



ORKIN UNDER SIEGE

THE SOUTHEAST'S "TERMITE BELT" IS CRAWLING WITH FRAUD LAWSUITS ◆ BY JOHN F. SUGG

Maria Garcia built her dream home along the Hillsborough River in Temple Terrace. A prudent woman, she made sure — at least, she thought she'd made sure — that her home was protected from termites.

"I called Orkin because it is the name you see a lot," Garcia recalls. The famed Orkin Man was soon on her doorstep with a contract that contained guarantees to annually inspect her home in case the wood-devouring critters reappeared — and to re-treat the residence if termites reappeared.

But after the contract was signed and the money paid, Garcia contends Orkin lost interest in safeguarding her home. Although an Orkin supervisor promised her a thorough inspection, "he was gone in 15 or 20 minutes," she says.

Garcia's attorney, Dan Clark, adds: "The initial treatment was horrible."

Two years after Garcia's house was treated, termites were again swarming. "The Orkin people would say it's my fault, that there's moisture," Garcia says. Termites thrive in dampness, something no corner of Florida is without.

"I said, 'That's why I hired you,'" Garcia says.

For another five years, Garcia kept bugging Orkin to live up to its agreement. And then, she says with rising anger in her voice, "Termites swarmed through the wall."

Garcia finally realized how bad the damage was when she had a problem opening her garage door. "The wall holding the door was all eaten up by termites. And what happened then? Orkin treated me like I was a woman who didn't know what I was talking about. They brushed me off. Moisture, moisture, moisture is all they would talk about.

"But I know what happened. They promised to keep termites out of my house, and they didn't. They should pay for that."

Garcia sued Orkin, joining scores of other angry customers who charge that the company allowed termites to reinfest their homes and businesses. But before we dig into the complaints, let's meet the Orkin Man.

No, not the ad agency actor in the hardhat and snappy white uniform shirt with red epaulets, armed with chemicals and a guarantee that he'll rid your home or business of termites and pests. This is the real Mr. Orkin, Glen Rollins, president of the bug control company and heir apparent to one of the South's homegrown corporate aristocracies.

Atlanta-based Rollins Inc. has owned businesses as varied as radio stations and speedboat manufacturers. But since 1964, when it acquired Orkin, the family outfit has been increasingly focused on creepy-crawlies, shedding most of the one-time conglomerate's broadcasting, lawn care, burglar alarm and other operations.

When he was 14, Glen Rollins began at the bottom, literally, scurrying underneath houses looking for termites and other varmints. "I was a grunt," he recalls. "I loved it. Bugs are fascinating, so are rodents. And I liked

ROTTEN LUCK: Tampa lawyer Pete Cardillo with termite-infested wood from Sandalwood Condominium, a Wildwood apartment complex he represents in a lawsuit against Orkin.



GWENDOLYN RODRIGUEZ

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BUGGED: Elizabeth Allen of Ponte Vedra, near Jacksonville, shows the termite damage to her home — after she had hired Orkin to rid her house of the pests



JOHN SUGGS

interacting with customers. We'd get to know them. I knew the kids' names, their cats."

Rollins Inc., founded by Glen's grandfather, generated \$677 million in revenues last year — \$671 million from Orkin. Perhaps more telling, Rollins scored profits of almost \$36 million in 2003, up \$8 million from 2002 and five times what the company pocketed in 1999, according to the most recent annual report.

It's Glen Rollins' responsibility to safeguard that ever-accelerating money machine, as his father Gary, 60, and uncle R. Randall, 72, gradually turn loose of the 8,000-employee, 400-branch company.

But he faces a daunting job. The record profits don't tell the entire story about the pest control company. Rollins Inc. and Orkin are under siege, and Glen Rollins is the general standing on the ramparts.

The outfit is being nibbled at by lawyers and disgruntled customers who are as ferocious in their attack as termites sniffing unprotected wood. Juries and arbitration panels have slapped multi-million-dollar judgments on Orkin. Looming over the horizon are scores of other cases, at least four of which are seeking "class action" status that could pit hundreds of thousands of customers against Orkin — and could, potentially, write the final chapter for a fabled American business icon. Maria Garcia is one of the customers vying for class action.

At the heart of the dispute is the word "integrity." You don't read Orkin literature or talk to company executives without soon encountering the term.

In the company's annual report last year, Gary and R. Randall Rollins told shareholders: "The corporate culture at Rollins Inc. is one that promotes honesty and integrity as an integral part of the way we do business." In an interview, Glen Rollins stresses that "our integrity" is "essential."

Others — lawyers and their clients — are disdainful. They claim the company emphasizes sales and revenues, and shortchanges customers on Orkin's promise to protect houses and businesses

against termites, and to repair damage caused by the pests.

Since these customers have entrusted what is often their most valued asset, their homes, to Orkin, what's at stake is both emotional and valuable. "I want to see Orkin go down," fumes Collier Black, an angry homeowner in



ORKIN MAN: Glen Rollins, president of the bug control company and heir apparent to one of the South's homegrown corporate aristocracies.

the Jacksonville suburb of Ponte Vedra who last year won a \$750,000 judgment against the company.

Underscoring criticism of the company are mountains of evidence. More than 10,000 pages of court documents and supporting material were reviewed for this article. Among the items uncovered were 10 internal Orkin memos from the mid-1990s detailing "fraud, forgery and theft." "FFT" has become a rallying cry among Orkin critics.

One of the memos, from a South Georgia Orkin manager in 1996, states: "During the past several months there have been instances of fraud, theft and forgery in the company. ... We are also seeing far too many instances ... [of] finding customers being charged for services not rendered."

Also, Orkin and its competitors faced extraordinary challenges in recent decades. A highly effective chemical that killed and repelled termites was banned,

and pest control companies were forced to use less toxic formulas. Nonetheless, Orkin continued to make the same guarantees to customers, and court case after court case argues the newer treatments didn't work.

That's the crisis Glen Rollins inherited. Most of the lawsuits stem from company operations in the 1980s and 1990s, before Rollins moved into the executive suite. What's clear, examining company literature and industry publications, is that Rollins, first as Orkin's executive vice president and since February as president, has been making changes. Company veterans who had presided over a culture that led to the litigation have been ousted. Compensation plans that emphasized sales rather than service have been altered. Repairmen who, while working for Orkin, ignored Florida laws that require building permits are now playing by the rules.

Glen Rollins won't concede past wrongdoing. But his

spokeswoman, Martha Craft, comments: "The Orkin people you've read about [in the lawsuits] aren't the people who are with the company today."

The question is whether Rollins — who is regarded favorably by even some of the company's detractors — has the solutions.

Now 38, Rollins began the climb up the corporate ladder in 1990, when he took over one of Orkin's most troubled offices, Arlington, Texas. The company "figured I couldn't have made it much worse," he recalls.

That challenge pales compared to reconciling the company's claims of integrity against charges leveled in lawsuits. Rollins insists the company will "push through" its current problems.

"Our services are more than keeping homes pest free," Glen Rollins says. "It's about picking up the newspapers off the lawn. Many of our customers are old ladies, and we'll put in new light bulbs for them. We use the Cajun word, *lagniappe*, a little something extra, to describe what we do."

Here are some of the other faces of Orkin.

Meet Orkin man — or, more accurately, ex-Orkin man — Wayne Cowart of Valdosta, Ga. The 30-year veteran of the pest control industry worked for Orkin for six years, including two as a top executive in charge of handling consumer claims. He's now a consultant who spends most of his time giving testimony against Orkin and other termite companies.

"If the Gambino [Mafia] family was doing what the Rollins family has done, there'd be a Senate investigation," says Cowart, referring to accusations against the company of fraud and forgery.

His spin on what went awry at Orkin is that the "company has stopped being a service-oriented company and is now a revenue-oriented company. The losers are the customers."

Meet one of Orkin's customers, Sarah Steinhardt, who teaches piano from her home near Emory University in Atlanta. "I catastrophize everything," Steinhardt quips about an incident earlier this summer. "So when I saw a hole in my wall, I freaked out."

Steinhardt had been an Orkin customer for years, and a student's dad works for the pest control giant. "He told me I had a guarantee, and Orkin was tremendous," Steinhardt says.

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"They had an inspector out within 24 hours, a supervisor out the next day and a repair guy out the day after that. They fixed the wall, painted it, everything.

"I was girding myself for an argument, but you know what? They surprised me. I'm delighted."

Meet another Orkin customer, one who isn't delighted. The Rev. Charles Harris is pastor of the First Baptist Church of Winton, a small town off I-95 in northeast North Carolina whose 1920s vintage homes and tree-shaded streets have the genteel air of a Norman Rockwell painting.

"I sometimes don't feel very Christian about Orkin, and I remind myself that as a pastor I have to be calm and meek," Harris says. Church members in 1997 found widespread termite devastation in the 150-year-old building. "There was damage to every piece of wood. The supports to the floor were gone and the floor was only held up, didn't collapse, because there was carpet glued to floorboards."

The church's contract with Orkin started in 1971, and, Harris says, "Every year they had inspected the church and told us there were no termites and no termite damage. That just wasn't true." The church took its complaint to arbitration — where, Harris says, even Orkin employees testified that the damage was so extensive inspectors could not possibly have overlooked it. Harris' congregation won \$270,000 from Orkin to repair the damage; the company had offered a small fraction of that sum.

Meet a loyal Orkin employee. Ron Harrison, a Ph.D. expert on bugs, runs a training center complete with a down-to-the-details demonstration house and various types of commercial buildings. The hands-on center in northwest Atlanta is credited with being the best in the industry, and Harrison says it shows Orkin's commitment to first-class service.

"The company philosophy is to do right by the customer," Harrison comments. "As a company, we don't make a lot of money" off of each client. "So, we have to keep our customers for the long term by doing the job right."

Meet a former Orkin employee the company would rather forget about, Jack Cox. Part of Orkin's termite guarantee to customers is that it will reinspect homes and businesses each year — which is necessary to see if the pests have returned. Depending on the type of contract, Orkin might be required to re-treat the property if termites have reappeared, or to repair damage.

Cox, a former Orkin inspector in Tampa, was asked during a deposition in 2001 if he had ever forged customers' signatures to reinspection

tickets. Such forgeries would indicate that the reinspections hadn't happened: that homes hadn't been scoped for termites and were vulnerable, or, perhaps, were about ready to collapse from termite damage. Cox pondered the number of forgeries he had committed, and concluded that "if you do a hundred a month, that's 1,200 a year. So it might be over 1,000. ... In fact, we've had parties, kind of like a party, sat down, and all of us sat down in a room and did them."

Often, according to court documents, pizzas were served as Orkin employees industriously forged their trusting clients' signatures to stacks of documents, giving a special and well-known meaning to the term "pizza party" within the company.

In another deposition last month, Cox testified that customers were kept in the dark about damage to their property. "If we found damage," he said, "we were to report it back to the office. Normally, we didn't tell the customer."

Why would Orkin sandbag its customers? Cox explained: "It would have been an expense [to repair the termite damage]. It would have been a cost to the office to fix it. We're trying to make money at the office, you know."

Meet an Orkin lawyer, Doug Brown of the Orlando corporate law firm of Rumberger Kirk & Caldwell. His standard response to press inquiries: No comment. When Florida

Attorney General Charlie Crist subpoenaed Orkin records in July, the company told shareholders in a Securities and Exchange Commission filing that it was "cooperating fully" with the probe. However, at the same time, Brown's law firm filed a lawsuit against the attorney general on behalf of "Doe Corporation" seeking to quash the subpoena and to have documents concealed from the public.

Still, even the hardball-playing Brown has been backed into a corner on occasion. He said last year in closing statements about Collier and Peggy Black's Ponte Vedra home: "[I] certainly concede that there are a lot of very embarrassing and terrible things that have happened ... that shouldn't have happened. ... You have negligence, you have mistakes, you have chronic failures to fix things, but it's not fair to hold Orkin responsible in the sense of an intentional misconduct."

Arbitrators, in awarding \$750,000 in actual damages (plus \$2.25 million in punitive damages and \$1.25 million in attorney's fees) to the Blacks, agreed with everything in Brown's statement — except the lawyer's denial that Orkin had dirty hands. (Orkin appealed the verdict, and a

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federal judge on Aug. 23 struck down the punitive damages.)

Meet the anti-Orkin lawyer, Tampa's Pete Cardillo, the nation's only attorney whose entire practice is devoted to suing pest control companies: "Orkin knows of thousands of customers who have been screwed by the company. What's it doing? Is it telling them their homes are at risk? Absolutely not."

It's as if there were two very different companies, each sporting the Orkin red diamond.

One Orkin is a company founded by men who represented the very best of individualism and American capitalism. Hard work, shrewd strategic moves and an unflinching commitment to innovation have built Orkin into the second-largest pest control company among 18,259 competitors in the \$5.65 billion a year industry. Only Memphis-based Terminix Inc. tops Orkin in size.

And, with marketing fueled by \$30 million a year in advertising — who can forget the commercials with the bug crawling across TV screens? — Orkin is by far the best-known name among pest terminators. Orkin's founder, Otto Orkin, was a shameless self-promoter who would have his name paged at train stations just so people would hear, and he hoped, remember the word "Orkin." Nowadays, more sophisticated touting of the Orkin brand has paid off with about 70 percent of Americans recognizing the name.

Then there's the other Orkin.

It's a company that in 1984 was cited by the Federal Trade Commission for unfair trade practices. According to the FTC, Orkin had connived to breach its agreements with 232,969 customers when it unilaterally raised its fees by as much as 40 percent after promising customers the cost of contracts "never increases." In a 1980 memo obtained by the FTC, Gary Rollins brushed aside his company's pledged word and the interests of his customers in exchange for the potential of \$2.3 million in increased profits. The FTC ordered Orkin to stop the practice. Orkin appealed, but a federal court in 1988 upheld the FTC finding.

It's a company that three years ago settled with Florida, North Carolina, New York, Ohio and Texas. Those states' attorneys general successfully argued that Orkin's advertising misled customers into believing termite treatments were "certain" to be effective. Orkin also had altered its contract to insist on expensive, commercial arbitration rather than more informal dispute settlement or litigation — but had not made that change clear in its literature.

"Orkin will now be forced to back any claims of guaranteed results," New York Attorney General Eliot Spitzer said

at the time. "Consumers will now be able to pursue legitimate damage claims against Orkin more easily and effectively."

Orkin is also the company that faces arbitration disputes and lawsuits in many of the 49 states where it does termite eradication (the critters shun Alaska's frosty climate). The front line for Orkin's problems is the South's "termite belt," where 65 percent of its problem customers live.

One of those customers' names has become the "remember the Alamo" in Orkin litigation. In 1977, a poor, largely uneducated Alabama woman named Artie Mae Jeter purchased a "lifetime" contract that provided for up to \$100,000 in termite repairs for damage that



FIGHTING MAD: Collier and Peggy Black, angry Florida homeowners who last year won a \$750,000 judgment against the company.

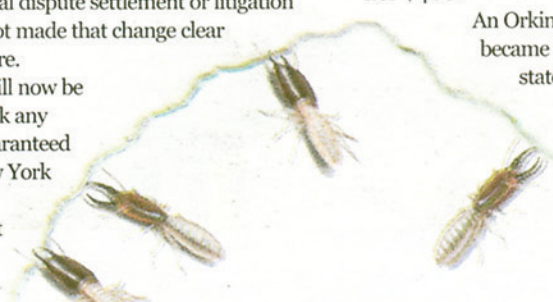
occurred after the agreement was signed. Orkin repeatedly inspected Jeter's modest home and just as repeatedly told her there was no damage.

As Alabama Supreme Court documents state: "Orkin had in place a policy pursuant to which an inspector could not inform a homeowner of any termite damage to the home." Which, of course, meant the company could avoid paying repairs.

The termites, meanwhile, were having a feast. One Orkin inspector determined repairs would cost between \$16,800 and \$28,826. The company told Jeter the damage was caused by moisture, but being a good sport offered her \$400.

An Orkin manager's memo that became the linchpin in the case states: "Ms. Jeter is 78 years old, black, in poor health, no money. ... Her

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house was improperly treated, we sold her twice with no documentation of existing conditions, home is badly eaten up by termites to the point of breaking apart. ... [W]e can spend \$5,000 now and have her put in small claims over the years until she dies and her children sell the house, or if any attorney get[s] involved, we will probably buy her a new house, thousands in punitive damages and attorneys fees."

Rather than, as Gary and R. Randall Rollins told their shareholders, acting with "honesty and integrity," Orkin offered Jeter another \$4,660 — but still didn't disclose the extent of damage.

In 1999, Jeter sued, but died before the case went to trial. Her children carried on, and a jury awarded them \$800,000 in compensatory damages and a staggering \$80 million in punitive damages. The Alabama Supreme Court later reduced the total award to \$2.3 million, which ended the case.

Jeters' heirs aren't the only ones to tally huge wins. Judgments from arbitration and litigation have started to climb into seven figures. Even more threatening to the company are attempts in Florida, Georgia, Alabama and other states to transform the individual cases into class actions where Orkin would be sued by hundreds of thousands of its 1.6-million customers.

The potential claims against Orkin and other termite control companies are daunting. Termites cause more than \$2 billion a year in damage, and much of that is to homes and businesses whose owners believed they were protected and pest-free.

Lawyers, looking for the next tobacco or Firestone tire-type litigation goldmine, are welcoming big guns into the unofficial "termite bar." West Palm Beach's Chris Searcy, one of the nation's best-known big bucks trial lawyers, has joined the fraternity, representing Elizabeth Allen, a suburban Jacksonville woman, in an attempt to elevate her litigation to class action.

And, former Georgia Gov. Roy Barnes is seeking class-action status for his state's Orkin customers. Usually never at a loss for words, he is chafing under an Orkin-requested gag order, which he hopes to soon see lifted.

Pointing to what he called "very clear" neglect of customers, Barnes says Orkin has a scorched earth policy when it comes to disputes. "Their position is that we're never going to settle," Barnes says.

That take-no-prisoners strategy is evident throughout Orkin's empire. Richard Koch, a Charlotte, N.C., lawyer, represented homeowners Jerry and Kitty Smith in suburban Union County. "Orkin's handling of the case was really strange," Koch recalls. "They thought Jerry was stupid, but he's really very bright. They copped an attitude and weren't going to pay a dime."

The dispute centered on Orkin's demand that massive repairs involve lesser quality material and workmanship than

the Smiths had used when they built their house.

"Orkin lost, and then they appealed, and the only reason they appealed was harassment. But they lost that too. Hell, yes, they lost and paid us even more money."

Another big-caliber legal cannon is being aimed at Orkin: an allegation of racketeering. Tampa lawyer Cardillo represents mostly large apartment complexes that have suffered, he contends, catastrophic damage due to Orkin's failure to abide by its contracts and guarantees. All told, Cardillo's clients have about \$35 million in damage claims against Orkin.

Hence, the claim of "racketeering," a loaded word that doesn't mean Orkin is staffed by La Cosa Nostra. Civil racketeering allegations do, however, argue criminal acts occurred. Forged signatures and fraudulent contracts, for example.

If Cardillo prevails, the racketeering angle would allow his clients to collect treble damages. "I think \$75 million or \$100 million would finally get the Rollins family's attention," Cardillo says.

Also stepping up to the racketeering skirmish line is Florida Attorney General Crist. His recently announced racketeering probe zeroes in on a relatively new problem for Orkin. Florida, like most states, requires contractors to obtain building permits for major repair jobs. Lawsuits have argued — some successfully, like Collier and Peggy Black's — that Orkin acted as the contractor although it wasn't licensed to do so. Neither Orkin nor its subcontractors pulled permits.

Orkin "spent 3,900 attorney hours over that one issue," says Collier Black. "The control of the repair process under the Orkin guarantee is crucial to their profitability."

Black, a retired media investor who confesses he is "obsessed" with Orkin, became the company's most tenacious foe after he found out that his \$1.5 million home was rendered unsafe and uninhabitable by termite damage despite a "lifetime" repair guarantee from Orkin. When an independent contractor hired by the Blacks inspected the home, he found that a second-story area where the family's three children lived was in imminent danger of collapse. "Those are our children that could have died because of Orkin," Peggy Black says with visible dismay.

The lawsuits claim Orkin subcontractors were instructed to shave costs by concealing damage from customers, and to cover up termite-inflicted destruction with "paint and patch" repairs. Had permits been pulled, county inspectors would have checked the repairs — and likely would have spotted the full extent of

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the damage. Testimony by Orkin subcontractors underscores the point. One contractor said he had done 7,000 termite repair jobs for Orkin and other companies and had pulled only about 200 permits. Another contractor testified in Black's arbitration case that he had completed 300 jobs for Orkin and never obtained a permit.

"If you see a hole in your wall and call Orkin, they'll come out and patch the hole," says ex-Orkin executive Cowart. "But you don't know what's behind the wall. A building inspector might have said, 'I want to open the whole wall and see what's there.' And he might have discovered that your house was about ready to collapse."

A new policy requires Orkin contractors to obtain permits — or forget getting paid. Lawyers argue that isn't enough. Florida law, according to the lawyers, requires that Orkin must pay for re-repairing every one of the thousands of jobs for which no permits were pulled — an exercise that could severely dent the company's bottom line.

Orkin has counterarguments, and they're good. Of its 1.6 million homeowner and business customers, less than one-tenth of one percent end up complaining. Of that small number, 98 percent are readily resolved without dispute.

Moreover, Orkin's spokeswoman, Martha Craft, points out that the number of claims peaked in 1997, and has decreased from then until 2003 by 57.2 percent. (The company won't release the actual number of claims for competitive reasons. However, Glen Rollins did say that the company was sued 26 times in the first six months of 2004, which he contends is not an avalanche of litigation, although, he says: "I wish the number was zero.")

The company also takes the position, as it did with Maria Garcia, that it isn't responsible for damage where there are "conductive" conditions — moisture being the most common. The conductive-conditions defense, Orkin critics say, is merely a dodge to cover up the company's shortcomings. CBS News, in a report last December, cited an internal Orkin audit that showed a 45-percent failure rate for meeting the company's own standards for initial termite treatments and a 54-percent failure rate in the Southeast. In other words, customers who thought their homes were termite-free after an Orkin treatment actually faced even odds that termites were still munching wood.

Orkin's response to the report was to claim it was unaware of those numbers and that, in any event, the document

probably came from a disgruntled ex-employee.

One thing both sides agree on is that the pest control business has undergone seismic changes in recent years. The chemical termite killer of choice before 1987 was Chlordane. It was a lifetime deterrent to termites — but it also made people sick. That was especially true in Florida, where land was saturated with Chlordane before concrete slabs were poured.

After regulators banned Chlordane, less toxic chemicals were adopted by pest control companies. They killed the bugs, but unlike Chlordane, they weren't good at repelling the insects and lost their potency after a few years.

The new chemicals also required precise measurement and application to be completely effective. That skill is what's now taught at the Orkin training center run by Harrison. But no one disputes that the industry was slow in catching on to the new termite killers.

By the mid-1990s, some customers were beginning to figure out

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**— ORKIN LAWYER
BYRON FREELAND**

something had changed. Their supposedly foolproof contracts weren't foolproof. The termites kept on coming, followed by painful discoveries of damage, claims and lawsuits.

Orkin, however, steadfastly denies there is a crisis — only a handful of disaffected customers and their fee-driven

lawyers. Glen Rollins, when asked to comment on the company's current situation, wouldn't mention the litigation. Rather, he responded:

"At Orkin, our goal is to earn customer loyalty by exceeding their expectations and by providing them with trusted, well-trained professionals for their homes and businesses. That philosophy is deeply rooted in our history, starting with Otto Orkin in 1901, and I aim to carry on that tradition."

In an Arkansas case being tried this month — where the company is again being accused of failing to reveal termite damage to a homeowner — Orkin's lawyer, Byron Freeland, told the court:

"Orkin is not perfect. Sometimes they move slow, but in the end, they get things right."

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