

EXCLUSIVE REPORTS

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Orkin under investigation by state attorney

Pest control service didn't pull building permits; facing other lawsuits for incomplete work.

Christine Selvaggi Baumann and Mary Jane Credeur

Staff Writers

ORLANDO -- The Florida attorney general's office has opened a racketeering investigation on Orkin Inc. for possible unfair and deceptive business practices.

The investigation follows hundreds of other lawsuits filed by homeowners against Orkin alleging the company failed to properly inspect homes, treat for termites and, in some cases, forged documents when no actual work had been done.

The economic crimes unit of the Florida attorney general's office issued Orkin a subpoena in April asking for customer contracts, treatment records and building permit applications filed by the company or general contractors it hired to do repair work, says Martha Craft, spokeswoman for Atlanta-based Orkin, which has 400 branch locations, including several in metro-Orlando.

Craft says the investigation appears to center on who is responsible for pulling building permits when repair work is done on termite damage. She admits that some contractors Orkin hired did not properly pull permits. She says Orkin, which has more than 1.6 million commercial and residential customers throughout North America, no longer does business with those contractors.

A spokesman for the general attorney's office declines to comment, saying the office doesn't discuss investigations until they are closed.

\$3 million award reduced

There have been several hundred lawsuits against Orkin in Florida and other Southeast states alleging the pest control company did not meet its contractual treatment and inspection obligations and that employees sometimes wrote phony inspection and treatment forms.

The most sensational suit was that of Jacksonville homeowners Collier and Peggie Black, who were given a \$3 million arbitration award in compensatory and punitive damages in September.

Just last week, a federal court judge struck down the \$2.25 million punitive damages portion, saying the couple wasn't entitled because punitive damages cannot be awarded for unfair and deceptive trade practices, for which the arbitrators found Orkin responsible.

Numerous lawsuits also have been filed against Terminix, Sears and other regional pest control companies.

Pete Cardillo, a Tampa attorney who specializes in termite cases and sued Orkin on behalf of an Altamonte Springs apartment complex, says Orkin's operations in Florida had "systemic problems" and that there was "ample misconduct" by employees who were supposed to inspect and treat homes.

"Orkin actively conceals from homeowners the damage they find, and they don't write in reports that they saw termites, and they don't properly treat those termites," Cardillo says.

Cardillo currently has eight active termite lawsuits, half of them against Orkin branches in Florida.

His clients are seeking \$25 million in claims, not including punitive and treble damages allowed under racketeering law. Cardillo already has settled a handful of termite cases against Orkin and other pest control companies, collectively worth millions of dollars.

Commission structure changed

With Orkin, property owners sign contracts -- usually lasting five years and ranging from \$1,500 to \$1,800 plus an annual renewal fee -- for termite or other pest control services, according to Craft. An initial inspection is completed, followed by treatment if pests are found. Most contracts call for annual inspections or repeat treatments if termites are found the first time.

Cardillo and other lawyers say these annual inspections and follow-up treatments are not always done properly, and sometimes not done at all.

Cardillo found that Orkin paid its employees \$3 to re-inspect homes, whereas new contracts can be worth hundreds of dollars. Former Orkin employees testified that they sometimes wrote fake treatment and inspection reports to save time and money, in some cases while having pizza parties at their offices. Many say their workload was too heavy to do all of the re-inspections.

Since then, Craft says Orkin has reprimanded and dismissed employees and also changed the commission structure of sales and re-inspections. Plus, workloads have been regulated. An average employee has 900 customers each year and is paid a percentage of the total contract's worth, rather than a flat inspection fee.

But Craft says Orkin's mishaps and resulting corrections should not be the subject of a state investigation. "What (employees have) done is broken a company policy, not a law."

Be aware

Most of the lawsuits against Orkin concern contracts signed 10 or more years ago. That's because the chemicals now used to kill termites and other pests lose their potency after five years, then termite populations take another five or more years to infest a building and be detected by homeowners.

Experts say termite damage and treatment exceeds \$500 million in Florida each year. The best way to choose a termite company and be sure you're getting your money's worth is to ask for references, according to Harvey Massey, president of pest control company Massey Services Inc. and a former vice president of Orkin.

"You have to have a trust and confidence in the company you're doing business with," Massey says. "Check out the people."

Mary Jane Credeur is a staff writer for the Atlanta Business Chronicle, a sister paper of Orlando Business Journal.

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