

AVAILABILITY OF MODIFIED TEXT

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board has proposed modifications to the text of California Code of Regulations, Title 16, Division 19, section 1937.11 and the Disciplinary Guidelines, which are incorporated by reference, which were the subject of a regulatory hearing on October 13, 2016. Any person who wishes to comment on the modifications may do so by submitting written comments on or before May 4, 2017. The Board can only accept comments pertaining to the modifications shown herein.

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Materials regarding this proposal can be found at www.pestboard.ca.gov

April 19, 2017



David Skelton, Administrative Analyst

**DISCIPLINARY GUIDELINE REVISIONS
KEY**

- Single Underline..... Denotes text being added in the originally proposed language
- ~~Strikethrough~~..... Denotes text being removed in the originally proposed language
- Double Underline..... Denotes text being added in the 15 Day Notice of Modified Text
- ~~Double Strikethrough~~..... Denotes text being removed in the 15 Day Notice of Modified Text

THE FOLLOWING IS THE KEY FOR THE MODEL DISCIPLINARY ORDERS, STANDARD TERMS AND CONDITIONS OF PROBATION, AND OPTIONAL TERMS AND CONDITIONS OF PROBATION, SECTIONS OF THE DISCIPLINARY GUIDELINES. IN THESE SECTIONS SOME OF THE EXISTING TEXT USED UNDERLINED AND / OR BOLDED TEXT

- Single Underline..... Denotes existing text
- Double Underline..... Denotes text being added in the originally proposed language
- ~~Strikethrough~~..... Denotes text being removed in the existing language
- ~~Double Strikethrough~~..... Denotes text being removed in the 15 Day Notice of Modified Text
- Double Underline and Bold**..... Denotes text being added in the 15 Day Notice of Modified Text
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TITLE 16. STRUCTURAL PEST CONTROL BOARD

DISCIPLINARY GUIDELINES REVISIONS

MODIFIED PROPOSED LANGUAGE

§ 1937.11. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" [Rev. 20106] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board and/or administrative law judges in its/his or her discretion determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Section 8525, Business and Professions Code, ~~Section 11425.50(e), Government Code~~. Reference: Section 11425.50(e), 11519 Government Code, and Sections 125.3, 8620, 8635, 8636, 8637, 8638, 8639, 8640, 8641, 8642, 8643, 8644, 8645, 8646, 8646.5, 8647, 8648, 8649, 8650, 8651, 8652, 8653, 8654, 8655 ~~and 8657~~, and 8666, Business and Professions Code.

**A MANUAL OF
DISCIPLINARY GUIDELINES
AND
MODEL DISCIPLINARY
ORDERS**

**STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

20106

STRUCTURAL PEST CONTROL BOARD

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INDEX

Introduction.....	<u>5</u> <u>1</u>
Penalty Guidelines.....	<u>6</u><u>2</u>
Business and Professions Code Section.....	<u>6</u> <u>2</u>
8635 Disregard of Specifications.....	<u>6</u> <u>2</u>
8636 Violation of Law.....	<u>6</u> <u>2</u>
8637 Misrepresentation.....	<u>6</u> <u>2</u>
8638 Violation of Contracts.....	<u>6</u> <u>2</u>
8639 Aiding and Abetting.....	<u>6</u> <u>2</u>
8640 Real Estate Rebates.....	<u>6</u> <u>2</u>
8641 Violation of Chapter and Rules.....	<u>6</u> <u>2</u>
8642 Fraud.....	<u>6</u> <u>2</u>
8643 Negligent Handling / Use of Poisons.....	<u>6</u> <u>3</u>
8644 Misrepresentation After Inspection.....	<u>6</u> <u>3</u>
8645 Impersonation.....	<u>6</u> <u>3</u>
8646 Disregard of Laws.....	<u>6</u> <u>3</u>
8646.5 Cease and Desist.....	<u>6</u> <u>3</u>
8647 Violation of Laws <u>Regarding</u> Insecticides.....	<u>7</u> <u>4</u>
8648 False Advertising.....	<u>7</u> <u>4</u>
8649 Conviction / Evidence.....	<u>7</u> <u>4</u>
8650 Name and Location as Licensed.....	<u>7</u> <u>4</u>
8651 Performing / Soliciting Beyond Scope of License.....	<u>7</u> <u>4</u>
8652 Failure to Make and Keep Records.....	<u>7</u> <u>4</u>
8653 Withholding Payment.....	<u>7</u> <u>4</u>
8654 Association of Suspended Operator.....	<u>7</u> <u>4</u>
8655 Charge Substantially Related.....	<u>7</u> <u>5</u>
8657 Appointment of Receiver.....	<u>7</u> <u>5</u>
<u>8666 Excessive Work</u>	<u>7</u> <u>5</u>
<u>All Other Violations</u>	<u>7</u> <u>5</u>
Violation of Probation.....	<u>7</u> <u>5</u>
Factors <u>in Aggravation, and Mitigation and in Extenuation to be for Consideration for in</u> <u>Disciplinary Cases</u>	<u>8</u> <u>6</u>
Standard Terms and Conditions of Probation.....	<u>8</u> <u>7</u>
Optional Terms and Conditions of Probation.....	<u>8</u> <u>7</u>
Default Decision.....	<u>9</u> <u>7</u>
Civil Penalty in Lieu of Actual Suspension.....	<u>9</u> <u>7</u>

MODEL DISCIPLINARY ORDERS..... 98

Model Number Language

1 <u>A.</u> Revocation – Single Cause.....	9 <u>8</u>
2 <u>B.</u> Revocation – Multiple Causes.....	9 <u>8</u>
3 <u>C.</u> Suspension – Single Cause.....	9 <u>8</u>
4 <u>D.</u> Suspension – Multiple Causes (Run Concurrently).....	9 <u>8</u>
5 <u>E.</u> Suspension – Multiple Causes (Run Consecutively).....	10 <u>8</u>
6 <u>F.</u> Standard Stay Order.....	10 <u>9</u>
7 <u>G.</u> Probation.....	10 <u>9</u>

STANDARD TERMS AND CONDITIONS OF PROBATION

8 <u>1.</u> Obey All Laws.....	10 <u>9</u>
9 <u>2.</u> Quarterly Reports.....	10 <u>9</u>
10 <u>3.</u> Tolling of Probation.....	10 <u>9</u>
11 <u>4a.</u> Notice to Employers.....	10 <u>9</u>
12 <u>4b.</u> Notice to Employees.....	11 <u>10</u>
13 <u>Posted Notice of Suspension</u>	11
14 <u>Completion of Probation</u>	11
15 <u>5.</u> Violation of Probation.....	11 <u>10</u>
16 <u>Cost Recovery</u>	11
17 <u>6.</u> Interview / Records: Board Or Its Designees.....	11 <u>10</u>
18 <u>7.</u> License / Record Surrender.....	11 <u>10</u>
8. <u>Completion of Probation</u>	18 <u>10</u>
9. <u>Cost Recovery</u>	18 <u>11</u>

OPTIONAL TERMS AND CONDITIONS OF PROBATION

1619 <u>10.</u> Actual Suspension.....	11 <u>11</u>
1720 <u>11.</u> Continuing Education Course – Branch 1.....	11 <u>11</u>
1821 <u>12.</u> Continuing Education Course – Branch 2.....	12 <u>11</u>
1922 <u>13.</u> Continuing Education Course – Branch 3.....	12 <u>11</u>
2023 <u>14.</u> Random Inspections.....	12 <u>12</u>
2124 <u>15.</u> Inspection Fees.....	12 <u>12</u>
2225 <u>16.</u> Reimbursement to Consumer.....	12 <u>12</u>
2326 <u>17.</u> Prohibited From Serving as Officer, Director, Associate, Partner, or Qualifying Manager.....	12 <u>12</u>
2427 <u>18.</u> No Interest In Any Registered Company.....	12 <u>12</u>
2528 <u>19.</u> Take and Pass Licensure Examinations.....	12 <u>12</u>
2629 <u>Cross Reference – Business and Professions Code Sections to Business and Professions Code Section Establishing Grounds for Disciplinary Action.....</u>	13 <u>13</u>
2730 <u>Cross Reference – California Code of Regulations Sections to Business and Professions Code Section Establishing Grounds for Disciplinary Action.....</u>	14 <u>15</u>

DISCIPLINARY GUIDELINES

INTRODUCTION

~~To establish consistency in~~ In reaching a decision on a disciplinary penalties for similar offenses, action under the Administrative Procedure Act (Government Code Section 11400 et seq), the Structural Pest Control Board establishes these and the Administrative Law Judge shall consider the uniform disciplinary guidelines as set forth herein.

The Board recognizes that these ~~penalties~~ terms of discipline and conditions of probation are merely guidelines and that ~~the Board and the Administrative Law Judges~~ must be free to exercise their discretion in such cases. However, the Board desires that these deviation from such guidelines be followed to the extent possible and requests that the administrative law judge hearing the case include some explanation of any is appropriate only when facts of the case warrant such a departure or omissions from the guidelines. As such, any departure from these guidelines should be explained and noted fully in the proposed decision or disciplinary order so that the circumstances can be better understood by the Board during its review of the case for ultimate action.

The Board desires that matters in extenuation or mitigation, as well as those in aggravation, be fully considered and noted in the proposed decision or disciplinary order. Of primary importance is the effect of the licensee's or / registrant's conduct/action ~~had or can have~~ on the public as consumers.

PENALTY GUIDELINES

Violation	Minimum Penalty	Optional Probation Conditions	Maximum Penalty
Section 8635 Disregard of Specifications	Suspension, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26 <u>10, 11/12/13, 14,</u> <u>15, 16, 17</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8636 Violation of Laws	Suspension, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26 <u>10, 11/13/13, 14,</u> <u>15, 16, 17</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8637 Misrepresentation	Revocation and Optional Condition 24 <u>27 19</u>	<u>Discretionary</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8638 Violation of Contracts	Suspension, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>16</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8639 Aiding and Abetting	Suspension Revocation, Stayed, 3 <u>5</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8640 Real Estate Rebates	Suspension Revocation, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8641 Violation of Chapter and Rules	Suspension, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26, 28 <u>10, 11/12/13,</u> <u>14, 15, 16, 17, 19</u>	Revocation and Optional Condition 24 <u>27 18</u>
Section 8642 Fraud	Revocation, Stayed, <u>5</u> <u>Years Probation and</u> <u>Optional Condition 27</u> Suspension, Stayed, 3 <u>Years Probation</u>	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26, 28 <u>10, 11/12/13,</u> <u>14, 15, 16, 17, 19</u>	Revocation and Optional Condition 24 <u>27 18</u>

Violation	Minimum Penalty	Optional Probation Condition	Maximum Penalty
Section 8643 Negligent Handling or Use of Poisonous Agent	Revocation, Stayed, <u>4</u> <u>Years Probation</u>	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26, 28 <u>10, 11/12/13,</u> <u>14, 15, 17, 19</u>	Revocation and Optional Condition <u>24</u> 27 <u>18</u>
Section 8644 Misrepresentation After Inspection	Suspension Revocation, Stayed, <u>3</u> <u>5 Years Probation</u>	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26, 28 <u>10, 11/12/13,</u> <u>14, 15, 16, 17, 19</u>	Revocation and Optional Condition <u>24</u> 27 <u>18</u>
Section 8645 Impersonation	Suspension Revocation, Stayed, <u>3</u> <u>5 Years Probation</u>	16, 19, 20, 21, 23, 24, 26 <u>10, 14, 15, 17</u>	Revocation and Optional Condition <u>24</u> 27 <u>18</u>
Section 8646 Disregard of Laws	Suspension, Stayed, <u>3</u> <u>Years Probation</u>	16, 17/18/ 19, 20/21/22, 23, 24, 25, 26, 28 <u>10, 11/12/13,</u> <u>14, 15, 17, 19</u>	Revocation and Optional Condition <u>24</u> 27 <u>18</u>
Section 8646.5 Cease & Desist	Suspension, Stayed, <u>3</u> <u>Years Probation</u>	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition <u>24</u> 27 <u>18</u>

Violation	Minimum Penalty	Optional Probation Conditions	Maximum Penalty
Section 8647 Violation of Laws as to Insecticides	Suspension, Stayed, 3 Years Probation	16, 17/18/ 49, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8648 False Advertising	Suspension, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 49, 20/21/22, 23, 26 <u>10,</u> <u>11/12/13, 14, 17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8649 Conviction, Evidence	Revocation, Stayed, 3 <u>5</u> Years Probation	16, 20, 21, 19, 23, 24, 26 <u>10, 14, 15, 17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8650 Name and Location as Licensed	Suspension, Stayed, 3 Years Probation	16, 17/18/ 49, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8651 Performing or Soliciting Beyond Scope of License	Revocation, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 49, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8652 Failure to Make and Keep All Reports	Suspension, Stayed, 3 Years Probation	16, 17/18/ 49, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8653 Withholding Payment	Suspension, Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 49, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8654 Prohibition Against Association of Suspended Operator	Suspension, Stayed, 3 Years Probation	16, 17/18/ 49, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>

Violation	Minimum Penalty	Optional Probation Conditions	Maximum Penalty
Section 8655 Charge Substantially Related	Revocation, Stayed, 3 <u>5</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8657 Appointment of Receiver	Suspension Revocation , Stayed, 3 <u>4</u> Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	Revocation and Optional Condition 24-27 <u>18</u>
Section 8666 <u>Excessive Work</u>	<u>Revocation, Stayed</u> 3-4 Years Probation	16, 17/18/ 19, 20/21/22, 23, 24, 26 <u>10, 11/12/13, 14, 15,</u> <u>17</u>	<u>Revocation and</u> <u>Optional Condition</u> 27 <u>18</u>
Violation of Probation	Extend Probation <u>1 to 5</u> <u>years</u> with Appropriate New <u>or Amended</u> Conditions	<u>Discretionary</u>	Revoke Probation and Impose Stayed Penalty
<u>All Other Violations</u>	<u>Suspension, Stayed</u> <u>3 Years Probation</u>	<u>Discretionary</u>	<u>Revocation</u> <u>Optional Condition</u> 27 <u>18</u>

**FACTORS IN AGGRAVATION, AND MITIGATION AND IN EXTENUATION TO BE
CONSIDERED FOR CONSIDERATION FOR IN DISCIPLINARY CASES**

In determining whether the minimum, maximum, or an intermediate penalty revocation, suspension, or probation is to be imposed in a given disciplinary case, factors such as the following should be considered:

1. ~~Actual or potential harm to the public.~~
2. ~~Actual or potential harm to any consumer.~~
3. ~~Prior disciplinary record.~~
4. ~~Number and / or variety of current violations.~~
5. ~~Mitigation evidence.~~
6. ~~In case of a criminal conviction, compliance with terms of sentence.~~
7. ~~Overall criminal record.~~
8. ~~Whether the conduct was knowing, willful, reckless or inadvertent.~~
9. ~~The financial benefit to the respondent.~~
10. ~~Evidence that the unlawful act was part of a pattern of practice.~~
11. ~~Currently on probation.~~

I) Factors in Aggravation: Crimes or Acts

- a. Nature and severity of the act or crime under consideration.
- b. Actual or potential harm to the public or any consumer.
- c. Pending and final records of any cause of action from any investigation, hearing, or court of competent jurisdiction in this state or any other venue.
- d. Conduct was knowing, willful, reckless, or negligent.
- e. Whether financially motivated.
- f. Involved fraud, misrepresentation and/or dishonesty.
- g. Whether a pattern of practice.
- h. Length of time passed since the act or omission.
- i. Length and seriousness of the administrative, civil or criminal record.
- j. ~~Negative status of Compliance with any administrative, civil or criminal probation, or of any criminal parole imposed, regardless of venue.~~
- k. Compliance with, including but not ~~exclusive~~ limited to, restitution, fines, or community service lawfully imposed in this state or any other venue.

II. Factors in Mitigation: Crimes or Acts

- a. Satisfaction of any lawfully imposed sanctions or other conditions including, but not ~~exclusive~~ limited to, restitution, fines or compliance arising from any cause of action.
- b. Participation and completion of training, counseling or rehabilitation programs.
- c. No prior disciplinary actions.
- d. Not a pattern of practice.
- e. Evidence of substantial measures to prevent the occurrence of future violations.
- f. Neither willful, reckless, or negligent.
- g. The public or any consumer was not actually or potentially harmed.

- h. The length of time passed since the act or omission, or completion of probation, or completion of parole.
- i. No prior criminal record.
- j. If applicable, evidence of expungement proceedings or dismissal pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.
- k. Other relevant evidence of rehabilitation.

III. ~~Matters~~ Factors in Extenuation: Crimes or Acts

- a. Circumstances deemed beyond one's direction or control.
- b. Degree of knowledge and/or participation constituting cause for discipline.
- c. Coercion or oppression.
- d. Incapacitation, physical or mental condition.

The Board does not ~~intend~~ require the presence of ~~that~~ any one or combination of the above factors ~~be required~~ to justify the minimum or maximum penalty as opposed to an intermediate one. degree of discipline to be imposed.

STANDARD TERMS AND CONDITIONS OF PROBATION

The standard terms of probation ~~generally~~ appearing in every case are:

- ~~A. 1. Obey all laws [8]*~~
- ~~B. 2. File quarterly reports [9]~~
- ~~C. 3. Tolling of probation if respondent moves out of state; or surrenders, is suspended, does not renew, or inactivates license [10]~~
- ~~D. 4a. Notice to employers [11]~~
- ~~E. 4b. Notice to employees [12]~~
- ~~F. Posting of suspension sign [13]~~
- ~~G. 5. Violation Completion Violation of probation [14]~~
- ~~H. Completion Violation of probation [15]~~
- ~~I. Cost Recovery [16]~~
- ~~J. 6. Interview / Records: Board Or Its Designee [17]~~
- ~~K. 7. License Surrender [18]~~
- 8. Completion of Probation
- 9. Cost Recovery

OPTIONAL TERMS AND CONDITIONS OF PROBATION

- ~~A. 10. Actual suspension of license / registration certificate [1619]~~
- ~~B. 11. Completion of appropriate continuing education course; ~~appropriate~~ Branch 1 [1720]~~
- 12. Completion of appropriate continuing education course: Branch 2 [1821], or
- 13. Completion of appropriate continuing education course: Branch 3 [1922]
- ~~C. 14. Reimbursement to the Board for random inspections [2023]~~

- ~~D.~~ 15. Payment of inspection fee [~~2124~~]
- ~~E.~~ 16. Restitution to consumer [~~2225~~]
- ~~F.~~ 17. Prohibition from serving as officer, director, associate, partner or qualifying manager [~~2326~~]
- ~~G.~~ 18. No ownership of registered company [~~2427~~]
- ~~H.~~ 19. Take and pass licensure examination [~~2528~~]

DEFAULT DECISION

The disciplinary penalty in a default decision is revocation.

CIVIL PENALTY IN LIEU OF SUSPENSION

The Board has the authority to assess a civil penalty in lieu of actual suspension as follows:

- (a) not more than \$5,000 for an actual suspension of 1 to 19 days
- (b) not more than \$10,000 for an actual suspension of 20 to 45 days

The respondent may express a preference for paying a civil penalty in lieu of actual suspension, but the Board is not bound by any expression of preference. If such preference is expressed, it should be included in the proposed decision.

MODEL DISCIPLINARY ORDERS

MODEL ~~NUMBERS~~ LANGUAGE

~~[1]~~ A. Revocation – Single Cause

(Ex. Operator's / Field Representative's / Applicator's) License / Company Registration Certificate No. (Ex. OPR 1234) issued to Respondent (Ex. John Doe) is revoked.

~~[2]~~ B. Revocation – Multiple Causes

(Ex. Operator's / Field Representative's / Applicator's) License / Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is revoked pursuant to Determination of Issues (Ex. I, II, and III) separately and for all of them.

~~[3]~~ C. Suspension – Single Cause

(Ex. Operator's / Field Representative's / Applicator's) License / Company Registration Certificate No. (Ex. OPR 1234, Branch(es) X) issued to Respondent (Ex. John Doe) is suspended (Ex. Thirty (30) consecutive days) beginning the effective date of the decision.

[4] D. Suspension – Multiple Causes (run concurrently)

(Ex. Operator's / Field Representative's/ Applicator's) License / Company Registration Certificate No. (Ex. OPR 1234, Branch(es) X) issued to respondent (Ex. John Doe) is suspended for (Ex. thirty (30) consecutive days) pursuant to Determination of Issues (Ex. I, II, and III) separately and for all of them. All suspensions shall run concurrently beginning the effective date of the decision.

[5] E. Suspension – Multiple Causes (run consecutively)

(Ex. Operator's / Field Representative's/ Applicator's) License / Company Registration Certificate No. (Ex. OPR 1234) issued to respondent (Ex. John Doe) is suspended (Ex. Thirty (30) consecutive days) pursuant to Determination of Issues (Ex. I, II, and III) and (Ex. Sixty (60) consecutive days) pursuant to Determination of Issues (Ex. IV and V). These suspensions shall run consecutively, for a total period of (Ex. Ninety (90) consecutive days) beginning the effective date of the decision.

[6] F. Standard Stay Order

However, (revocation / suspension) is stayed and respondent is placed on probation for (Ex. three (3) _____ years) upon the following terms and conditions:

[7] G. Probation

a. However, (revocation / suspension) is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

or

b. Respondent is placed on probation for a period of three (), four () or five () years.

STANDARD TERMS AND CONDITIONS OF PROBATION

[8] 1] Obey All Laws

Respondent shall obey all federal, state and local laws including all laws and rules relating to the practice of structural pest control.

He/she Respondent shall submit a completed California Department of Justice and federal Livescan fingerprint form, unless previously submitted as part of the licensure application process. Fingerprint forms shall be submitted within thirty (30) calendar days of the effective date of the Decision and Order.

[9 2] Quarterly Reports

Respondent shall file quarterly reports with the Board during the period of probation, no later than ten (10) days after the end of the quarter.

[40 3] Tolling of Probation

~~Should if respondent leaves California to reside for more than thirty (30) days, outside this state, respondent must notify the Board in writing no later than ten (10) days prior to the planned date of departure of the dates of departure and return. Periods of out of state residency, or practice when such state license has been surrendered, suspended, placed on inactive status, or is not renewed, shall not reduce the probationary period~~ outside the state shall not apply to reduction of the probationary period.

In the event respondent should leave California to reside or practice outside the state, prior to departing, respondent must provide written notification to the Board of the dates of departure and anticipated return to the state. Respondent's probation is tolled if and when he or she ceases practicing in California. Periods of practice outside of California will not apply to the reduction of the probationary period. For purposes of this condition, non-practice due to Board ordered suspension, or in compliance with any other Board ordered condition of probation, shall not be considered a period of non-practice.

[44 4a.] Notice to Employers (Individual Licensees)

Respondent shall notify all present and prospective employers of the decision in case No. (Ex. 91-01) and the terms, conditions and restriction imposed on respondent by said decision. Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his/her employer, owner and qualifying manager to report to the Board in writing acknowledging he/she has read the decision in case No. (Ex. 90-01).

[42 4b.] Notice to Employees (Registered Companies)

Respondent shall, upon or before the effective date of this decision, post and or circulate a notice to all employees involved in structural pest control operations which accurately recite the terms and conditions of probation. Respondent shall be responsible for said notice being immediately available to said employees. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation. The notice shall be posted in a conspicuous place where employees can see it and shall remain posted the entire term of probation.

~~[13] Posted Notice of Suspension~~

~~Respondent structural pest control company shall prominently post a suspension notice provided by the Board of the Board's order of suspension at its principle office and each of its branch offices in a place conspicuous and readable to the public. Said notice shall remain so posted during the entire period of actual suspension.~~

~~[14] Completion of Probation~~

~~Upon successful completion of probation, respondent's license / certificate will be fully restored.~~

~~[15 5] Violation of Probation~~

~~Should respondent violate probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation, statement of issues, or a petition to revoke probation is filed against respondent during probation, or if respondent requests a hearing to be conducted pursuant to 11500 of the Government Code, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final **has been acted upon by the Board.**~~

~~[16] Cost Recovery~~

~~Respondent shall reimburse the Board investigation and enforcement costs in the amount of \$ _____. Respondent shall be permitted to pay these costs within 90 days of the effective date of the decision or through a payment plan approved by the Board. Failure to make a timely payment, and/or failure to complete payment of cost recovery, shall constitute a violation of probation, which may subject Respondent's license to outright revocation.~~

~~Periods of non practice by Respondent shall not relieve respondent of his or her obligation to reimburse the Board for its investigative and enforcement costs. Probation shall not be terminated until all costs are paid in full.~~

~~[17 6] Interview / Records: Board Or Its Designees~~

~~Respondent shall be available in person upon reasonable request for interviews and the review of records either at respondent's place of business, residence, or other agreed upon location throughout the term of probation.~~

~~[18 7] License Surrender~~

~~Following the effective date of this decision, if respondent ceases practicing in the pest control industry due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license/registration to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon ~~formal~~ **the Board's acceptance of the surrender, respondent shall within fifteen (15) days deliver to the Board's offices** his/her wall and pocket license and company registration wall certificate. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license/registration shall be deemed a disciplinary action. However, if respondent re-applies for a license or registration, the application shall be treated as a petition for reinstatement of a revoked license/registration. ~~Under these circumstances, Respondent's prior probationary time shall be restored effective the date of surrender and shall be in addition to any probationary time required if reinstatement is granted.~~~~

[14 8] Completion of Probation

Upon successful completion of probation, respondent's license / certificate will be fully restored.

[16 9] Cost Recovery

Respondent shall reimburse the Board investigation and enforcement costs in the amount of \$ _____. Respondent shall be permitted to pay these costs within 90 days of the effective date of the decision or through a payment plan approved by the Board. Failure to make a timely payment, and/or failure to complete payment of cost recovery, shall constitute a violation of probation, which may subject Respondent's license to outright revocation.

Periods of non-practice by Respondent shall not relieve respondent of his or her obligation to reimburse the Board for its investigative and enforcement costs. Probation shall not be terminated until all costs are paid-in-full.

OPTIONAL TERMS AND CONDITIONS OF PROBATION**[16] [19 10] Actual Suspension**

(Ex. Operator's/Field Representative's/ Applicator's) License/Company Registration No. (Ex. OPR 1234, Branch X and Branch X or Branch X only) issued to (Ex. John Doe) serves an actual suspension of Respondent is suspended from practicing for (Ex. ten (10) consecutive days) beginning the effective date of the decision. This period of suspension shall not apply to the reduction of the probationary time period.

Note: The following paragraph applies only to companies:

Respondent structural pest control company shall prominently post a suspension notice provided by the Board of the Board's order of suspension at its principle office and each of its branch offices in a place conspicuous and readable to the public. The notice shall remain posted during the entire period of actual suspension.

[17] [20 11] Continuing Education Course – Branch 1

Respondent ~~(Ex. John Doe)~~ shall complete a continuing education course for pest control in Branch 1 (fumigation) within six (6) months of the effective date of this decision in addition to the existing license renewal requirements ~~within eighteen (18) months of the effective date of this decision.~~

[18] [21 12] Continuing Education Course – Branch 2

Respondent ~~(Ex. John Doe)~~ shall complete a continuing education course for pest control in Branch 2 (general pest) within six (6) months of the effective date of this decision in addition to the existing license renewal requirements ~~within eighteen (18) months of the effective date of this decision.~~

[19] ~~[22]~~ [13] Continuing Education Course – Branch 3

Respondent (~~Ex. John Doe~~) shall complete a continuing education course for pest control in Branch 3 (wood destroying pests and organisms) within six (6) months of the effective date of this decision in addition to the existing license renewal requirements within eighteen (18) months of the effective date of this decision.

[20] ~~[23]~~ [14] Random Inspections

Respondent shall reimburse the Board for (Ex. one (1)) random inspection(s) per (Ex. quarter) by Board specialists during the period of probation not to exceed \$125 per inspection.

[21] ~~[24]~~ [15] Inspection Fees

Respondent shall pay to the registrar, or designee, an inspection fee of (Ex. \$50) within thirty (30) days from the effective date of this decision.

[22] ~~[25]~~ [16] ~~Reimbursement~~ Restitution to Consumer

Respondent shall submit proof to the registrar that restitution in the amount of (Ex. \$8,000) has been made to (Ex. John Smith) within (Ex. thirty (30) days) of the effective date of the decision.

[23] ~~[26]~~ [17] Prohibited from Serving as Officer, Director, Associate, Partner, or Qualifying Manager

Respondent is prohibited from serving as an officer, director, associate, partner, qualifying manager, ~~or branch office manager, or responsible managing employee~~ of any registered company during the period ~~that discipline of probation is imposed on~~ (Ex. Operator's/Field Representative's) License No. (Ex. OPR 1234).

[24] ~~[27]~~ [18] No Interest In Any Registered Company

Respondent shall not have any legal or beneficial interest in any company currently or hereinafter registered by the Board.

[25] ~~[28]~~ [19] Take And Pass Licensure Examinations

Within (Ex. six (6) months) of the effective date of this decision, respondent shall take and pass the (Ex. Operator's/Field Representative's/Applicator's) examination currently required of new applicants for (Ex. Operator's/Field Representative's) license. The examination shall be taken on regularly scheduled dates. Respondent shall pay the established examination fee. If respondent fails to pass said examination within (Ex. Six (6) months) of the effective date of this decision it shall constitute a violation of probation, respondent shall notify the board and shall cease practice until respondent takes and successfully passes said examination.

**CROSS REFERENCE
BUSINESS AND PROFESSIONS CODE (B&P)
SECTIONS TO BUSINESS AND PROFESSIONS CODE SECTION
ESTABLISHING GROUNDS FOR DISCIPLINARY ACTION**

VIOLATION OF B&P CODE SECTION	GROUNDS FOR DISCIPLINE UNDER B&P CODE SECTION
8505	8651
<u>8505.1</u>	<u>8646</u>
8505.2	8646
8505.3	8646
8505.4	8646
8505.5	8646
8505.6	8646
8505.7	8646
8505.8	8646
8505.9	8646
8505.10	8646
8505.11	8646
8505.12	8646
8505.13	8646
8505.14	8646
8505.15	8646
8505.16	8646
<u>8505.17</u>	<u>8646</u>
8506(c)	8641
<u>8506.1</u>	<u>8641</u>
8506.2	8641
8507	8651
<u>8507.1</u>	<u>8651</u>
<u>8509</u>	<u>8641</u>
8513	8641
8514	8641
<u>8514.5</u>	<u>8641</u>
8516	8641
8516.1	8641
8516.2	8641
8516.5	8641
8517	8641
8518	8641
8519	<u>8641</u> , 8644
<u>8519.5</u>	<u>8646</u>
8538	8646
<u>8550</u>	<u>8641, 8646, 8648, 8651</u>

<u>8551</u>	<u>8646</u>
<u>8551.5</u>	<u>8641, 8646</u>
<u>8552</u>	<u>8648</u>
<u>8553</u>	<u>8641</u>
<u>8554</u>	<u>8641</u>
8567	8641
8571	8641
<u>8593</u>	<u>8641</u>
<u>8593.1</u>	<u>8641</u>
8610	8641
8611	8641
8612	<u>8641, 8650</u>
8613	8641, 8651
<u>8619</u>	<u>8641</u>
8622	8641
<u>8635</u>	<u>8641</u>
<u>8636</u>	<u>8641</u>
<u>8637</u>	<u>8641, 8642</u>
<u>8638</u>	<u>8641</u>
<u>8639</u>	<u>8641, 8646, 8648, 8651</u>
<u>8640</u>	<u>8641, 8646</u>
<u>8641</u>	<u>8641</u>
<u>8642</u>	<u>8641, 8642</u>
<u>8643</u>	<u>8641, 8646</u>
<u>8644</u>	<u>8641</u>
<u>8645</u>	<u>8641</u>
<u>8646</u>	<u>8641, 8646</u>
<u>8647</u>	<u>8646</u>
<u>8648</u>	<u>8641</u>
<u>8649</u>	<u>8641, 8649</u>
<u>8650</u>	<u>8641</u>
<u>8651</u>	<u>8641</u>
<u>8652</u>	<u>8641</u>
<u>8653</u>	<u>8641</u>
<u>8657</u>	<u>8641, 8646</u>
<u>8666</u>	<u>8641</u>
<u>8690</u>	<u>8641</u>
8691	8641
<u>8695</u>	<u>8641</u>
<u>8697</u>	<u>8641</u>
8697.4	8641
<u>8698.1</u>	<u>8641</u>

**CROSS REFERENCE
CALIFORNIA CODE OF REGULATIONS (CCR) SECTIONS
TO BUSINESS AND PROFESSIONS CODE SECTION
ESTABLISHING GROUNDS FOR DISCIPLINARY ACTION**

VIOLATION OF CCR SECTION	GROUNDS FOR DISCIPLINE UNDER B&P CODE
1911	8641
1912	8650
<u>1913</u>	<u>8641, 8650</u>
1914	8650
1916	8641
1917	8650
<u>1918</u>	<u>8641</u>
1937	8641
<u>1937.12</u>	<u>8641</u>
1937.13	8641
1937.14	8635, 8636
1937.16	8641
<u>1937.17</u>	<u>8641</u>
1970(a)(b)	8652
1970.3	8646
1970.4(a)(b)(c)(d)(e)(f)	8646
<u>1970.5</u>	<u>8646</u>
<u>1970.6</u>	<u>8646</u>
1971(a)(1)(A)(B)(C)	8646
1971(a)(1)(b)	<u>8646, 8647</u>
1971(a)(2)	<u>8646, 8647</u>
<u>1973</u>	<u>8646</u>
<u>1974</u>	<u>8646</u>
1983	8643, 8647
1990	8641
1991	8641
1992	8641
1993	8641
<u>1993.1</u>	<u>8641</u>
1994	8641
1996	8641
1996.1	8641
<u>1996.2</u>	<u>8641</u>
<u>1996.3</u>	<u>8641</u>
1998	8641
1998(f)	8652
<u>1999.5</u>	<u>8641</u>