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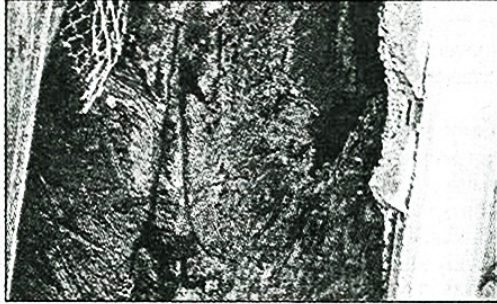
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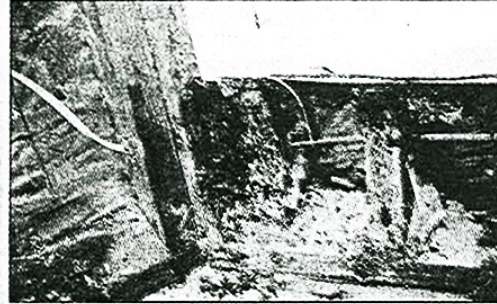
TERMITE-DAMAGED PROPERTIES

Elizabeth Allen and Collier Black are in protracted battles with Orkin to have their repair-guarantee contracts honored. When Orkin did pay for repairs, the homeowners say, corners were cut that made matters worse.



JOHN RAOUX/ORLANDO SENTINEL

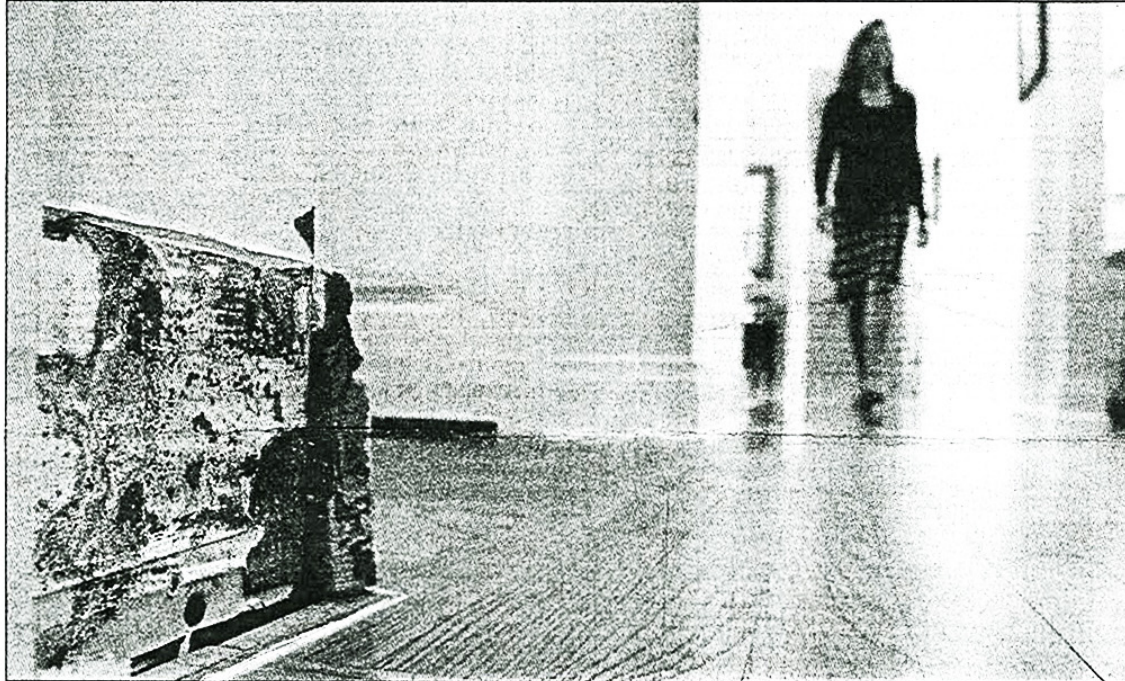
THE ALLEN HOUSE: Problems at Elizabeth Allen's home in Ponte Vedra include termite damage outside. She is awaiting arbitration with Orkin.



COURTESY OF PEGGIE BLACK

THE BLACK HOUSE: Collier Black took Orkin to arbitration for damage in his Ponte Vedra home. He has appealed a reduction of the award in his case.

ORKIN BATTLES COMPLAINTS, INQUIRY



JOHN RAOUX/ORLANDO SENTINEL

Elizabeth Allen walks down the hall of her Ponte Vedra home, where absent baseboard exposes termite damage in the wall. Allen is a crusader against the pest-control company Orkin, which has come under fire recently.

Deception, claim denial and shoddy repairs are among statewide allegations.

By **HARRY WESSEL**
SENTINEL STAFF WRITER

Orkin, one of the nation's biggest, oldest and best-known pest-control companies, is under fire.

It is the subject of a racketeering investigation by the Florida attorney general, a defendant in multiple lawsuits across the state — including a class-action suit seeking to represent 65,000 Orkin customers — and recently had a multimillion-dollar arbitration judgment against it upheld by a federal

judge.

Taken together, the complaints against Orkin include accusations that it has:

- Laced its termite contracts with fine-print or otherwise hard-to-find disclaimers on its repair and retreatment guarantees.

- Failed to carry out adequate treatments and inspections, in some cases hiding those failures with fraudulent or forged paperwork.

- Routinely denied claims as a matter of company policy.

- Allowed shoddy, incomplete termite repairs by systematically forcing subcontractors to make repairs without pulling required building permits, which meant the work was not checked by certified city or county inspectors.

Orkin, a \$670 million company with nearly 8,000 employees, strongly denies all these allegations.

"To put the general issue of lawsuits in perspective, less than

PLEASE SEE **ORKIN, A13**

Revised rules will regulate pest contracts

ORKIN FROM A1

1 percent of Orkin's termite customers file claims," said Martha Craft, Orkin's public-relations director. "Of these claims, well over 98 percent are resolved to the customer's satisfaction without setting one foot in a courtroom."

Craft would not say how many customers Orkin has in Florida, but she reiterated that the complaints constitute "a remarkably minuscule percentage of our [1.6 million] customers" nationwide.

Industry changes

Nevertheless, the lawsuits and investigations — and the 15,000 complaints against extermination companies logged by Florida in the past four years — are having an impact.

New state rules requiring termite and other pest-control contracts to have standardized, easily understandable language are in the works and should be issued by next spring, said Steve Rutz, director of Florida's Division of Agricultural Environmental Services.

"We want to make sure information is presented to people so there is not misunderstanding or confusion about what is being provided to them," Rutz said.

The complaint of one Orkin customer, Collier Black of Ponte Vedra, has been of particular concern to Orkin and its parent company, Atlanta-based Rollins Inc.

Black's dispute with Orkin went to an arbitration hearing in the summer of 2003. He documented numerous termite repairs to his home by different subcontractors in six years in which required building permits had not been pulled.

Orkin's contract requires that complaints be taken to arbitration, a process that requires one of the three panel members be named by the company. Generally, legal experts say, the process favors the company over the consumer.

But the arbitration panel ruled in Black's favor, saying the practice of doing termite repairs without required permits was not isolated to Black's home but was "widespread." Black's team of attorneys had uncovered hundreds of instances in North and Central Florida in which city or county building inspectors never checked termite repairs because no permits had been pulled.

Usually, that revelation would have remained sealed. Black's contract with Orkin stated the arbitration panel's award "shall be final, binding and non-appealable."

Nevertheless, with the judgment totaling \$4.25 million, Orkin appealed. A federal judge handed Orkin a partial victory by reducing the award to \$2 million, but he did not dispute the arbitration panel's findings.

Perhaps more significantly, Orkin's appeal moved the case into the public eye, catching the attention of Florida Attorney General Charlie Crist.

In April, Crist launched a racketeering investigation against Orkin, issuing a subpoena requesting company records and documents.

Although Crist's office would not discuss the investigation, it confirmed that the attorney general met in August with Black and former Orkin executive Wayne Cowart, who now acts as a consultant to consumers in disputes with Orkin and other pest-control companies.

Craft said Orkin is cooperating fully — but the company is seeking to at least slow the investigation. Orkin filed an unusual lawsuit in Orange County, under the name "Doe Corporation," to block the state subpoena. The suit cited confidentiality concerns regarding records it considers proprietary and said the subpoena of "thousands of documents" was "unduly burdensome." The suit is still pending — and Orkin so far has turned over no documents. Craft said Orkin is willing to give state investigators "what they need. We disagree with them on what it is they need."

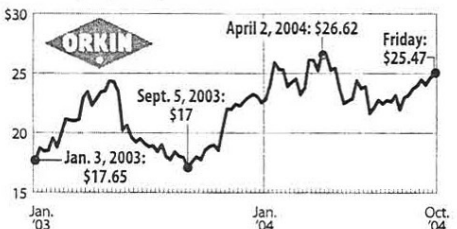
ABOUT ORKIN



● **Founded:** The Atlanta-based company was founded in 1901 by Otto Orkin when he formulated a poison bait to help farmers in Allentown, Pa., get rid of rats. The 1st shop was opened in 1906 in Richmond, Va. The company is a subsidiary of Rollins Inc.
● **Important personnel:** On Jan. 27, Gien Rollins (left) was named president and chief operating officer of Orkin Inc. Former President Gary W. Rollins became company chairman.

● **Locations:** More than 400 in North America.
● **Employees:** Nearly 8,000.
● **Customers:** Approximately 1.6 million residential and commercial customers.
● **Controversy:** A dispute with a Florida customer — over shoddy repair work done after termite damage — went to an arbitration hearing in the summer of 2003. The panel handed down a \$4.25 million judgment in the homeowner's favor, which was reduced to \$2 million by a federal court.
That same year, Orkin settled a \$6.7 million lawsuit involving a Hillsborough County apartment complex badly damaged by termites. Another lawsuit, alleging the company used deceptive and unfair trade practices, is scheduled for a hearing in Hillsborough County Circuit Court Oct. 14 to determine whether it is eligible for class-action status.

Orkin stock price, weekly closes



SOURCES: Orkin.com, Rollins.com, MSNBC MoneyCentral

ORLANDO SENTINEL

Growing legal issues

Orkin has other legal problems. In 2003 it settled a \$6.7 million lawsuit involving a Hillsborough County apartment complex badly damaged by termites. Terms of the settlement were confidential.

Another lawsuit, accusing Orkin of deceptive and unfair trade practices, is scheduled for a hearing in a Hillsborough County Circuit Court on Oct. 14 to determine whether it is eligible for class-action status. If granted, the suit would represent 65,000 Orkin customers in Florida claiming "a continuing pattern of fraud, theft and forgery" by the pest-control company.

The class-action suit includes allegations of forged reinspection tickets, use of diluted termiticides and contract language — either in fine print or deceptively worded — that allowed Orkin to deny claims.

Similar allegations are made in separate lawsuits against Orkin by apartment and condominium complexes in Sumter and Hillsborough counties. A former Orkin employee testified in a deposition that he forged hundreds of customer signatures on termite-reinspection reports to hide the fact the inspections had been incomplete or not done at all.

The attorney involved in those lawsuits, Pete Cardillo of Tampa, has limited his practice to termite cases. "What I see are buildings that are severely damaged by termites," Cardillo said. "Because termites eat wood from the inside, the owner has no idea what's going on until it's way too late."

Cardillo said he has handled about 20 termite lawsuits in the

past eight years, most but not all against Orkin. The suits invariably include charges that termite contracts dupe consumers by putting limits and disclaimers in fine print or in language difficult to understand.

"I see it over and over again," Cardillo said. "It starts with cheating the customer on the front end, using deceptive marketing materials, making statements that are false and misleading, and making the sale. Then, once the sale is closed, they don't really care. The lion's share of money a salesman will make is on a lifetime contract. Then he or she is on to the next sale."

Orkin's Craft strongly disagrees. "Our compensation system rewards quality service and customer satisfaction," she said, adding that Orkin maintains an active Quality Assurance Department and a Customer Care Center "dedicated to achieving 100 percent customer satisfaction."

Repair guarantees

About half of all Florida homes have termite contracts, according to state statistics. The typical contract costs between \$800 and \$1,000, with annual renewals adding an additional \$200-\$250. Costs vary depending on the size and type of the home, the type of treatment being offered and the extent of existing problems.

Termite contracts typically come with a guarantee, but it is often a promise limited to free retreatments if live termites are found. "The problem with a retreatment guarantee is that the company is saying: 'If termites eat your house to the ground, we'll come out and spray for



PHOTOS BY JOHN RAOUX/ORLANDO SENTINEL

Collier and Peggie Black's home in Ponte Vedra, near Jacksonville, cost nearly \$200,000 to repair after termites damaged it. They won a \$4.25 million judgment against the pest-control company Orkin for failing to honor its repair-guarantee contract. A judge reduced the award to \$2 million.

you," consultant Cowart said. "One house I looked at had 27 treatments in three years, and it still had termites."

Cowart and other experts say repair guarantees are always preferable, although owners of older homes may have trouble finding a company that will sell them one.

Palm Beach County building official Roland Holt is blunt about it: "You're gambling with your savings not to have a termite-repair-warranty contract with a pest-control operator."

But repair guarantees can also be losing gambles when push comes to shove. They typically require live termites to be present, and they can be voided if there are other "conductive conditions" such as excessive moisture.

When claims are made, Orkin and other termite companies will blame the customer, Cardillo said. "They say, 'It's your fault. Here's what's wrong with the building design, the construction, the maintenance. The bushes are too close, or the sprinkler heads are pointed the wrong way.' But they accept these problems while they're getting their [annual contract] renewals. They don't say anything until you make a claim."

Even if the claim is honored and the termite company pays for repairs, the homeowner's problems may not be over. In Collier Black's case, the subcontractors hired and controlled by Orkin did not pull required building permits.

A termite repair in a home "is illegal if it's done without a permit," said Holt, who before moving to Palm Beach was head of the building department of St. Johns County, which includes Ponte Vedra. The permitting process requires repairs to be checked by building inspectors to make sure they meet code standards.

The permits are not expensive, said Holt, who testified in the Black v. Orkin arbitration. "The only reason, in my opinion, for a pest-control operator not to get a permit is he doesn't want anybody looking at the repair work."

Bob Olin, building division manager for Orange County, said structural repairs performed without building permits can pose a safety hazard.

"So-called repairs could be less structurally stable than the termite damage itself was," Olin said. "You see some unusual work when they know an inspector is not looking over their shoulder."

Craft said subcontractors hired by Orkin have always been required to follow all local laws and regulations, which include pulling building permits. She acknowledged the company only recently began to require subcontractors to produce copies of building permits before being paid.

Tale of a porch

No inspector looked over the shoulder of the subcontractor doing termite repairs a decade ago for Adrienne Bremer, according to Altamonte Springs city records. Bremer had signed a repair-guarantee contract with Orkin in January 1986. A decade later, Orkin agreed to repair her porch after live termites were found.

"Instead of checking my whole porch, they just repaired one section," Bremer, 58, said. "They kind of patched the wall. I didn't know any better."

Bremer trusted Orkin and figured everything was fine. But in 2002, after a leaky pipe caused flooding to her house, a contractor started peeling off the drywall in her porch and discovered extensive termite damage to the wooden studs. "The guy said, 'I'm surprised your porch hasn't fallen down,'" Bremer said.

But there were no live termites present when the studs were uncovered, one of the conditions required in Orkin's repair-guarantee contract. Orkin refused to pay. Bremer complained to the state's Bureau of Entomology and Pest Control. The state investigator's written report said that, while he found evidence of new termite damage, the absence of live termites meant that under the terms of the contract, Orkin was not responsible for repairs.

Bremer talked to an attorney, who told her it would cost her more to fight Orkin than it would to pay for the estimated \$5,000 in termite repairs. She gave up and paid for a new porch.

Bremer's experience is a common one, said Cowart, who

was a paid consultant to Black in his legal battle with Orkin. But, unlike Black, Cowart does not think Orkin is any worse than its pest-control competition. He thinks the practice of denying claims and cutting corners "is an epidemic in the industry." In many regards, Orkin has been unfairly attacked," Cowart said. "They've had their problems, but they probably have less claims per customer than any other [large] pest-control company."

Many experts blame the industry's problems on the fact that chlordane was taken off the market in the late 1980s. Cowart said this is a myth, because a number of chemicals control termites as well as chlordane did.

But no single chemical is as versatile or as long-lasting, Cowart said. This means termite companies can effectively protect homes against termites, but it takes more time and knowledge to do it.

And that's at the heart of Orkin's problem, said Cardillo, the Tampa attorney. Initial and follow-up termite treatments must be done correctly, or "it's a disaster waiting to happen."

"When you see a sign of termite infestation," Cardillo said, "you have no idea as a homeowner that you might have termite damage behind the walls. All you know is that you have termites. So Orkin comes out, does a squirt-squirt of a small area, and you say thank you. Meanwhile, termites continue to eat behind the walls."

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CONTRACT ADVICE

If you have a contract...

Keep copies of all records your pest-control company has on your home, including inspection tickets. If you don't have them, ask your company for them.

Most termite contracts require the homeowner to request annual inspections. Make sure you get one, and be sure you're there to watch.

A thorough inspection should take about 45 minutes and include the inside and outside of the house. The inspection ticket should include the length of time the technician spent inspecting your house.

If you suspect termite damage, call the company and ask for a behind-the-wall inspection. Be there with a video-camera to record it. If you see live termites, the company should pay for the repairs.

If you want a contract... Get three written estimates and copies of the contracts, and read the contracts carefully.

Do not sign anything until you understand what the contract promises, and doesn't promise.

Check the companies' complaint-and-compliance record with the state by calling 1-800-435-7352, Ext. 3.

If possible, insist on a repair guarantee rather than a treatment-only guarantee. Just because one company won't give you one doesn't mean another one won't.

SOURCE: Sentinel Research



Bob White, a licensed contractor and independent consultant, inspects termite damage outside Elizabeth Allen's home recently in Ponte Vedra. A structural engineer told Allen her house was so damaged by termites that it was prone to collapse if there was a significant storm.