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FILED

Date 12/31/15 By *Susan Saylor*

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2016-35

12 **CLARK PEST CONTROL OF STOCKTON, INC.**
13 **dba CLARK PEST CONTROL**
14 **JOSEPH PATRICK CLARK, QM**
15 **555 N. Guild Ave.**
16 **Lodi, CA 95240**
17 **Branch Office Registration Certificate No. BR 2685**
18 **Operator License No. OPR 6816**
19 **Company Registration Certificate No. PR 226**

ACCUSATION

17 **BRIAN K. DOYLE**
18 **4750 Beloit Drive**
19 **Sacramento, CA 95838**
20 **Operator License No. OPR 12032**

Respondent.

22 Susan Saylor ("Complainant") alleges:

23 **PARTIES**

24 1. Complainant brings this Accusation solely in her official capacity as the
25 Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of
26 Consumer Affairs.

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1 **Company Registration Certificate No. PR 226**

2 2. On or about July 1, 1969, the Board issued Company Registration Certificate Number
3 PR 226 (“registration”) in Branches 1, 2, or 3 to Clark Pest Control of Stockton, Inc. doing
4 business as Clark Pest Control (“Respondent Clark”) with Charles F. Clark as the President and
5 Qualifying Manager. On or about June 4, 2002, Joseph Patrick Clark became the Qualifying
6 Manager in Branches 1, 2, and 3. On or about August 2, 2009, the registration was suspended
7 pursuant to Business and Professions Code (“Code”) section 8690 (failure to maintain general
8 liability insurance). On or about August 18, 2009, the registration was reinstated.

9 **Operator’s License No. OPR 6816**

10 3. On or about May 18, 1983, the Board issued Operator’s License Number OPR 6816
11 in Branch 3 to Joseph Patrick Clark (“Respondent J. Clark”) as an employee of Respondent Clark
12 Pest Control. On or about August 28, 1985, Respondent J. Clark became the Branch Office
13 Supervisor of Branch Office No. BR 3708. On or about December 30, 1986, the license was
14 upgraded to include Branch 2. On or about July 26, 1989, Respondent J. Clark disassociated as
15 the Branch Office Supervisor and remained an employee of Respondent Clark Pest Control. On
16 or about August 1, 1990, the license was upgraded to include Branch 1. On or about June 4,
17 2002, Respondent J. Clark became the Qualifying Manager of Respondent Clark Pest Control.
18 On or about August 2, 2009, the license was suspended pursuant to Code section 8690 for failing
19 to maintain general liability insurance. On or about August 18, 2009, the license was reinstated.
20 The license will expire on June 30, 2018, unless renewed.

21 **Branch Office Registration Certificate No. BR 2685**

22 4. On or about August 1, 1975, the Board issued Branch Office Registration Number
23 BR 2685 to Respondent Clark Pest Control with Steven Lee Adams as the Branch Office
24 Supervisor. On or about December 13, 2011, James C. Robertson became the Branch Office
25 Supervisor. On or about January 5, 2015, Chance Michael Howell became the Branch Office
26 Supervisor.

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

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

17 STATUTORY PROVISIONS

18 10. Code section 8516 states, in pertinent part:

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

26 Every property inspected pursuant to subdivision (b) of Section 8516.1, or Section
27 8518, or subdivision (b) of this section shall be assessed a filing fee pursuant to Section
28 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.

1 Original inspection reports or copies thereof shall be submitted to the board upon request
2 within two business days. The following shall be set forth in the report:

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

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

14 (9) Indication or description of any areas that are inaccessible or not inspected with
15 recommendation for further inspection if practicable. If, after the report has been made in
16 compliance with this section, authority is given later to open inaccessible areas, a
17 supplemental report on conditions in these areas shall be made.

18 (c) At the time a report is ordered, the registered company or licensee shall
19 inform the person or entity ordering the report, that a separated report is available
20 pursuant to this subdivision. If a separated report is requested at the time the
21 inspection report is ordered, the registered company or licensee shall separately
22 identify on the report each recommendation for corrective measures as follows:

23 (1) The infestation or infection that is evident.

24 (2) The conditions that are present that are deemed likely to lead to infestation
25 or infection. If a registered company or licensee fails to inform as required by this
26 subdivision and a dispute arises, or if any other dispute arises as to whether this
27 subdivision has been complied with, a separated report shall be provided within 24
28 hours of the request but, in no event, later than the next business day, and at no
additional cost.

11. 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.

12. 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.

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1 13. Code section 8644 states:

2 Fraud or misrepresentation, after inspection, by any licensee or registered company
3 engaged in pest control work of any infestation or infection of wood-destroying pests or
4 organisms found in property or structures, or respecting any conditions of the structure that
5 would ordinarily subject structures to attack by wood-destroying pests or organisms,
6 whether or not a report was made pursuant to Sections 8516 and 8517 of this code, is a
7 ground for disciplinary action.

8 **REGULATORY PROVISIONS**

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

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

16 (3) Infestations, infections or evidence thereof.

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

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

20 (1) Faulty Grade Level. A faulty grade level exists when the top of any
21 foundation is even with or below the adjacent earth. The existing earth level shall be
22 considered grade.

23 (2) Inaccessible subareas or portions thereof and areas where there is less than
24 12 inches clear space between the bottom of the floor joists and the unimproved
25 ground area.

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

(4) Earth-wood contacts

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

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

1 where storage conditions or locks make inspection impracticable.

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

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

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

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

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

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

27 (11) Correct any excessive moisture condition that is commonly controllable. When
28 there is reasonable evidence to believe a fungus infection exists in a concealed wall or
area, recommendations shall be made to open the wall or area.

COST RECOVERY/RESTITUTION

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

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

1 CURRAGH PROPERTY

2 18. On or about October 11, 2013, Respondent Doyle, an employee of Clark Pest
3 Control, inspected the property located on Curragh Oaks Lane, in Fair Oaks, California ("Curragh
4 property"), for wood destroying pests and organisms for escrow purposes and thereafter issued a
5 Complete Wood Destroying Pests and Organisms Inspection Report No. 07-45516 ("Inspection
6 Report No. 07-45516").

7 19. Respondent Doyle's findings included wood decay fungi damage at the following
8 areas: sliding door trim at the left side of the dining room door; 1x6 trim at the third floor garden
9 area; six inch cedar lap siding at the third floor garden area; 1x8 corner trim at the left side of the
10 structure; door trim at the right side of the dining room; six inch lap siding around the window
11 arch at the right rear of the structure; 4x8 deck girder at the center deck; and 4x8 lattice support at
12 the rear of the center deck. Respondent Doyle also found surface fungus at the underside of the
13 deck at the left side of deck and wood members in contact with the soil at portions of the left
14 front, the front, and right side, and cellulose debris in the subarea. Respondent Doyle
15 recommended further inspections at the following areas due to inaccessibility: left side of garage
16 at the built in cabinets; left and front of the front door; storage shed on the left side of the
17 structure; the underside of the wood deck; and the inspector was unable to locate an access to the
18 subarea.

19 20. Respondent Doyle recommended correcting the reported conditions including
20 removing the damage at the dining room door trim; replacing the damaged wood members with
21 new materials; chemically treating the adjacent wood members and the wood deck with surface
22 fungus with a fungicide; breaking the earth contacts; removing cellulose debris; and inspecting
23 the inaccessible areas. Respondent Doyle submitted an estimate of \$5,344 to perform the
24 recommended work. No repairs were performed by Respondent Clark Pest Control. Instead, the
25 seller agreed to give the buyer a credit of \$2,500 toward the closing costs, which is approximately
26 half of the estimated costs to correct the conditions contained in Respondent Doyle's Inspection
27 Report No. 07-45516 dated October 11, 2013.

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1 21. On or about April 15, 2014, escrow closed. Shortly after purchasing the property, the
2 new owner began remodeling the kitchen and found evidence of termites and extensive termite
3 damage to the framing and to the left front of the structure corner at the kitchen that led to the
4 exterior siding and trim where extensive evidence of infestation and damage was found. The
5 homeowner contacted Respondent Clark Pest Control regarding the damages and infestation.
6 Respondent Clark Pest Control made arrangements to inspect the structure on November 14,
7 2014.

8 22. On or about November 14, 2014, Chad Beardslee ("Beardslee") a Field
9 Representative (FR 38077) for Respondent Clark Pest Control, performed a limited inspection of
10 the Curragh property addressing only the exterior trim at the side of the home. Beardslee issued a
11 Limited Wood Destroying Pests and Organisms Inspection Report No. 07-48439 ("Limited
12 Inspection Report No. 07-48439") containing the following findings: drywood termite infestation
13 at the 1x6 trim at the exterior of the structure on the left side corner of the kitchen. Beardslee
14 recommended fumigating the home and removing or masking any visible fecal pellets. Beardslee
15 submitted an estimate in the amount of \$3,475 to perform the work and fumigation. The
16 homeowner authorized the work and fumigation.

17 23. On or about November 17, 2014, Jeff Mayberry ("Mayberry"), a Field Representative
18 (FR 38064) for Millennium Termite & Pest performed a limited inspection of the Curragh
19 property at the homeowner's request. Mayberry issued a Limited Wood Destroying Pests and
20 Organisms Inspection Report No. TR-105719 addressing portions of the exterior. Mayberry
21 found evidence of drywood termites at the wood members of the wood trim at the left side of the
22 structure. Mayberry recommended fumigating the structure.

23 24. On or about November 20, 2014, at the request of Respondent Clark Pest Control,
24 Your Way Fumigation Inc. fumigated the Curragh property. On that same day, Respondent Clark
25 Pest Control issued a Standard Notice of Work Completed and Not Completed, stating that it had
26 completed the recommendations contained in Limited Inspection Report No. 07-48439 performed
27 by Beardslee, including masking or removing termite fecal pellets when, in fact, it had not.

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1 25. On or about January 2, 2015, the Board received a complaint from the homeowner
2 alleging that Respondent Clark Pest Control failed to report drywood termite infestations and
3 numerous other conditions such as dry rot and earth to wood contacts in its original inspection
4 report (Inspection Report No. 07-45516) dated October 11, 2013. Furthermore, the homeowner
5 alleged that the areas Respondent Doyle noted in that report as inaccessible were in fact
6 accessible.

7 26. On or about April 14, 2015, Mayberry of Millennium Termite & Pest performed a
8 limited inspection of the property and issued Limited Wood Destroying Pests and Organisms
9 Report No. TR-105719 containing the following findings:

10 a. Fungus (dry rot) damage at the following areas: 2x6 rim joist beneath the
11 kitchen; plywood sub floor beneath the kitchen; wood steps at the right side of the
12 structure; 3-4x6 support posts and the rear deck; 4x6 girder adjacent to the access
13 opening at the rear deck; lattice framing at the rear of the deck; 2 sheets of siding
14 beneath the rear deck; 4x8 girder beneath the rear deck; sliding glass door at the
15 living room; doorjamb at the kitchen sliding glass door; wood floor at the upstairs hall
16 structure; 2x2 corner trim at the right side of the structure; 2x6 window trim at the
17 upper oval window at the right side of the structure; 2x6 corner trim at the left side of
18 the structure; 2x6 window trim at the left side of the structure; storage closet door at
19 the left side of the structure; 2x6 window trim at the left side of the structure adjacent
20 to the storage shed; 2x6 corner at the rear of the structure; 2x8 corner trim at the left
21 side of the structure; 2x2 corner trim at the rear of the structure; window and door
22 trim at the rear of the structure; 2x6 corner trim at the rear of the structure; 2x6 upper
23 corner trim at the 2 corners; upper window; upper 2x8 fascia at the front of the
24 structure; and 2x6 corner trim at the upper half wall at the roof.

19 b. Drywood termite and fungus (dryrot) damage at the 2x8 corner trim at the left
20 side of the structure, and earth to wood contact and fungus (dry rot) damage at the
21 wood steps at the right side of the structure, and to the ends of the 2x8 corner trim at
22 the front of the structure at 2 corners, and to the 2x6 siding at the lower story at
23 various areas.

22 c. Fungus growth to the siding adjacent to the 6x10 girder; cellulose debris
23 scattered throughout the sub area; and fungus growth at various deck boards at the
24 rear deck.

24 27. Mayberry noted that various areas were inaccessible and the grade level at the front
25 of the structure was sloped towards the dwelling.

26 28. Mayberry recommended removing and/or replacing damaged items, applying
27 fungicide accordingly, correcting the conditions, and opening up areas for further inspection.

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1 29. On or about May 20, 2015, a Board specialist inspected the property and made the
2 following findings:

3 a. Evidence of an extensive and long-term drywood termite infestation with
4 damage to the exterior siding and trim at the left front corner and left side of the
5 structure which leads into the inaccessible areas of the structure. Structural damage
6 and infestation appeared to have been present in the structure for a long period of
7 time. Evidence in the subarea and leading up into the framing with damage to the
8 framing appeared to be long-term and present prior to Respondent's original
9 inspection.

10 b. Extensive fungus infection and damage to the siding and trim at the left side
11 exterior walls, with evidenced of leaks and water intrusion from the roof and design
12 of the structure and voids in the siding of the exterior. There was fungus infection
13 and evidence of leaks into the wall framing in multiple areas, including the subarea
14 and below the decks. The conditions appeared long-term and present prior to
15 Respondent's original inspection.

16 c. The exterior siding at the base of the structure along the front and left sides of
17 the garage was in earth contact, which made the foundation at these areas inaccessible
18 for inspection. The condition appeared long-term and present prior to Respondent's
19 original inspection.

20 d. There was fungus damage to the siding and trim at the base of the wall at the
21 right side of the garage where the earth contact exists. There was fungus infection
22 and damage to the base of the siding that was embedded in the soil. The siding that
23 was embedded in the soil also concealed the foundation in this area making it
24 inaccessible for inspection. Respondent failed to identify the earth to wood contact as
25 contributing to the fungus damage. The condition appeared long-term and present
26 prior to Respondent's original inspection.

27 e. The deck/steps at the right rear of the structure leading to the subarea door
28 were connected to the wood framed steps leading up the walkway at the front of the
structure. The deck and steps were in earth contact and had extensive fungus damage
with possible termite damage. The condition appeared long term and present prior to
Respondent's original inspection.

 f. Extensive and widespread fungus infection and damage to the rear middle deck
framing, posts, beams, ledger, and the perimeter walls below the deck with damage
extending into the walls where the deck attaches to the structure and leading into
inaccessible areas. The conditions appeared long-term and present prior to
Respondent's original inspection.

 g. Extensive fungus damage to the sliding door frame/casing at the right side
dining room door with evidence of water intrusion and leaks at both sliding door
frames of the dining room. Respondent's report failed to note leaks or the cause of
the damage and the repairs Respondent recommended would not have corrected the
true conditions. The conditions appeared long-term and present prior to Respondent's
original inspection.

 h. Extensive and widespread fungus infection and damage throughout the wood
deck at the left side of the structure in the framing, posts, beams, steps, ledger, lattice
walls, and perimeter walls below and extending into the structure walls. The damage
at the perimeter extended into the siding and showed evidence of water intrusion into

1 the wall and framing where the deck attached to the structure that leads into
2 inaccessible areas. The conditions appeared long-term and present prior to
Respondent's original inspection.

3 i. Extensive fungus infection and damage to the cripple wall and subarea framing
4 at the left rear corner of the subarea with evidence of drywood termites under the
5 kitchen. This area along with other areas in the subareas had evidence of water
intrusion from above with damage extending into inaccessible areas. The condition
appeared long-term and present prior to Respondent's original inspection.

6 j. A portion of the subarea under the right rear of the structure was converted to a
7 storage room. The area below the store room floor was inaccessible for inspection
8 due to it being improperly built on the ground creating earth wood contacts and
9 fungus damage. The area around the perimeter of the original construction did not
10 have a continuous foundation. It appeared that the original construction of this
portion of the structure was pier/post and beam construction. The right side of the
structure had a faulty grade with fungus damage to the base of the cripple walls. The
girders and supports under the rear store room were in earth contact and had fungus
infection and damage with conditions extending into inaccessible areas. The
conditions appeared long-term and present prior to Respondent's original inspection.

11 k. Fungus infection and damage to the base of the siding, cripple walls and girder
12 beams/supports at the left rear subarea with fault grades level around the base of the
13 walls under the dining room. The left rear area under the dining room had a faulty
14 grade level as there was no continuous foundation and it appeared that the original
15 construction of this portion of the structure was pier/post and beam with large girder
beams at the base of the walls connected to the supports to frame in the siding. The
beams and walls were only slightly above the soil and had fungus infection and
damage with conditions extending into inaccessible areas. The conditions appeared
long-term and present prior to Respondent's original inspection.

16 l. A portion of the structure under the laundry room and front door foyer was not
17 accessible from the subarea and could not be accessed from any other area. The
18 interior floor at the front door appeared that it could be a concrete slab but had a floor
19 covering concealing the type of construction. The laundry room area appeared to
have a raised wood floor but could not be accessed or determined the construction or
conditions below. Respondent's report failed to indicate any condition of
inaccessibility in this area.

20 m. No inspection tag was present for the limited inspection or fumigation
21 performed by Respondent.

22 30. On or about August 12, 2015, the Board specialist prepared and issued a Report of
23 Findings along with a Notice ordering Respondent to bring the property into compliance by
24 correcting the items described in the Report of Findings and to submit a corrected inspection
25 report and Notice of Work Completed and Not Completed to the Board within thirty (30) days
26 with respect to the inspections performed on October 11, 2013, and November 14, 2014.

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1 31. On or about August 17, 2015, the Board specialist received a signed certified return
2 receipt card from the United States Postal Service confirming that Respondent received the
3 Report of Findings on August 14, 2015.

4 32. On or about August 21, 2015, Respondent Doyle performed a complete inspection of
5 the Curragh property and issued a Complete Wood Destroying Pests and Organisms Inspection
6 Report No. 07-50322 ("Complete Inspection Report No. 07-50322"). Respondent Doyle made
7 many findings and recommendations including the following:

8 Evidence of drywood termites at the exterior trim; fungi damage to living
9 room slider door; wood decay fungi damage to the trim boards at the garden roof; wood decay fungi
10 damage to the corner trim; wood decay fungi damage to the siding; wood decay fungi
11 damage to the trim; faulty grades causing fungi damage to the deck framing
12 and skirt; wood decay fungi damaging support posts; wood decay fungi damage to the
13 deck girders; wood decay fungi damage to the lattice skirt framing; wood decay
14 fungi damage to the siding under the deck; wood decay fungi damage to the window
15 trim; fungi damage to the shed door; wood decay fungi damage to the corner trims;
16 earth to wood contact at the siding and trims; wood decay fungi damage to the door
17 trim; wood decay fungi damage to the siding and trim at the arched window; earth
18 to wood contact damage at the wood members at the deck; surface fungus at the top
19 plate and rim joist; wood decay fungi damage to the cripple at the subarea under the
20 kitchen; wood decay fungi damage to the OSB shed flooring; wood decay fungi
21 damage to the deck girder; surface fungus was found at various wood members at
22 the deck; wood decay fungi damage to the deck framing; wood decay fungi damage
23 to the interior door jamb and trim; wood decay fungi damage to the access frame in
24 the subarea; faulty grades at the base of the stair jacks and/or deck support posts;
25 wood members in contact with soil; faulty grade at the base of the stair jack and/or
26 deck support posts; drywood termite damage at the wood members at the exterior
27 trim; wood siding is embedded in the brick and absorbing moisture at the front entry
28 way; cellulose debris is present in the subarea; wood members are in contact with
the soil; and water is leaking from the gutter drain at the side of the home behind the
garage. Respondent Doyle also noted various inaccessible areas.

21 33. Respondent Doyle made recommendations (excluding fumigation as it had already
22 been completed on November 20, 2014, and because there was no indication of active termites) to
23 remove, replace and/or repair wood members, re-grade to provide adequate clearance, break earth
24 to wood contacts, and further inspection of inaccessible areas.

25 34. Respondent Doyle did not provide an estimated cost to perform the recommended
26 work.

27 35. Respondent Clark Pest Control failed to bring the Curragh property into compliance,
28 as set forth in the Report of Findings dated August 12, 2015.

1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Comply with the Code - Improper Inspection)

3 36. Respondent's operator's license and company registration, and Doyle's operator's
4 license are subject to discipline under Code section 8641, in that on or about October 11, 2013,
5 concerning the Curragh property, Respondent failed to comply with the following Code sections:

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

7 a. Respondent failed to report evidence of drywood termite infestation and damage to
8 the exterior siding and trim at the left front corner and left side of the structure with evidence
9 leading into inaccessible areas of the structure, as required by California Code of Regulations,
10 title 16, section 1990(a)(3) and (4).

11 b. Respondent failed to report the full extent of fungus infection and damage to the
12 siding and trim at the left side walls and evidence of leaks and water intrusion to the exterior and
13 subarea wood members, and failure to make recommendations to open the walls or areas for
14 further inspection, as required by California Code of Regulations, title 16, section 1990(a)(3).

15 c. Respondent failed to report fungus damage and earth wood contacts at the wood deck
16 and steps at the right rear of the structure and leading into the inaccessible areas, as required by
17 California Code of Regulations, title 16, section 1990(a)(3)(4), (b)(4), and (g).

18 d. Respondent failed to report fungus damage to the sliding glass door framing and
19 casings, failure to report evidence of water intrusion or leaks at the sliding glass doors and
20 framing of the dining room, and failure to make proper recommendations to correct the condition,
21 as required by California Code of Regulations, title 16, section 1990(a)(3)(4), and (b)(5).

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

23 e. Respondent failed to report the exterior base of the foundation as inaccessible at areas
24 where there was earth-wood contact at the back of the siding along the walls at the front of the
25 structure and garage, as required by California Code of Regulations, title 16, section 1990(d) and
26 (e).

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1 **Section 8516(b)(6)(7)(9) and (c):**

2 f. Respondent failed to report fungus infection and damage to the siding and trim at the
3 base of the wall where the earth contact exists at the right rear aide, failed to report the exterior of
4 the foundation in this area as inaccessible, and failed to identify he condition of the earth wood
5 contact as contributing to the fungus damage, as required by California Code of Regulations, title
6 16, section 1990(a)(3)(4), (d), (e), and (f).

7 **Section 8516(b)(6)(7) and (9):**

8 g. Respondent failed to report the full extent of fungus infection and damage to the rear
9 middle deck framing, posts, beams, ledger, and perimeters of walls below with the damage
10 extending into the siding and evidence of water intrusion at the attachment method to the
11 structure and leading into inaccessible areas, as required by California Code of Regulations, title
12 16, section 1990(a)(3)(4), (b)(5), (g), and 1991(a)(11).

13 h. Respondent failed to report the full extent of fungus infection and damage to the
14 wood deck at the left rear of the structure, framing, posts, beams, steps, ledger, lattice walls and
15 perimeter of the walls below, and storage room floor, with damage extending into the siding and
16 evidence of water instruction at the attachment method to the structure and leading into
17 inaccessible areas, as required by California Code of Regulations, title 16, section 1990(a)(3)(4),
18 (b)(5), (g), and 1991(a)(11).

19 i. Respondent failed to report fungus infection and damage to the cripple walls and
20 subarea framing at the left rear corner of the subarea under the kitchen with evidence of water
21 intrusion and damage extending into inaccessible areas, as required by California Code of
22 Regulations, title 16, section 1990(a)(3)(4), (b)(5), and 1991(a)(11).

23 j. Respondent failed to report earth wood contacts, faulty grade levels, and fungus
24 damage to the base of the cripple walls, girders, and rear storeroom supports at the right rear of
25 the subarea with conditions extending into inaccessible areas, as required by California Code of
26 Regulations, title 16, section 1990(a)(3)(4), (b)(1)(4), (g), and 1991(a)(11).

27 k. Respondent failed to report fungus infection and damage to the base of the siding,
28 cripple walls and girder at the left rear subarea with faulty grade levels around the base of the

1 PRIOR DISCIPLINE

2 **Company Registration No. PR 226**

3 40. Effective July 12, 1991, pursuant to the Stipulated Decision and Order in Accusation
4 No. 1991-03, Respondent Clark Pest Control's Company Registration Certificate No. PR 226 was
5 suspended for 35 days. However the suspension was stayed.

6 **Company Registration No. PR 226**
7 **Operator' License No. OPR 6816**

8 41. Effective February 21, 2002, pursuant to the Stipulated Settlement and Disciplinary
9 Order in Accusation and First Supplemental Accusation No. 2000-27, the Board revoked
10 Respondent Clark Pest Control's Company Registration Certificate No. PR 226 and Respondent
11 P. Clark's Operator's License No. OPR 6816. However, the revocations were stayed and
12 Respondents were placed on probation for a period of three (3) years with certain terms and
13 conditions. Respondents either paid a civil penalty in the amount of \$3,000 or served a fifteen
14 (15) days suspension.

15 MATTERS IN AGGRAVATION

16 **Company Registration No. PR 226**

17 42. On or about October 31, 1988, Respondent paid a fine in the amount of \$400 levied
18 by the Calaveras County Agricultural Commissioner for violating Code section 8538 and Food
19 and Agricultural Code section 12973.

20 43. On or about February 23, 1989, Respondent paid a fine in the amount of \$50 levied
21 by the Solano County Agricultural Commissioner for violating Food and Agricultural Code
22 section 15204(a).

23 44. On or about September 22, 1989, Respondent paid a fine in the amount of \$150
24 levied by the Fresno County Agricultural Commissioner for violating California Code of
25 Regulations, title 16, section 6600(e).

26 45. On or about May 31, 1991, Respondent paid a fine in the amount of \$100 levied by
27 the Sacramento County Agricultural Commissioner for violating Food and Agricultural Code
28 section 12973 and California Code of Regulations, title 16, section 6738(b).

1 46. On or about October 8, 1991, Respondent paid a fine in the amount of \$150 levied by.
2 the San Joaquin County Agricultural Commissioner for violating California Code of Regulations,
3 title 16, sections 6726(b) and 6738(b)(1)(c).

4 47. On or about November 13, 1991, Respondent paid a fine in the amount of \$200 levied
5 by the Marin County Agricultural Commissioner for violating California Code of Regulations,
6 title 16, section 6702.

7 48. On or about November 13, 1991, Respondent paid a fine in the amount of \$175 levied
8 by the Marin County Agricultural Commissioner for violating Food and Agricultural Code
9 section 12973.

10 49. On or about December 20, 1991, Respondent paid a fine in the amount of \$200 levied
11 by the Sacramento County Agricultural Commissioner for violating California Code of
12 Regulations, title 16, section 6738(b).

13 50. On or about April 9, 1992, Respondent paid a fine in the amount of \$300 levied by
14 the Yolo County Agricultural Commissioner for violating California Code of Regulations, title
15 16, sections 6600(b)(c) and 6614(c) and Food and Agricultural Code section 12973.

16 51. On or about April 9, 1992, Respondent paid a fine in the amount of \$150 levied by
17 the Sacramento County Agricultural Commissioner for violating California Code of Regulations,
18 title 16, sections 6738(b)(c) and 6614(c) and Food and Agricultural Code section 12973.

19 52. On or about April 9, 1992, Respondent paid a fine in the amount of \$150 levied by
20 the Sacramento County Agricultural Commissioner for violating California Code of Regulations,
21 title 16, section 660038(b)(c) and Food and Agricultural Code section 12973.

22 53. On or about September 16, 1994, Respondent paid a fine in the amount of \$235
23 levied by the Marin County Agricultural Commissioner for violating Food and Agricultural Code
24 section 12973.

25 54. On or about September 27, 1994, Respondent paid a fine in the amount of \$350
26 levied by the Solano County Agricultural Commissioner for violating California Code of
27 Regulations, title 16, sections 6726, 6738(b)(c) and 6678.

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1 55. On or about June 1, 1995, Respondent paid a fine in the amount of \$300 levied by the
2 Calaveras County Agricultural Commissioner for violating California Code of Regulations, title
3 16, section 6738(b)(c).

4 56. On or about August 24, 1995, Respondent paid a fine in the amount of \$375 levied by
5 the Marin County Agricultural Commissioner for violating California Code of Regulations, title
6 16, sections 6738(b)(1)(c) and 6604.

7 57. On or about September 13, 1995, Respondent paid a fine in the amount of \$100
8 levied by the Sacramento County Agricultural Commissioner for violating California Code of
9 Regulations, title 16, section 6738(b).

10 58. On or about September 20, 1995, Respondent paid a fine in the amount of \$100
11 levied by the Sacramento County Agricultural Commissioner for violating California Code of
12 Regulations, title 16, section 6738(b).

13 59. On or about January 5, 1998, Respondent paid a fine in the amount of \$200 levied by
14 the Contra Costa County Agricultural Commissioner for violating California Code of
15 Regulations, title 16, section 6600.

16 60. On or about March 31, 1998, Respondent paid a fine in the amount of \$50 levied by
17 the Sacramento County Agricultural Commissioner for violating California Code of Regulations,
18 title 16, section 6678.

19 61. On or about July 2, 1998, Respondent paid a fine in the amount of \$151 levied by the
20 Sacramento County Agricultural Commissioner for violating California Code of Regulations, title
21 16, section 6738(b).

22 62. On or about July 14, 1998, Respondent paid a fine in the amount of \$200 levied by
23 the Contra Costa County Agricultural Commissioner for violating California Code of
24 Regulations, title 16, section 6600.

25 63. On or about December 2, 1998, Respondent paid a fine in the amount of \$200 levied
26 by the Sacramento County Agricultural Commissioner for violating California Code of
27 Regulations, title 16, section 6738(b)(c).

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1 64. On or about November 17, 1999, Respondent paid a fine in the amount of \$200 levied
2 by the San Mateo County Agricultural Commissioner for violating Code section 8505.15.

3 65. On or about November 17, 1999, Respondent paid a fine in the amount of \$55.00
4 levied by the Board for violating Code section 8516(b).

5 66. On or about March 13, 2002, Respondent paid a fine in the amount of \$275 levied by
6 the Santa Clara County Agricultural Commissioner for violating California Code of Regulations,
7 title 16, section 6702(b)(3).

8 67. On or about March 19, 2002, Respondent paid a fine in the amount of \$100 levied by
9 the Los Angeles County Agricultural Commissioner for violating California Code of Regulations,
10 title 16, section 6742(a).

11 68. On or about April 16, 2002, Respondent paid a fine in the amount of \$650 levied by
12 the Santa Clara County Agricultural Commissioner for violating Food and Agricultural Code
13 section 12973 and California Code of Regulations, title 16, section 1983(i).

14 69. On or about May 20, 2003, Respondent was issued a citation by the Board for
15 violating Code sections 8516 and 8644.

16 70. On or about November 20, 2006, Respondent paid a fine in the amount of \$151 levied
17 by the Plumas County Agricultural Commissioner for violating California Code of Regulations,
18 title 16, section 6726(b).

19 71. On or about December 13, 2012, Respondent paid a fine in the amount of \$500 levied
20 by the Calaveras County Agricultural Commissioner for violating California Code of
21 Regulations, title 16, section 6742(a).

22 **Operator's License No. OPR 6816**

23 72. On or about November 20, 2006, Respondent paid a fine in the amount of \$151 levied
24 by the Plumas County Agricultural Commissioner for violating California Code of Regulations,
25 title 16, section 6726(b).

26 73. On or about December 13, 2012, Respondent paid a fine in the amount of \$500 levied
27 by the Calaveras County Agricultural Commissioner for violating California Code of
28 Regulations, title 16, section 6742(a).

OTHER MATTERS

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

8 75. Pursuant to Code section 8624, the causes for discipline established as to Company
9 Registration Certificate Number PR 226, issued to Clark Pest Control of Stockton Inc., doing
10 business as Clark Pest Control, likewise constitute cause for discipline against Operator's License
11 Number OPR 6816, issued to Joseph Patrick Clark, who serves as the Qualifying Manager of
12 Clark Pest Control of Stockton Inc., doing business as Clark Pest Control, regardless of whether
13 Joseph Patrick Clark had knowledge of or participated in the acts or omissions which constitute
14 cause for discipline against Clark Pest Control of Stockton Inc., doing business as Clark Pest
15 Control.

16 76. Pursuant to Code section 8654, if discipline is imposed on Company Registration
17 Certificate Number PR 226, issued to Clark Pest Control of Stockton Inc., doing business as
18 Clark Pest Control, then Joseph Patrick Clark, who serves as the Qualifying Manager of Clark
19 Pest Control of Stockton Inc., doing business as Clark Pest Control, shall be prohibited from
20 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
21 employee for any registered company during the time the discipline is imposed, and any
22 registered company which employs, elects, or associates him, shall be subject to disciplinary
23 action.

24 77. Pursuant to Code section 8654, if discipline is imposed on Operator's License No.
25 OPR 12032, issued to Brian K. Doyle, then Brian K. Doyle shall be prohibited from serving as an
26 officer, director, associate, partner, qualifying manager, or responsible managing employee for
27 any registered company during the time the discipline is imposed, and any registered company
28 which employs, elects, or associates him, shall be subject to disciplinary action.

1 PRAYER

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 226, issued to
5 Clark Pest Control of Stockton Inc., doing business as Clark Pest Control;

6 2. Revoking or suspending Operator's License Number OPR 6816, issued to Joseph
7 Patrick Clark;

8 3. Revoking or suspending any other license for which Joseph Patrick Clark is
9 furnishing the qualifying experience or appearance;

10 4. Revoking or suspending Operator's License Number OPR 12032, issued to Brian K.
11 Doyle;

12 5. Revoking or suspending any other license for which Brian K. Doyle is furnishing the
13 qualifying experience or appearance;

14 6. Revoking or suspending Branch Office Registration Certificate No. BR 2685, issued
15 to Clark Pest Control of Stockton Inc., doing business as Clark Pest Control;

16 7. Ordering restitution of all damages according to proof suffered by M.L. as a condition
17 of probation in the event probation is ordered;

18 8. Prohibiting Joseph Patrick Clark from serving as an officer, director, associate,
19 partner, qualifying manager or responsible managing employee of any registered company during
20 the period that discipline is imposed on Company Registration Certificate Number PR 226, issued
21 to Clark Pest Control of Stockton Inc., doing business as Clark Pest Control;

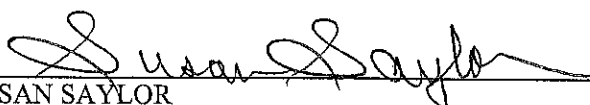
22 9. Prohibiting Brian K. Doyle from serving as an officer, director, associate, partner,
23 qualifying manager or responsible managing employee of any registered company during the
24 period that discipline is imposed on Operator's License No. OPR 12032;

25 10. Ordering Joseph Patrick Clark and Clark Pest Control of Stockton Inc., doing
26 business as Clark Pest Control and Brian K. Doyle to pay the Structural Pest Control Board the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3; and,

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

DATED: 12/31/15


SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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