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REGIONAL HEARING CLERK

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Attorney For Respondent  
KAMA'AINA TERMITE AND  
PEST CONTROL INC.

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the Matter of:	)	Docket No. FIFRA-09-2011-0011
	)	
	)	RESPONDENT KAMA'AINA TERMITE
Kama'aina Termite and Pest Control Inc.,	)	AND PEST CONTROL INC.'S ANSWER
	)	TO COMPLAINT; REQUEST FOR
	)	HEARING AND CERTIFICATE OF
Respondent.	)	SERVICE
	)	
	)	

RESPONDENT KAMA'AINA TERMITE AND PEST CONTROL INC.'S  
ANSWER TO COMPLAINT

COMES NOW Respondent KAMA'AINA TERMITE AND PEST CONTROL INC., by  
and through its attorney, William J. Nagle, Attorney At Law, A Law Corporation and for an  
Answer to the Complaint filed herein by Complainant on or about February 24, 2011, answers,  
alleges and avers as follows.

1. Respondent is without information or knowledge sufficient to form a belief as to

the truth or accuracy of the allegations contained in paragraphs 1, 2, 4, 5, 6, 7, 8, 22, 30, 37, 38, and 45, and on that basis, denies the same.

2. Respondent admits the allegations contained in paragraphs 3, 12, 13, 20, 21, 28, 36, and 44.

3. Respondent denies the allegations contained in paragraphs 14, 15, 16, 22, 23, 29, 30, 31, 32, 37, 38, 39, 40, 44, 45, 46, and 47.

4. In response to paragraphs 10, 11, 18, 19, 25, 26, 27, 34, 35, 42, and 43, Respondent affirmatively alleges that the documents to which these paragraphs refer, speak for themselves and are the best evidence of their contents. On that basis, Respondent denies the same and leaves Complainant to its proof at the hearing.

5. In response to paragraphs 9, 17, 24, 33, and 41, Respondent repeats, realleges and incorporates by reference each and every answers to paragraphs 4 through 8, inclusive as though fully set forth herein.

6. Any allegation not specifically listed above is deemed denied by Respondent.

FIRST DEFENSE.

The proposed Civil Penalties are not reasonably related to any of the criteria listed in Title 7, United States Code §1361(a)(1) and thus constitute a forfeiture as to Respondent.

SECOND DEFENSE.

Respondent intends to rely on the defense of apparent authority on Court 4 and 5 concerning the Keola Lai condominium fumigation as its operations were directed and supervised by the State Of Hawaii Department Of Agriculture, including, without limitation, a direction to Respondent to ignore the Vikane label requirements for Chlorpickrin and substitute

SOHDOA's recommended dosage.

THIRD DEFENSE.

Respondent intends to rely on the defense of malfeasance by SOHDOA as to Count 5, as SOHDOA representatives did not arrive at the job site until on or about 3:00 p.m., with Respondent clearing the tarps at approximately 7:00 a.m..

FOURTH DEFENSE.

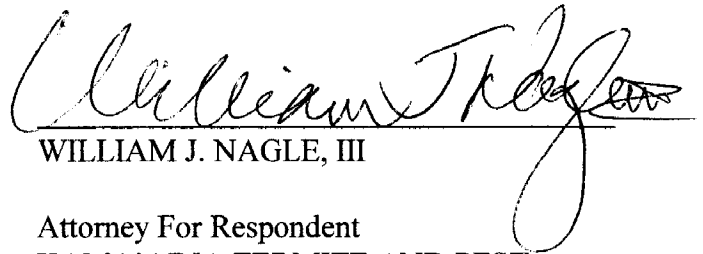
Respondent intends to rely on the defense of intervening, superseding causation in the matter of counts 1 and 2 as in both cases, security personnel retained by Respondent noted in their reports that the subject warning signs were present.

REQUEST FOR HEARING

Respondent requests a hearing on the allegation in the Complaint, in Honolulu, Hawaii pursuant to 40 C.F.R. §22.35(b).

DATED: Honolulu, Hawaii

MAR 17 2011



WILLIAM J. NAGLE, III

Attorney For Respondent  
KAMA'AINA TERMITE AND PEST  
CONTROL INC.

Answer To Complaint; Request For Hearing And Certificate Of Service  
*In re Kama'aina Termite And Pest Control Inc.*

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing Answer To Complaint; Request For Hearing; Certificate Of Service was deposited into the United States Mail, postage prepaid and addressed to the following:

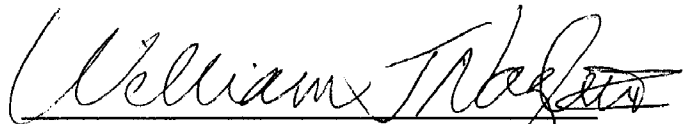
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

and that a true and accurate copy of the Answer To Complaint; Request For Hearing And Certificate Of Service were deposited in the United States Mail, postage prepaid, and addressed to the following:

NANCY J. MARVEL  
EDGAR P. CORAL  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

DATED: Honolulu, Hawaii

MAR 17 2011



WILLIAM J. NAGLE, III

Attorney For Respondent  
KAMA'AINA TERMITE AND PEST  
CONTROL INC.

Answer To Complaint; Request For Hearing And Certificate Of Service  
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