager and the company
19 registration was downgraded to include Branch 2 only (the company registration was also
20 reinstated).

21 **Christopher M. Sheridan**

22 3. On or about May 17, 2010, the Board issued Field Representative's License Number
23 FR 45526 in Branch 2 to Respondent Sheridan, employee of Sheridan Pest Control.
24 Respondent's field representative's license will expire on June 30, 2012, unless renewed.

25 4. On August 6, 2007, the Board issued Applicator License No. RA 47811 in Branch 2
26 and 3, to Respondent Sheridan, employee of Sheridan Pest Control. On May 17, 2010, Applicator
27 license No. RA 47811 was downgraded to a Branch 3 due to issuance of a Field Representative
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1 License to Respondent Sheridan. On August 6, 2010, Applicator License No. RA 47811 expired
2 and was canceled.

3 **Paul C. Rightler**

4 5. On or about December 29, 1992, the Board issued Operator's License Number OPR
5 9068 ("license") in Branch 2 to Respondent Rightler, employee of Flea X (Respondent left the
6 employ of Flea X on June 1, 1993). On December 4, 1997, Respondent's license was upgraded to
7 include Branches 2 and 3. On July 24, 1999, Respondent became the owner and qualifying
8 manager of PC Pest. On March 23, 2000, Respondent's license was suspended for failing to
9 maintain general liability insurance as required by Code section 8690. On April 3, 2000,
10 Respondent's license was reinstated after posting the general liability insurance. On June 2,
11 2000, Respondent disassociated as the qualifying manager of PC Pest. On March 3, 2011,
12 Respondent became the Branch 2 qualifying manager of Sheridan Pest Control. Respondent's
13 license will expire on June 30, 2013, unless renewed.

14 **Cleveland Moore, Jr.**

15 6. On or about June 19, 1996, the Board issued Operator's License Number OPR 9548
16 ("license") in Branch 2 to Respondent Moore. On September 29, 1998, Respondent's license was
17 upgraded to include Branches 2 and 3. On May 27, 2009, Respondent became the Branch 2
18 qualifying manager for Sheridan Pest Control. On January 28, 2010, Respondent became the
19 Branch 3 qualifying manager. On June 3, 2010, Respondent's license was suspended for failing
20 to maintain general liability insurance as required by Code section 8690. On June 23, 2010,
21 Respondent disassociated as the Branch 2 and 3 qualifying manager for Sheridan Pest Control,
22 and his license was reinstated and placed on inactive status. Respondent's operator's license will
23 expire on June 30, 2013, unless renewed.

24 **JURISDICTION**

25 7. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a
26 license when it finds that the holder, while a licensee or applicant, has committed any acts or
27 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil
28 penalty.

1 8. Code section 8624 states, in pertinent part:

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

6 The performance by any partnership, corporation, firm, association, or
7 registered company of any act or omission constituting a cause for disciplinary action,
8 likewise constitutes a cause for disciplinary action against any licensee who, at the
9 time the act or omission occurred, was the qualifying manager, a partner, responsible
10 officer, or owner of the partnership, corporation, firm, association, or registered
11 company whether or not he or she had knowledge of, or participated in, the prohibited
12 act or omission.

13 9. Code section 8625 states:

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

20 10. Code section 8654 states, in pertinent part:

21 Any individual . . . who has had his or her license revoked, or whose
22 license is under suspension . . . or who has been a member, officer, director, associate,
23 qualifying manager, or responsible managing employee of any partnership,
24 corporation, firm, or association . . . whose company registration has been revoked as
25 a result of disciplinary action, or whose company registration is under suspension,
26 and while acting as such member, officer, director, associate, qualifying manager, or
27 responsible managing employee had knowledge of or participated in any of the
28 prohibited acts for which the license or registration was denied, suspended or
29 revoked, shall be prohibited from serving as an officer, director, associate, partner,
30 qualifying manager, or responsible managing employee of a registered company, and
31 the employment, election or association of such person by a registered company is a
32 ground for disciplinary action.

STATUTORY AND REGULATORY PROVISIONS

(Statutory Provisions)

33 11. Code section 8506.2 states that "[a] 'qualifying manager' is the licensed operator or
34 operators designated by a registered company to supervise the daily business of the company and
35 to be available to supervise and assist the company's employees."

36 12. Code section 8507 states, in pertinent part:

37 (a) "Structural pest control field representative" is any individual who is
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1 licensed by the board to secure structural pest control work, identify infestations or
2 infections, make inspections, apply pesticides, submit bids for or otherwise contract,
3 on behalf of a registered company . . .

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7 13. Code section 8507.1 states, in pertinent part:

8 (a) "Structural pest control applicator" is any individual who is licensed
9 by the board to apply a pesticide, rodenticide, or allied chemicals or substances for
10 the purpose of eliminating, exterminating, controlling, or preventing infestation or
11 infections of pests or organisms included in Branch 2 or Branch 3 on behalf of a
12 registered company . . .

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18 14. Code section 8515 states:

19 Nothing in this chapter shall prohibit a company registered hereunder
20 from authorizing an officer, partner, or employee to submit bids, after an inspection
21 by an individual licensed as an operator or field representative under this act, or to
22 sign contracts after negotiation by an individual licensed as an operator or field
23 representative under this act, on behalf of the registered company.

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28 15. Code section 8516 states, in pertinent part:

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(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.

.....

A written inspection report conforming to this section and 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, field notes, and activity forms.

16. Code section 8518 states, in pertinent part:

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.

.....

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

6
7 17. Code section 8550 states, in pertinent part:

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

11 (b) Notwithstanding subdivision (a), an unlicensed individual may solicit
12 pest control work on behalf of a structural pest control company only if the company
13 is registered pursuant to this chapter, and the unlicensed individual does not perform
14 or offer to perform any act for which an operator, field representative, or applicator
15 license is required pursuant to this chapter. As used in this subdivision, to "solicit pest
16 control work" means to introduce consumers to a registered company and the services
17 it provides, to distribute advertising literature, and to set appointments on behalf of a
18 licensed operator or field representative.

19 (c) It is unlawful for an unlicensed individual, soliciting pest control work
20 on behalf of a registered structural pest control company pursuant to subdivision (b),
21 to perform or offer to perform any act for which an operator, field representative, or
22 applicator license is required, including, but not limited to, performing or offering
23 pest control evaluations or inspections, pest identification, making any claims of pest
24 control safety or pest control efficacy, or to offer price quotes other than what is
25 provided and printed on the company advertising or literature, or both.

26

27 (e) It is unlawful for any firm, sole proprietorship, partnership,
28 corporation, association, or other organization or combination thereof to engage or
offer to engage in the practice of structural pest control, unless registered in
accordance with Article 6 (commencing with Section 8610).

19 18. Code section 8610 states, in pertinent part:

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21 (c) Each registered company shall designate an individual or individuals
22 who hold an operator's license to act as its qualifying manager or managers. The
23 qualifying manager or managers must be licensed in each branch of pest control in
24 which the company engages in business. The designated qualifying manager or
25 managers shall supervise the daily business of the company and shall be available to
26 supervise and assist all employees of the company, in accordance with regulations
27 which the board may establish . . .

28 19. 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

1 as agent or partner or associate, or otherwise, of an unlicensed individual or
2 unregistered company to evade the provisions of this chapter is a ground for
3 disciplinary action.

4 20. Code section 8641 states:

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

10 21. Code section 8646 states:

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

15 22. Code section 8652 states:

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

22 **(Regulatory Provisions)**

23 23. California Code of Regulations, title 16, section ("Regulation") 1918 states, in
24 pertinent part:

25 "Supervise" as used in Business and Professions Code Sections 8506.2,
26 8610 and 8611 means the oversight, direction, control, and inspection of the daily
27 business of the company and its employees, and the availability to observe, assist, and
28 instruct company employees, as needed to secure full compliance with all laws and
regulations governing structural pest control . . .

29 24. Regulation 1970 states, in pertinent part:

30 For the purpose of maintaining proper standards of safety and the
31 establishment of responsibility in handling the dangerous gases used in fumigation
32 and the pesticides used in other pest control operations, a registered company shall
33 compile and retain for a period of at least three years, a log for each fumigation job
34 and for each pesticide control operation in which a pesticide is used by the registered
35 company or the registered company's employee . . .

36

37 (b) The report for each pest control operation, other than fumigation, in
38 which a pesticide is used shall contain the following information:

Date of treatment.

Name of owner or his or her agent.

Address of property.

Description of area treated.

Target pest(s).

Pesticide and amount used.

Identity of person or persons who applied the pesticide . . .

25. Regulation 1983 states, in pertinent part:

(a) Each container in which any pesticide is stored, carried or transported shall be adequately labeled in accordance with the provisions of Articles 1 and 5, Chapter 2, Division 7 of the Food and Agriculture Code (relating to economic poisons) and regulations adopted by the Department of Pesticide Regulation thereunder.

. . . .

(c) When any pesticide or preparation thereof is carried on a truck or other vehicle, a suitable storage space shall be provided thereon. Under no circumstances shall such storage be left either unlocked or unattended when containing any pesticide or preparation thereof . . .

26. Regulation 1996.3 states, in pertinent part:

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

. . . .

(c) Failure of a registered company to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of not more than two thousand five hundred dollars (\$ 2,500).

COST RECOVERY

27. 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.

BACKGROUND

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2 28. On June 3, 2010, the Board sent a letter and an Order of Suspension to Sheridan Pest
3 Control and Moore, notifying them that the company's registration certificate and Moore's
4 operator's license were suspended due to their failure to file with the Board written evidence of a
5 general liability insurance policy in effect for the company (Sheridan Pest Control's certificate of
6 insurance had expired on May 26, 2010). The Board ordered Sheridan Pest Control and Moore to
7 cease operation immediately and informed them that any business conducted after June 3, 2010,
8 was unlicensed activity and that disciplinary action may be taken.

9 29. On June 23, 2010, the Board received a Notice of Transfer of Employment form from
10 Moore, indicating that as of June 21, 2010, he was no longer qualifying manager for Sheridan
11 Pest Control.

12 30. On June 29, 2010, Sheridan Pest Control's company registration was reinstated after
13 posting the general liability insurance.

14 31. On July 9, 2010, the Board's specialist, Thomas E. Ineichen ("Ineichen"), sent a letter
15 to Sheridan Pest Control, notifying them that Moore had disassociated as their qualifying
16 manager effective June 23, 2010, that the company must cease all work immediately, and that any
17 further business would be considered unlicensed activity and may result in disciplinary action.
18 That same day, Sheridan Pest Control's company registration was suspended for failing to replace
19 the qualifying manager.

20 32. On July 13, 2010, Ineichen went to Sheridan Pest Control and met with Christopher
21 Sheridan. Sheridan admitted that the company was actively working. Sheridan gave Ineichen a
22 few Branch 3 files; which he represented were the only Branch 3 records in the office. Sheridan
23 told Ineichen that Moore performed all of the Branch 3 work and that Moore kept the Branch 3
24 records in a computer at his home. Sheridan stated that he had been paying Moore for the use of
25 his operator's license, that Moore did not supervise the company's business operations, Moore had
26 been coming to the office only once a month "to check on things" and to get his payment, and
27 that Moore was not providing any training. Sheridan could not provide Ineichen with complete
28 records of all of the Branch 2 operations that the company had performed in the previous 3 years.

1 Sheridan admitted that the company's licensed applicators regularly perform one-time, initial, or
2 retreatment services, sell accounts, sign agreements, and perform services for new pest problems
3 on re-treatments without an inspection of the property or negotiation of the contract first by a
4 licensed field representative or operator. Ineichen obtained a copy of a "Services Report" from
5 Sheridan listing the dates pest control services were performed by the company¹. The report
6 showed that the company had performed services for several different customers on July 9, 2010,
7 and July 12, 2010, while the company registration was suspended. Ineichen also obtained copies
8 of an invoice issued by the company for a pest control service performed on July 12, 2010, by
9 licensed applicator Allan Gilpin ("Gilpin"); Wood Destroying Pests and Organisms ("WDO")
10 Inspection Reports dated January 14, 2010, March 17, 2010, April 22, 2010, and April 27, 2010,
11 prepared by Moore, and related documents (field notes, contracts, and invoices), pertaining to
12 four different properties located in Napa that were inspected by Moore; and invoices for pest
13 control treatments performed at two of the properties (no other records were provided by
14 Sheridan regarding the work completed relating to those treatments).

15 33. That same day (July 13, 2010), Ineichen issued a compliance inspection report to
16 Sheridan Pest Control, outlining several violations of the Code which he found during his meeting
17 with Sheridan. Ineichen noted, among other things, that there were no records of training or
18 supervision of the licensed applicators and that the company was operating without a qualifying
19 manager or licensed operator. Ineichen directed Sheridan Pest Control to cease all structural pest
20 control activities until a licensed operator/qualifying manager was associated with the company
21 and the company was properly licensed.

22 34. On July 19, 2010, Ineichen interviewed Moore regarding his prior association with
23 the company. Moore told Ineichen that he believed it was Sheridan's responsibility to maintain
24 the company's records and insurance, that he did not have possession of any of the company's

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26 ¹ The report listed the customer's name, address, and telephone number, the date and cost
27 of the service, and whether the work was done under a service contract or was a one-time service.
28 There was no description of the actual Branch 2 service that was provided at the customer's
property or the identity of the person or persons who performed the service.

1 documents, and that he did not have any documents or information showing his supervision or
2 training of the company's employees. Moore stated that one of the company's employees worked
3 as a "route tech" and another performed the termite treatments.

4 35. On July 20, 2010, Ineichen performed a search of the Board's records and found that
5 Sheridan Pest Control had not filed any addresses with the Board for Branch 3 inspections or
6 completed work (WDO activities).

7 36. On July 27, 2010, Ineichen returned to Sheridan Pest Control and met with the office
8 manager, "Cheryl". Cheryl told Ineichen that the company was still operating and that they had
9 not obtained a new qualifying manager as of that time. Later, Ineichen met with Sheridan and
10 told him that he needed to cease all pest control activity and that any further pest control work
11 was unlicensed activity and could subject him and the company to disciplinary action.

12 37. On September 28, 2010, Ineichen met with Walt Blevins ("Blevins"), Maintenance
13 and Construction Supervisor for the Napa County School District (the school district was
14 identified as a customer on the Services Report). Blevins told Ineichen that Sheridan Pest Control
15 had been performing pest control work for the school district, including rodent control, cockroach
16 control, flea control, and wasp control. Blevins stated that he had heard from another source that
17 the company was not properly licensed. When Blevins confronted the company about their
18 licensure status, they told him the information was not true. Blevins provided Ineichen with
19 copies of several invoices that had been issued by Sheridan Pest Control for pest control work
20 performed for the school district from July 2010 through September 2010. Gilpin was listed as
21 the service technician on all of the invoices. Later, Ineichen met with Janice Owens ("Owens"),
22 the owner of Moors Landing, a restaurant located in Napa (also identified as a customer on the
23 Services Report). Owens told Ineichen that Sheridan Pest Control had been doing their pest
24 control service for some time and provided Ineichen with copies of various invoices, including an
25 invoice dated June 7, 2010, and an invoice dated August 2, 2010. Gilpin was listed as the service
26 technician on both invoices. Ineichen returned to Sheridan Pest Control and saw two trucks in the
27 parking lot that appeared to belong to the company, one of which had a Sheridan Pest Control

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1 logo. Ineichen inspected and photographed both trucks, and found various pesticides located in
2 the beds of both vehicles that were not properly stored, maintained, or labeled, as set forth below.

3 38. On October 5, 2010, Ineichen met with Gilpin regarding his employment at Sheridan
4 Pest Control. Gilpin stated that he works "mostly" on his own with no supervision, that he has
5 full access to the company's chemicals and equipment, that he has performed many jobs where
6 there was no inspection or initial treatment by anyone other than himself, and that he determines
7 how to perform the work. Gilpin also stated that Moore had not been "around much", and that the
8 only contact he had with Moore was when Moore provided him with some video tapes for
9 training. Gilpin admitted that he had performed the duties of a field representative many times on
10 new jobs and re-treatments, including inspections, contracting, and identifications.

11 39. On February 8, 2011, Ineichen received a call from John Cooledge ("Cooledge"),
12 Deputy Agricultural Commissioner for Napa County. Cooledge told Ineichen that on February 4,
13 2011, his office had received a Monthly Summary Pesticide Use Report from Sheridan Pest
14 Control, indicating that the company had applied pesticides in Napa County for structural use
15 during the month of January 2011. Cooledge stated that the use report was prepared by Paul
16 Rightler.

17 40. On February 10, 2011, Ineichen met with Cooledge and agricultural biologist Chad
18 Godoy ("Godoy"). Godoy stated that he attempted to contact Sheridan after receiving the use
19 report, but had not received a response from Sheridan or the company. Cooledge and Godoy
20 provided Ineichen with a copy of the use report for January 2011.

21 41. On March 3, 2011, Rightler became the Branch 2 qualifying manager for Sheridan
22 Pest Control.

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3 **FIRST CAUSE FOR DISCIPLINE**

4 (Unlicensed Activity)

5 42. Respondents Sheridan Pest Control, Cleveland Moore, Jr., Christopher M. Sheridan,
6 and Paul C. Rightler are subject to disciplinary action pursuant to Code section 8641 in that
7 Respondents failed to comply with Code section 8550 by engaging in the business or practice of
8 structural pest control when Sheridan Pest Control's company registration certificate was
9 suspended and invalid, as follows:

10 a. On or about June 7, 2010, Respondents Sheridan Pest Control, Moore, and Sheridan
11 performed a pest control service (rodent control, cockroach control, and spider control) for
12 customer Moors Landing while Sheridan Pest Control's company registration was suspended.

13 b. On and between July 9, 2010 and September 20, 2010, Respondents Sheridan Pest
14 Control and Sheridan performed pest control services, including rodent control, cockroach
15 control, flea control, wasp control, and spider control, for several customers, including, but not
16 limited to, the Napa County School District and Moors Landing, while Sheridan Pest Control's
17 company registration was suspended for failing to replace the qualifying manager. Further,
18 Respondents continued to engage in the practice of structural pest control despite the fact that
19 they had been warned repeatedly by the Board's authorized representative, Ineichen, to cease all
20 pest control activities until a licensed operator/qualifying manager was associated with the
21 company, and that any further business would be considered unlicensed activity and may result in
22 disciplinary action.

23 c. In or about January 2011, Respondents Sheridan Pest Control, Sheridan, and Rightler
24 applied pesticides in Napa County for structural use while the company registration was
25 suspended.

26 **SECOND CAUSE FOR DISCIPLINE**

27 (Aiding and Abetting Unlicensed Activity)

28 43. Respondents Sheridan Pest Control, Cleveland Moore, Jr., and Christopher M.
Sheridan are subject to disciplinary action pursuant to Code section 8639 in that Respondents
aided or abetted an unlicensed individual or unregistered company to evade the provisions of the

1 chapter, knowingly combined or conspired with an unlicensed individual or unregistered
2 company, allowed their licenses or the company registration to be used by an unlicensed
3 individual or unregistered company, or acted as agent or partner or associate, or otherwise, of an
4 unlicensed individual or unregistered company to evade the provisions of the chapter, as follows:

5 a. In and between May 2009 and October 2010, Respondents Sheridan Pest Control,
6 Moore, and Sheridan authorized or permitted their employee/applicator, Allan Gilpin, to engage
7 or offer to engage in the business or practice of structural pest control as a field representative,
8 including securing structural pest control work for the company, making inspections, identifying
9 infestations and/or infections, and/or submitting bids for or otherwise contracting on behalf of the
10 company, as set forth above, when Gilpin was not licensed as a field representative.

11 b. On or about June 7, 2010, Respondents Sheridan Pest Control, Moore, and Sheridan
12 authorized or permitted Gilpin to perform a pest control service for customer Moors Landing
13 while Sheridan Pest Control's company registration certificate was suspended and invalid, as set
14 forth in subparagraph 41 (a) above.

15 c. On and between July 9, 2010 and September 20, 2010, Respondents Sheridan Pest
16 Control and Sheridan authorized or permitted Gilpin to perform pest control services for several
17 customers, including, but not limited to, the Napa County School District and Moors Landing,
18 while Sheridan Pest Control's company registration was suspended and invalid, as set forth in
19 subparagraph 41 (b) above.

20 THIRD CAUSE FOR DISCIPLINE

21 (Submission of Bids and Contracting for Pest Control Work

22 Without Inspections by a Licensed Field Representative or Operator)

23 44. Respondents Sheridan Pest Control, Cleveland Moore, Jr., and Christopher M.
24 Sheridan are subject to disciplinary action pursuant to Code section 8641 in that in and between
25 May 2009 and October 2010, Respondents failed to comply with Code sections 8514 and 8515 by
26 authorizing or permitting their employee/applicator, Allan Gilpin, to submit bids and sign
27 contracts for structural pest control work on behalf of Sheridan Pest Control without an inspection
28 of the property or negotiation of the contract first by a licensed field representative or operator.

OTHER MATTERS

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2 50. Pursuant to Code section 8624, the causes for discipline established as to Respondent
3 Sheridan Pest Control likewise constitute causes for discipline against Christopher M. Sheridan,
4 the owner of the registered company, regardless of whether Christopher M. Sheridan had
5 knowledge of or participated in the acts or omissions which constitute cause for discipline against
6 Respondent Sheridan Pest Control.

7 51. Pursuant to Code section 8624, the causes for discipline established as to Respondent
8 Sheridan Pest Control likewise constitute causes for discipline against Paul C. Rightler, who has
9 served as the qualifying manager for Respondent since March 3, 2011, regardless of whether Paul
10 C. Rightler had knowledge of or participated in the acts or omissions which constitute cause for
11 discipline against Respondent Sheridan Pest Control.

12 52. Pursuant to Code section 8624, the causes for discipline established as to Respondent
13 Sheridan Pest Control likewise constitute causes for discipline against Cleveland Moore, Jr., who
14 served as the qualifying manager for Respondent from May 27, 2009, to June 23, 2010, regardless
15 of whether Cleveland Moore, Jr. had knowledge of or participated in the acts or omissions which
16 constitute cause for discipline against Respondent Sheridan Pest Control.

17 53. Pursuant to Code section 8624, if Operator's License Number OPR 9068, issued to
18 Paul C. Rightler, is suspended or revoked, the Board may suspend or revoke Company
19 Registration Certificate Number PR 5852, issued to Sheridan Pest Control.

20 54. Pursuant to Code section 8654, if discipline is imposed on Field Representative's
21 License Number FR 45526, issued to Christopher M. Sheridan, Christopher M. Sheridan shall be
22 prohibited from serving as an officer, director, associate, partner, qualifying manager, or
23 responsible managing employee for any registered company during the time the discipline is
24 imposed, and any registered company which employs, elects, or associates Christopher M.
25 Sheridan shall be subject to disciplinary action.

26 55. Pursuant to Code section 8654, if discipline is imposed on Operator's License
27 Number OPR 9068, issued to Paul C. Rightler, Paul C. Rightler shall be prohibited from serving
28 as an officer, director, associate, partner, qualifying manager, or responsible managing employee

1 for any registered company during the time the discipline is imposed, and any registered company
2 which employs, elects, or associates Paul C. Rightler shall be subject to disciplinary action.

3 56. Pursuant to Code section 8654, if discipline is imposed on Operator's License
4 Number 9548, issued to Cleveland Moore, Jr., Cleveland Moore, Jr. shall be prohibited from
5 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
6 employee for any registered company during the time the discipline is imposed, and any
7 registered company which employs, elects, or associates Cleveland Moore, Jr. shall be subject to
8 disciplinary action.

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

14 **PRAYER**

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

- 17 1. Revoking or suspending Company Registration Certificate Number PR 5852, issued
18 to Sheridan Pest Control;
- 19 2. Revoking or suspending Field Representative's License Number FR 45526, issued to
20 Christopher M. Sheridan;
- 21 3. Prohibiting Christopher M. Sheridan from serving as an officer, director, associate,
22 partner, qualifying manager or responsible managing employee of any registered company during
23 the period that discipline is imposed on Field Representative's License Number FR 45526, issued
24 to Christopher M. Sheridan;
- 25 4. Revoking or suspending Operator's License Number OPR 9068, issued to Paul C.
26 Rightler;
- 27 5. Prohibiting Paul C. Rightler from serving as an officer, director, associate, partner,
28 qualifying manager or responsible managing employee of any registered company during the

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period that discipline is imposed on Operator's License Number OPR 9068, issued to Paul C. Rightler;

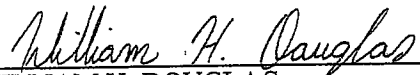
6. Revoking or suspending Operator's License Number OPR 9548, issued to Cleveland Moore, Jr.

7. Prohibiting Cleveland Moore, Jr. 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 suspending Operator's License Number OPR 9548, issued to Cleveland Moore, Jr.

8. Ordering Sheridan Pest Control, Christopher M. Sheridan, Paul C. Rightler, and Cleveland Moore, Jr. 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;

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

DATED: 6/16/11


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

SA2011101421