BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation and Petition to Revoke Probation Against: **ZAPPEN EXTERMINATING;** **JOSEPH W. ZAPPEN, Owner and QM** 511 South First Avenue #476 Arcadia, CA 91106 **Company Registration Certificate No. PR 3982, Branch 3** **Operator's License No. OPR 10234, Branch 3** Respondent.	Case No. 2011-12 OAH No. 2012080679

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Pesticide Regulation, as its Decision in this matter.

This Decision shall become effective on May 26, 2013.

It is so ORDERED April 26, 2013.

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

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BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation/Petition to Revoke Probation Against: **ZAPPEN EXTERMINATING;** **JOSEPH W. ZAPPEN, Owner and QM** 511 South First Avenue #476 Arcadia, CA 91006 **Company Registration Certificate No. PR 3982, Branch 3** **Operator's License No. OPR 10234, Branch 3** Respondents.	Case No. 2011-12 OAH No. 2012080679 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William H. Douglas (Complainant) was the Interim Executive Officer of the Structural Pest Control Board. He brought this action solely in his former official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Desiree Tulleners, Deputy Attorney General.

2. Respondent Zappen Exterminating and Joseph W. Zappen (Respondents) are represented in this proceeding by attorney James L. Frederick, whose address is: Goeltz &

Frederick, A Professional Corporation, Attorneys at Law, 504 West Mission Avenue, Suite 103, Escondido, CA 92025.

3. On or about June 26, 2001, the Structural Pest Control Board issued Company Registration Certificate No. PR 3982 to Zappen Exterminating in Branch 3 with Joseph W. Zappen as the Owner and Qualifying Manager (Respondent Company). The Company Registration Certificate was in full force and effect at all times relevant to the charges brought in the First Amended Accusation/Petition to Revoke Probation Case No. 2011-12.

4. On or about June 8, 2000, the Board Issued Operator's License No. OPR 10234 in Branch 3 to Joseph Zappen (Respondent Zappen). On or about June 26, 2001, Respondent Zappen became the Owner and Qualifying Manager of Zappen Exterminating. The Operator's License was in full force and effect at all times relevant to the charges brought in the First Amended Accusation/Petition to Revoke Probation Case No. 2011-12, and will expire on June 30, 2014, unless renewed.

JURISDICTION

5. The Accusation/Petition to Revoke Probation Case No. 2011-12 was filed before the Structural Pest Control Board (Board), Department of Pesticide Regulation, and is currently pending against Respondents. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondents on October 22, 2010. Respondents timely filed their Notice of Defense contesting the Accusation/Petition to Revoke Probation. Thereafter, the First Amended Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondents on February 2, 2012.

6. A copy of First Amended Accusation/Petition to Revoke Probation Case No. 2011-12 is attached as Exhibit A, and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in First Amended Accusation/Petition to Revoke Probation Case No. 2011-12. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation/Petition to Revoke Probation; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

10. Respondents admit the truth of each and every charge and allegation in First Amended Accusation/Petition to Revoke Probation Case No. 2011-12.

11. Respondents agree that their Company Registration Certificate and Operator's License are subject to discipline, and they agree to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondents understand and agree that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

1. *IT IS HEREBY ORDERED* that Company Registration Certificate No. PR 3982 in Branch 3, issued to Respondent Zappen Exterminating with Joseph W. Zappen as Owner and Qualifying Manager (Respondent Company) is revoked[1].

2. *IT IS HEREBY ORDERED* that Operator's License No. OPR 10234 in Branch 3, issued to Respondent Joseph W. Zappen (Respondent Zappen) is revoked. (See footnote 1)

3. Pursuant to Business and Professions Code section 125.3, Respondents agree to reimburse the Board for its costs incurred in the investigation and prosecution of this mater in the amount of $5,500. In addition, Respondents agree to pay the balance of costs due as previously ordered in Accusation Case No. 2008-14, currently the balance of $6,639.99, and the costs due as

[1] Government Code section 11522 states: "A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty."

previously ordered in Accusation Case No. 2009-37 in the amount of $5,000. All costs are to be repaid to the Board prior to the filing of any petition for reinstatement, petition for reduction of penalty, or application for new license.

4. Respondents agree and shall provide proof of payment of restitution and Release of Claim(s) for each project alleged as cause for discipline identified in First Amended Accusation/Petition to Revoke Probation Case No. 2011-12, Accusation Case No. 2008-14, and Accusation Case No. 2009-37, prior to the filing of any petition for reinstatement, petition for reduction of penalty, or application for new license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James L. Frederick. I understand the stipulation and the effect it will have on my Company Registration Certificate and Operator's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control Board.

DATED: 2-11-13

Joseph W. Zappen

ZAPPEN EXTERMINATING
JOSEPH W. ZAPPEN
Respondent Company and Respondent Zappen

I have read and fully discussed with Respondent Zappen Exterminating with Joseph W. Zappen as Owner and Qualifying Manager of the Company Registration, and with Respondent Joseph W. Zappen as an Operator, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2-11-13

James L. Frederick

JAMES L. FREDERICK
Attorney for Respondent Zappen Exterminating;
Joseph W. Zappen. and
Respondent Joseph W. Zappen

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board of the Department of Pesticide Regulation.

Dated: February 12, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

Desiree Tulleners

DESIREE TULLENERS
Deputy Attorney General
Attorneys for Complainant